

THE SEVENTY-EIGHTH DAY

CARSON CITY (Monday), April 24, 2017

Assembly called to order at 3:30 p.m.

Mr. Speaker presiding.

Roll called.

All present

Prayer by the Chaplain, Pastor Chase Ward.

Lord, in Your Word it says, "First of all, then, I urge that supplications, prayers, intercessions, and thanksgivings be made for all people, for kings and all who are in high positions, that we may lead a peaceful and quiet life, godly and dignified in every way."

Today we pray for wisdom and direction. For clarity and for what is good. May You lead these public servants as they make decisions for the well-being of our state and its residents. We ask for Your presence and Your blessing. Thank You for leading. In Jesus' Name.

AMEN.

Pledge of allegiance to the Flag.

Assemblywoman Benitez-Thompson moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 12, 83, 175, 179, 245, 267, 282, 339, 361, 457, 458, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 105, 109, 161, 165, 262, 354, 381, 425, 431, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 163, 199, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Commerce and Labor, to which was referred Assembly Bill No. 359, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Commerce and Labor, to which was rereferred Assembly Bill No. 454, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

IRENE BUSTAMANTE ADAMS, *Chair*

Mr. Speaker:

Your Committee on Corrections, Parole, and Probation, to which was referred Assembly Bill No. 259, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Corrections, Parole, and Probation, to which was referred Assembly Bill No. 303, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Corrections, Parole, and Probation, to which was referred Assembly Bill No. 420, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JAMES OHRENSCHALL, *Chair*

Mr. Speaker:

Your Committee on Education, to which were referred Assembly Bills Nos. 49, 77, 186, 188, 275, 292, 312, 320, 348, 407, 409, 491, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Education, to which was referred Assembly Bill No. 400, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TYRONE THOMPSON, *Chair*

Mr. Speaker:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 41, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which were referred Assembly Bills Nos. 106, 277, 404, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was referred Assembly Bill No. 309, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was referred Assembly Bill No. 406, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was rereferred Assembly Bill No. 100, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

EDGAR FLORES, *Chair*

Mr. Speaker:

Your Committee on Health and Human Services, to which was referred Assembly Bill No. 113, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Health and Human Services, to which was referred Assembly Bill No. 203, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Health and Human Services, to which was referred Assembly Bill No. 249, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Health and Human Services, to which was referred Assembly Bill No. 307, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Health and Human Services, to which were referred Assembly Bills Nos. 422, 429, 440, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Health and Human Services, to which was referred Assembly Bill No. 474, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL C. SPRINKLE, *Chair*

Mr. Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 122, 123, 130, 136, 243, 260, 268, 278, 314, 319, 362, 365, 377, 413, 414, 438, 453, 470, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVE YEAGER, *Chair*

Mr. Speaker:

Your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 226, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 272, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Legislative Operations and Elections, to which were referred Assembly Bill No. 403; Assembly Joint Resolution No. 5, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 418, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 478, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Legislative Operations and Elections, to which was referred Assembly Concurrent Resolution No. 9, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and be adopted as amended.

OLIVIA DIAZ, *Chair*

Mr. Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 32, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Natural Resources, Agriculture, and Mining, to which were referred Assembly Bills Nos. 52, 159, 209, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 449, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

HEIDI SWANK, *Chair*

Mr. Speaker:

Your Committee on Taxation, to which were referred Assembly Bills Nos. 62, 94, 266, 294, 375, 402, 436, 439, 486, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DINA NEAL, *Chair*

Mr. Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 68, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RICHARD CARRILLO, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 21, 2017

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 78, 83, 105, 108, 145, 183, 194, 199, 215, 226, 245, 259, 260, 320, 356, 366, 384, 393, 397, 406, 429, 448, 452, 469, 480, 481.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

April 21, 2017

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bill No. 428.

MARK KRMPOTIC
Fiscal Analysis Division

April 24, 2017

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 104.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bills Nos. 309, 354, 416 and 434.

CINDY JONES
Fiscal Analysis Division

April 24, 2017

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 235.

MARK KRMPOTIC
Fiscal Analysis Division

Assemblywoman Benitez-Thompson moved that Assembly Bills Nos. 12, 32, 41, 49, 52, 62, 68, 77, 83, 94, 100, 105, 106, 109, 113, 122, 123, 130, 136, 159, 161, 163, 165, 175, 179, 186, 188, 199, 203, 209, 226, 243, 245, 249, 259, 260, 262, 266, 267, 268, 272, 275, 277, 278, 282, 292, 294, 303, 307, 309, 312, 314, 319, 320, 339, 348, 354, 359, 361, 362, 365, 375, 377, 381, 400, 402, 403, 404, 406, 407, 409, 413, 414, 418, 420, 422, 425, 429, 431, 436, 438, 439, 440, 449, 453, 454, 457, 458, 470, 474, 478, 489, and 491; Assembly Joint Resolution No. 5 just reported out of committee, be placed on the Second Reading File.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Concurrent Resolution No. 9 just reported out of committee, be placed on the Resolution File.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 272, be taken from its position on the Second Reading File and placed at the top of the Second Reading File.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bills Nos. 223 and 360 be taken from the Chief Clerk's desk and placed on the Second Reading File.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bills Nos. 83, 328, and 392 be taken from their positions on the Second Reading File and placed at the bottom of the Second Reading File.

Motion carried.

Assembly Concurrent Resolution No. 9.

Resolution read.

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

Amendment No. 509.

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to appoint a committee to conduct an interim study concerning the advisability and feasibility of treating certain traffic and related violations as civil infractions.

WHEREAS, Under existing law, violations of traffic laws and laws relating to drivers' licenses and to the registration of and insurance for motor vehicles are treated as criminal offenses; and

WHEREAS, As a result, residents of this State and visitors may find themselves entangled in the criminal justice system for relatively minor misconduct; and

WHEREAS, Other states treat violations of their traffic and related laws as civil infractions; and

WHEREAS, Among the purposes for which the Legislature establishes traffic laws is to minimize the differences between the traffic laws of this State and those of other states; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to appoint a committee ~~[composed of three members of the Assembly and three members of the Senate, one of whom must be appointed by the Legislative Commission as Chair of the committee,]~~ to conduct an interim study concerning the advisability and feasibility of treating certain criminal violations of traffic laws and laws relating to drivers' licenses and to the registration of and insurance for motor vehicles as civil infractions; and be it further

RESOLVED, **That the committee must be composed of six Legislators as follows:**

1. Three members of the Assembly, at least one of whom represents a district no part of which is in Clark County; and

2. Three members of the Senate, at least one of whom represents a district no part of which is in Clark County; and be it further

RESOLVED, Of the members appointed to the committee who represent a district no part of which is in Clark County, at least one member must represent a district no part of which is in Clark County or Washoe County; and be it further

RESOLVED, That the Legislative Commission shall designate one of the members appointed to the committee to serve as the chair of the committee; and be it further

RESOLVED, That in performing the study, the committee shall consider issues relating to:

1. The existing laws of this State concerning the violation of traffic laws and laws relating to drivers' licenses and to the registration of and insurance for motor vehicles, and the treatment of violations of such laws as criminal offenses;

2. The related laws of other states concerning violations of such laws and their treatment of violations of such laws as criminal offenses or civil infractions;

3. The appropriate and necessary elements of a system to treat violations of such laws as civil infractions in this State, including, without limitation, computer systems, court procedures, training and staffing; and

4. The anticipated fiscal effects of a system to treat violations of such laws as civil infractions in this State, including, without limitation, the effects on this State and its political subdivisions; and be it further

Resolved, That any recommended legislation proposed by the committee must be approved by a majority of the members of the Assembly and a majority of the members of the Senate appointed to the committee; and be it further

Resolved, That the Legislative Commission submit a report of the results of the study and any recommended legislation to the Director of the Legislative Counsel Bureau for transmittal to the 80th Session of the Nevada Legislature; and be it further

Resolved, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Governor, the Director of the Department of Public Safety, the Director of the Department of Motor Vehicles and the Director of the Administrative Office of the Courts.

Assemblywoman Diaz moved the adoption of the amendment.

Amendment adopted.

Resolution ordered reprinted, engrossed and to the Resolution File.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 78.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 83.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 105.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 108.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 145.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 183.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 194.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 199.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 215.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 226.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 245.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 259.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 260.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 320.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 356.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 366.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 384.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 393.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

Senate Bill No. 397.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 406.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 429.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 448.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 452.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 469.

Assemblywoman Bustamante Adams moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 480.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 481.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 272.

Bill read second time.

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

Amendment No. 518.

CONTAINS UNFUNDED MANDATE (§§ ~~2-4, 6, 9, 10, 15-17, 27-29, 31, 37-39~~) **15, 17, 31, 37, 39**)

AN ACT relating to elections; ~~requiring~~ **authorizing** each county and city clerk to establish polling places where any registered voter of the county or city, respectively, may vote in person on the day of certain elections; requiring **, under certain circumstances,** county and city clerks to establish polling places within the boundaries of Indian reservations and colonies; requiring the preparation and use of electronic rosters; ~~extending the hours for voting on election day; requiring~~ **authorizing** voting materials to be provided in ~~(Mandarin and Cantonese; extending)~~ **certain languages; authorizing county and city clerks to extend** the period for early voting; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a county clerk to establish the boundaries of election precincts and authorizes election precincts to be combined into election districts. (NRS 293.205-293.209) Existing law prohibits a person from

applying for or receiving a ballot at any election precinct or district other than the one at which the person is entitled to vote. (NRS 293.730) **Section 2** of this bill ~~requires~~ **authorizes** a county clerk to establish one or more polling places in the county where any person entitled to vote in the county by personal appearance may do so on the day of a primary or general election. ~~Section~~ **If any such polling place is established: (1) section 3** of this bill requires **, with limited exception,** the county clerk to publicize the location of such polling places ~~Section~~ **; and (2) section 4** of this bill requires the county clerk to prepare a roster of eligible voters in the county for any such polling place. **Section 5** of this bill sets forth the procedure for a person to vote in person at any such polling place. **Sections 27-30** of this bill set forth corresponding provisions ~~requiring~~ **authorizing** city clerks to establish polling places where any person who is entitled to vote in the city by personal appearance may do so on the day of the primary city or general city election. **Sections 8, 10-15, 18, 22-25, 33-37 and 40-42** of this bill make conforming changes.

Sections 6 and 31 of this bill require, under certain circumstances, county and city clerks, respectively, to establish at least one polling place within the boundaries of an Indian reservation or Indian colony at a location or locations approved by the Indian tribe.

Existing law generally requires a voter to sign his or her name in a roster when the voter applies to vote in person. (NRS 293.277, 293.285, 293C.270, 293C.275) Existing law also provides that a roster may be in printed or electronic form. **Section 7** of this bill requires a roster to be in electronic form. **Sections 19 and 21** of this bill make conforming changes. **Sections 5, 12, 12.5, 13, 17.5, 17.7, 30, 34, 34.5 and 35 of this bill allow a person to sign a signature card rather than the roster.**

Existing law requires voting materials to be provided in English and any other languages necessary to be in compliance with federal law. (NRS 293.2699) **Section 9** of this bill ~~requires that~~ **authorizes a county or city clerk to provide** voting materials ~~also be provided in Mandarin and Cantonese.~~

~~Existing law provides that the polls close at 7 p.m. on election day. (NRS 293.273, 293C.267) Sections 10 and 33 of this bill provide that the polls close at 9 p.m. on election day. Section 8 of this bill makes a conforming change.~~ **in additional languages if the clerk determines that there is a significant and substantial need for such.**

Existing law authorizes a county or city clerk to establish permanent polling places for early voting by personal appearance and provides that the period for early voting begins the third Saturday preceding an election and extends through the Friday before election day, Sundays and federal holidays excepted. (NRS 293.3564, 293.3568, 293C.3564, 293C.3568) **Sections 15 and 37** of this bill require a county or city clerk to establish at least one permanent polling place for early voting. **Sections 16 and 38** of this bill **authorize a county or city clerk to** extend the period for early voting ~~until~~

through the Sunday before election day. **Sections 17 and 39** of this bill require, under certain circumstances, a county or city clerk to establish at least one temporary place for early voting within the boundaries of an Indian reservation or Indian colony.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. 1. ~~Each~~ A county clerk shall ~~may~~ establish one or more polling places in the county where any person entitled to vote in the county by personal appearance may do so on the day of the primary election or general election.

2. Any person entitled to vote in the county by personal appearance may do so at any polling place established pursuant to subsection 1.

Sec. 3. 1. ~~Each~~ Except as otherwise provided in subsection 2, if a county clerk establishes one or more polling places pursuant to section 2 of this act, the county clerk shall publish must:

(a) Publish during the week before the election in a newspaper of general circulation a notice of the location of each such polling place. ~~established by the county clerk pursuant to section 2 of this act.~~

~~2. The county clerk shall post:~~

(b) Post a list of each the location established pursuant to section 2 of this act of each such polling place on any bulletin board used for posting notice of meetings of the board of county commissioners. The list must be posted continuously for a period beginning not later than the fifth business day before the election and ending at 7 p.m. on the day of the election. The county clerk shall make copies of the list available to the public during the period of posting in reasonable quantities without charge.

2. The provisions of subsection 1 do not apply if every polling place in the county is a polling place where any person entitled to vote in the county by personal appearance may do so on the day of the primary election or general election.

3. No additional polling place may be established pursuant to section 2 of this act after the publication pursuant to this section ~~17~~, except in the case of an emergency and if approved by the Secretary of State.

Sec. 4. 1. For each polling place established pursuant to section 2 of this act, if any, the county clerk shall prepare a roster that contains, for every registered voter in the county, the voter's name, the address where he or she is registered to vote, his or her voter identification number, the voter's precinct or district number and ~~a place for~~ the voter's signature.

2. The roster must be delivered or caused to be delivered by the county clerk to an election board officer of the proper polling place before the opening of the polls.

Sec. 5. 1. ~~Upon~~ Except as otherwise provided in NRS 293.283,
upon the appearance of a person to cast a ballot at a polling place
established pursuant to section 2 of this act, the election board officer
shall:

(a) Determine that the person is a registered voter in the county and has
 not already voted in that county in the election;

(b) Instruct the voter to sign the roster ~~for~~ or a signature card; and

(c) Verify the signature of the voter in the manner set forth in NRS
 293.277.

2. If the signature of the voter does not match, the voter must be
identified by:

(a) Answering questions from the election board officer covering the
personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other
personal data which verifies the identity of the voter; or

(c) Providing the election board officer with proof of identification as
described in NRS 293.277 other than the card issued to the voter at the time
he or she registered to vote.

3. If the signature of the voter has changed in comparison to the
signature on the application to register to vote, the voter must update his or
her signature on a form prescribed by the Secretary of State.

4. The county clerk shall prescribe a procedure, approved by the
Secretary of State, to verify that the voter has not already voted in that
county in the current election.

~~3.5~~ 5. When a voter is entitled to cast a ballot and has identified
himself or herself to the satisfaction of the election board officer, the voter
is entitled to receive the appropriate ballot or ballots, but only for his or her
own use at the polling place where he or she applies to vote.

~~4.5~~ 6. If the ballot is voted on a mechanical recording device which
directly records the votes electronically, the election board officer shall:

(a) Prepare the mechanical voting device for the voter;

(b) Ensure that the voter's precinct or voting district and the form of the
 ballot are indicated on the voting receipt, if the county clerk uses voting
 receipts; and

(c) Allow the voter to cast a vote.

~~5.5~~ 7. A voter applying to vote at a polling place established pursuant
to section 2 of this act may be challenged pursuant to NRS 293.303.

Sec. 6. 1. If an Indian reservation or Indian colony is located in
whole or in part within a county, the Indian tribe may submit a request to
the county clerk for the establishment of a polling place within the
boundaries of the Indian reservation or Indian colony.

2. A request for the establishment of a polling place within the
boundaries of an Indian reservation or Indian colony must be submitted to
the county clerk by the Indian tribe on or before:

(a) If the request is for a primary election, the first Friday in January of the year in which the primary election is to be held.

(b) If the request is for a general election, the first Friday in July of the year in which the general election is to be held.

3. If the county clerk receives a request that satisfies the requirements set forth in subsection 2, the county clerk must establish at least one polling place within the boundaries of the Indian reservation or Indian colony at a location or locations, as applicable, approved by the Indian tribe.

Sec. 7. NRS 293.095 is hereby amended to read as follows:

293.095 “Roster” means the record in ~~printed or~~ electronic form furnished to election board officers which contains a list of eligible voters and is to be used for obtaining the signature of each person applying for a ballot.

Sec. 8. NRS 293.2546 is hereby amended to read as follows:

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

1. To receive and cast a ballot that:
 - (a) Is written in a format that allows the clear identification of candidates; and
 - (b) Accurately records the voter’s preference in the selection of candidates.
2. To have questions concerning voting procedures answered and to have an explanation of the procedures for voting posted in a conspicuous place at the polling place.
3. To vote without being intimidated, threatened or coerced.
4. To vote on election day if the voter is waiting in line ~~(before 9 p.m.)~~ at ~~this or her~~ a polling place **at which he or she is entitled** to vote before 7 p.m. and the voter has not already cast a vote in that election.
5. To return a spoiled ballot and is entitled to receive another ballot in its place.
6. To request assistance in voting, if necessary.
7. To a sample ballot which is accurate, informative and delivered in a timely manner.
8. To receive instruction in the use of the equipment for voting during early voting or on election day.
9. To have nondiscriminatory equal access to the elections system, including, without limitation, a voter who is elderly, disabled, a member of a minority group, employed by the military or a citizen who is overseas.
10. To have a uniform, statewide standard for counting and recounting all votes accurately.
11. To have complaints about elections and election contests resolved fairly, accurately and efficiently.

Sec. 9. NRS 293.2699 is hereby amended to read as follows:

293.2699 1. Each voting system used by a county or city shall provide voting materials in :

(a) English ; and

(b) ~~Mandarin and Cantonese~~ and other languages

~~(c) Every language in which voting materials are required to be prepared in compliance with the provisions of 42 U.S.C. § 1973aa-1a. any the county or city in the State pursuant to 52 U.S.C. § 10503.~~

2. In addition to the requirements set forth in subsection 1, if a county clerk or city clerk determines that there is a significant and substantial need for voting materials of the county or city, as applicable, to be provided in the language or languages of a minority group, the county clerk or city clerk may prepare voting materials in such language or languages. For the purposes of this subsection, there is a significant and substantial need for voting materials to be provided in the language or languages of a minority group if, without limitation, the minority group has been subject to historical discrimination and unequal educational opportunities, and, as a result, members of the minority group are of limited-English proficiency.

3. As used in this section ~~the term “voting”~~ :

(a) “Limited-English proficiency” means being unable to speak or understand English adequately to participate in the electoral process.

(b) “Minority group” includes, without limitation, United States citizens of Chinese heritage.

(c) “Voting materials” has the meaning ascribed to it in ~~42~~ 52 U.S.C. § ~~1973aa-1a.~~ 10503.

Sec. 10. NRS 293.273 is hereby amended to read as follows:

293.273 1. Except as otherwise provided in subsection 2 and NRS 293.305, at all elections held under the provisions of this title, the polls must open at 7 a.m. and close at 7 ~~10~~ p.m.

2. ~~Whenever~~ Except as otherwise provided in this subsection, whenever at any election all the votes of ~~the~~ the ~~polling place, as shown on the roster, not designated pursuant to section 2 of this act as a site where any person entitled to vote in the county by personal appearance may do so on the day of the election~~ have been cast, ~~as shown by the roster,~~ the election board officers shall close the polls. ~~polling place,~~ and the counting of votes must begin and continue without unnecessary delay until the count is completed. This subsection does not apply to a polling place established pursuant to section 2 of this act.

3. Upon opening the polls, one of the election board officers shall cause a proclamation to be made that all present may be aware of the fact that applications of registered voters to vote will be received.

4. No person other than election board officers engaged in receiving, preparing or depositing ballots may be permitted inside the guardrail during the time the polls are open, except by authority of the election board as necessary to keep order and carry out the provisions of this title.

Sec. 11. NRS 293.275 is hereby amended to read as follows:

293.275 ~~No~~

1. Except as otherwise provided in subsection 2, an election board may **not** perform its duty in serving registered voters at any polling place in any election provided for in this title, unless it has before it the roster for the polling place.

2. For a polling place ~~(designated)~~ established pursuant to section 2 or 27 of this act, an election board may perform its duty in serving registered voters at the polling place in an election if the election board has before it the roster for the county or city, as applicable.

Sec. 12. NRS 293.277 is hereby amended to read as follows:

293.277 1. Except as otherwise provided in NRS 293.283 and 293.541, if a person's name appears in the roster or if the person provides an affirmation pursuant to NRS 293.525, the person is entitled to vote and must sign his or her name in the roster **or on a signature card** when he or she applies to vote. The signature must be compared by an election board officer with the signature or a facsimile thereof on the person's application to register to vote or one of the forms of identification listed in subsection 2.

2. Except as otherwise provided in NRS 293.2725, the forms of identification which may be used individually to identify a voter at the polling place are:

- (a) The card issued to the voter at the time he or she registered to vote;
- (b) A driver's license;
- (c) An identification card issued by the Department of Motor Vehicles;
- (d) A military identification card; or
- (e) Any other form of identification issued by a governmental agency which contains the voter's signature and physical description or picture.

3. The county clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted in that county in the election.

Sec. 12.5. NRS 293.283 is hereby amended to read as follows:

293.283 1. If, because of physical limitations, a registered voter is unable to sign his or her name in the roster **or on a signature card** as required by NRS 293.277, the voter must be identified by:

- (a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;
- (b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or
- (c) Providing the election board officer with proof of identification as described in NRS 293.277 other than the card issued to the voter at the time he or she registered to vote.

2. If the identity of the voter is verified, the election board officer shall indicate in the roster "Identified" by the voter's name.

Sec. 13. NRS 293.285 is hereby amended to read as follows:

293.285 1. Except as otherwise provided in NRS 293.283, a registered voter applying to vote shall state his or her name to the election board officer in charge of the roster, and the officer shall immediately announce the name,

instruct the voter to sign the roster ~~[-and]~~ **or signature card,** verify the signature of the voter in the manner set forth in NRS 293.277 ~~[-]~~ **and verify that the registered voter has not already voted in that county in the current election.**

2. If the signature does not match, the voter must be identified by:

(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or

(c) Providing the election board officer with proof of identification as described in NRS 293.277 other than the card issued to the voter at the time he or she registered to vote.

3. If the signature of the voter has changed in comparison to the signature on the application to register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

Sec. 14. 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 or when the registered voter 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]~~ **a polling place [-] at which he or she is entitled to vote.**

Sec. 15. NRS 293.3564 is hereby amended to read as follows:

293.3564 1. ~~[-The]~~ **Each** county clerk ~~[-may]~~ **shall** establish **at least one** permanent polling ~~[-places]~~ **place** for early voting by personal appearance in the county. ~~[-at the locations selected pursuant to NRS 293.3561.~~

~~2. Except as otherwise provided in subsection 3, any]~~

2. **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. 16. 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 ***, except as otherwise provided in this subsection,*** extends through the ***Friday*** ~~*Sunday*~~ before election day, ***Sundays and*** federal holidays excepted. ***A county clerk may extend the period for early voting by personal appearance through the Sunday before election day.***

2. The county clerk may:

(a) ~~*Include*~~ ***Except as otherwise provided in subsection 3, include*** any ***Sunday*** or federal holiday that falls 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 permanent polling place for early voting must remain open:

(a) On Monday through Friday:

(1) During the first week of early voting, from 8 a.m. until 6 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) On any Saturday that falls within the period for early voting, for at least 4 hours between 10 a.m. and 6 p.m.

(c) ***If a county clerk extends the period for early voting by personal appearance through the Sunday before election day pursuant to subsection 1, on the Sunday before election day during such hours as the clerk may establish.***

~~*(d) If the county clerk includes a*~~ ***On any*** ~~*Sunday*~~ that falls within the period for early voting ~~*if*~~ ***pursuant to subsection 2,*** during such hours as the county clerk may establish.

Sec. 17. NRS 293.3572 is hereby amended to read as follows:

293.3572 1. In addition to permanent polling places for early voting, ***except as otherwise provided in subsection ~~2~~ 3,*** the county clerk may establish temporary branch polling places for early voting which may include, without limitation, the clerk's office pursuant to NRS 293.3561.

2. ***If an Indian reservation or Indian colony is located in whole or in part within a county, the Indian tribe may submit a request to the county clerk for the establishment of a temporary branch polling place for early voting within the boundaries of the Indian reservation or Indian colony.***

3. ***A request for the establishment of a temporary branch polling place for early voting within the boundaries of an Indian reservation or Indian colony must be submitted to the county clerk by the Indian tribe on or before:***

(a) If the request is for a primary election, the first Friday in January of the year in which the primary election is to be held.

(b) If the request is for a general election, the first Friday in July of the year in which the general election is to be held.

4. If the county clerk receives a request that satisfies the requirements set forth in subsection 3, the county clerk must establish at least one temporary branch polling place for early voting within the boundaries of the Indian reservation or Indian colony. The location and hours of operation of such a temporary branch polling place for early voting must be approved by the Indian tribe.

~~3.4~~ 5. The provisions of subsection 3 of NRS 293.3568 do not apply to a temporary **branch** 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.

~~3.4~~ 6. The schedules for conducting voting are not required to be uniform among the temporary branch polling places.

~~4.5~~ 7. 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. 17.5. NRS 293.3585 is hereby amended to read as follows:

293.3585 1. Except as otherwise provided in NRS 293.283, upon the appearance of a person to cast a ballot for early voting, an election board officer shall:

(a) Determine that the person is a registered voter in the county.

(b) Instruct the voter to sign the roster for early voting ~~or~~ or a signature card.

(c) Verify the signature of the voter in the manner set forth in NRS 293.277.

(d) Verify that the voter has not already voted in that county in the current election pursuant to this section.

2. If the signature of the voter does not match, the voter must be identified by:

(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or

(c) Providing the election board officer with proof of identification as described in NRS 293.277 other than the card issued to the voter at the time he or she registered to vote.

3. If the signature of the voter has changed in comparison to the signature on the application to register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

4. The county clerk shall prescribe a procedure, approved by the Secretary of State, to verify that the voter has not already voted in that county in the current election pursuant to this section.

5. The roster for early voting or signature card, as applicable, 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, if that information is available; and

(c) The date of voting early in person.

6. When a voter is entitled to cast a ballot and has identified himself or herself to the satisfaction of the election board officer, 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.

7. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the election board officer shall:

(a) Prepare the mechanical recording device for the voter;

(b) Ensure that the voter's precinct or voting district, if that information is available, 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.

8. A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293.303.

Sec. 17.7. 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 which identifies the mechanical recording device and the storage device required pursuant to NRS 293B.084;

(3) The number of ballots voted on the mechanical recording device for that day; ~~and~~

(4) The number of signatures in the roster for early voting for that day ~~and~~; **and**

(5) The number of signatures on signature cards 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 signature cards used for early voting;**

~~(d)~~ **(d)** The storage device required pursuant to NRS 293B.084 from each mechanical recording device used during the period for early voting; and

~~(e)~~ **(e)** 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) Indicate the number of ballots on an official statement of ballots; and
- (b) Place the storage devices 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 storage devices to the central counting place.

Sec. 18. NRS 293.4689 is hereby amended to read as follows:

293.4689 1. If a county clerk maintains a website on the Internet for information related to elections, the website must contain public information maintained, collected or compiled by the county clerk that relates to elections, which must include, without limitation:

(a) The locations of polling places for casting a ballot on election day in such a format that a registered voter may search the list to determine the location of the polling place **or places** at which the registered voter is ~~required~~ **entitled** to cast a ballot; and

(b) The abstract of votes required pursuant to the provisions of NRS 293.388.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by a county clerk pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by the Secretary of State, another county clerk or a city clerk, the county clerk may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 19. NRS 293.511 is hereby amended to read as follows:

293.511 ~~If a~~ **The** registrar of voters' register or ~~roster is kept by computer, the register or~~ roster, as applicable, must include the name, address, precinct, political affiliation and signature or facsimile thereof of each voter and any additional information required by the county clerk.

Sec. 20. NRS 293.541 is hereby amended to read as follows:

293.541 1. The county clerk shall cancel the registration of a voter if:

(a) After consultation with the district attorney, the district attorney determines that there is probable cause to believe that information in the registration concerning the identity or residence of the voter is fraudulent;

(b) The county clerk provides a notice as required pursuant to subsection 2 or executes an affidavit of cancellation pursuant to subsection 3; and

(c) The voter fails to present satisfactory proof of identity and residence pursuant to subsection 2, 4 or 5.

2. Except as otherwise provided in subsection 3, the county clerk shall notify the voter by registered or certified mail, return receipt requested, of a determination made pursuant to subsection 1. The notice must set forth the grounds for cancellation. Unless the voter, within 15 days after the return receipt has been filed in the office of the county clerk, presents satisfactory proof of identity and residence to the county clerk, the county clerk shall cancel the voter's registration.

3. If insufficient time exists before a pending election to provide the notice required by subsection 2, the county clerk shall execute an affidavit of cancellation and file the affidavit of cancellation with the registrar of voters' register and ~~file~~:

~~— (a) In counties where records of registration are not kept by computer, the county clerk shall attach a copy of the affidavit of cancellation in the roster.~~

~~— (b) In counties where records of registration are kept by computer, the county clerk shall have the affidavit of cancellation printed on the computer entry for the registration and~~ add a copy of ~~it~~ **the affidavit** to the roster.

4. If a voter appears to vote at the election next following the date that an affidavit of cancellation was executed for the voter pursuant to this section, the voter must be allowed to vote only if the voter furnishes:

(a) Official identification which contains a photograph of the voter, including, without limitation, a driver's license or other official document; and

(b) Satisfactory identification that contains proof of the address at which the voter actually resides and that address is consistent with the address listed on the roster.

5. If a determination is made pursuant to subsection 1 concerning information in the registration to vote of a voter and an absent ballot or a ballot voted by a voter who resides in a mailing precinct is received from the voter, the ballot must be kept separate from other ballots and must not be counted unless the voter presents satisfactory proof to the county clerk of identity and residence before such ballots are counted on election day.

6. For the purposes of this section, a voter registration card issued pursuant to NRS 293.517 does not provide proof of the:

(a) Address at which a person actually resides; or

(b) Residence or identity of a person.

Sec. 21. NRS 293.547 is hereby amended to read as follows:

293.547 1. After the 30th day but not later than the 25th day before any election, a written challenge may be filed with the county clerk.

2. A registered voter may file a written challenge if:

(a) He or she is registered to vote in the same precinct as the person whose right to vote is challenged; and

(b) The challenge is based on the personal knowledge of the registered voter.

3. The challenge must be signed and verified by the registered voter and name the person whose right to vote is challenged and the ground of the challenge.

4. A challenge filed pursuant to this section must not contain the name of more than one person whose right to vote is challenged. The county clerk shall not accept for filing any challenge which contains more than one such name.

5. The county clerk shall:

(a) File the challenge in the registrar of voters' register and ~~file~~:

~~— (1) In counties where records of registration are not kept by computer, he or she shall attach a copy of the challenge to the challenged registration in the roster.~~

~~— (2) In counties where records of registration are kept by computer, he or she shall have the challenge printed on the computer entry for the challenged registration and~~ add a copy of ~~it~~ **the challenge** to the roster.

(b) Within 5 days after a challenge is filed, mail a notice in the manner set forth in NRS 293.530 to the person whose right to vote has been challenged pursuant to this section informing the person of the challenge. If the person fails to respond or appear to vote within the required time, the county clerk shall cancel the person's registration. A copy of the challenge and information describing how to reregister properly must accompany the notice.

(c) Immediately notify the district attorney. A copy of the challenge must accompany the notice.

6. Upon receipt of a notice pursuant to this section, the district attorney shall investigate the challenge within 14 days and, if appropriate, cause proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. The court shall give such proceedings priority over other civil matters that are not expressly given priority by law. Upon court order, the county clerk shall cancel the registration of the person whose right to vote has been challenged pursuant to this section.

Sec. 22. NRS 293.563 is hereby amended to read as follows:

293.563 1. During the interval between the closing of registration and the election, the county clerk shall prepare for ~~each~~ :

(a) **Each** polling place a roster containing the registered voters eligible to vote at the polling place.

(b) **Each polling place** ~~designated~~ **established pursuant to section 2 or 27 of this act, if any, a roster containing the registered voters eligible to vote in the county or city, respectively.**

2. The ~~poster~~ **rosters** must be delivered or caused to be delivered by the county or city clerk to an election board officer of the proper polling place before the opening of the polls.

Sec. 23. NRS 293.565 is hereby amended to read as follows:

293.565 1. Except as otherwise provided in subsection 3, sample ballots must include:

(a) If applicable, the statement required by NRS 293.267;

(b) The fiscal note or description of anticipated financial effect, as provided pursuant to NRS 218D.810, 293.250, 293.481, 295.015, 295.095 or 295.230 for each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(c) An explanation, as provided pursuant to NRS 218D.810, 293.250, 293.481, 295.121 or 295.230, of each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(d) Arguments for and against each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question, and rebuttals to each argument, as provided pursuant to NRS 218D.810, 293.250, 293.252 or 295.121; and

(e) The full text of each proposed constitutional amendment.

2. If, pursuant to the provisions of NRS 293.2565, the word "Incumbent" must appear on the ballot next to the name of the candidate who is the incumbent, the word "Incumbent" must appear on the sample ballot next to the name of the candidate who is the incumbent.

3. Sample ballots that are mailed to registered voters may be printed without the full text of each proposed constitutional amendment if:

(a) The cost of printing the sample ballots would be significantly reduced if the full text of each proposed constitutional amendment were not included;

(b) The county clerk ensures that a sample ballot that includes the full text of each proposed constitutional amendment is provided at no charge to each registered voter who requests such a sample ballot; and

(c) The sample ballots provided to each polling place include the full text of each proposed constitutional amendment.

4. A county clerk may establish a system for distributing sample ballots by electronic means to each registered voter who elects to receive a sample ballot by electronic means. Such a system may include, without limitation, electronic mail or electronic access through an Internet website. If a county clerk establishes such a system and a registered voter elects to receive a sample ballot by electronic means, the county clerk shall distribute the sample ballot to the registered voter by electronic means pursuant to the procedures and requirements set forth by regulations adopted by the Secretary of State.

5. If a registered voter does not elect to receive a sample ballot by electronic means pursuant to subsection 4, the county clerk shall distribute the sample ballot to the registered voter by mail.

6. Before the period for early voting for any election begins, the county clerk shall distribute to each registered voter in the county by mail or electronic means, as applicable, the sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place ~~H~~ **or places**. If the location of the polling place **or places** has changed since the last election:

(a) The county clerk shall mail a notice of the change to each registered voter in the county not sooner than 10 days before distributing the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE **OR PLACES** HAS CHANGED SINCE THE LAST ELECTION

7. Except as otherwise provided in subsection 8, a sample ballot required to be distributed pursuant to this section must:

(a) Be prepared in at least 12-point type; and

(b) Include on the front page, in a separate box created by bold lines, a notice prepared in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN
LARGE TYPE, CALL (Insert appropriate telephone number)

8. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

9. The sample ballot distributed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be prepared in at least 14-point type, or larger when practicable.

10. If a person requests a sample ballot in large type, the county clerk shall ensure that all future sample ballots distributed to that person from the county are in large type.

11. The county clerk shall include in each sample ballot a statement indicating that the county clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place **or places** and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the county clerk has provided pursuant to subsection 4 of NRS 293.2955 for the placement at centralized voting locations of specially equipped voting devices for use by voters who

are elderly or disabled, the county clerk shall include in the sample ballot a statement indicating:

- (a) The addresses of such centralized voting locations;
- (b) The types of specially equipped voting devices available at such centralized voting locations; and
- (c) That a voter who is elderly or disabled may cast his or her ballot at such a centralized voting location rather than at his or her regularly designated polling place ~~or~~ **places.**

12. The cost of distributing sample ballots for any election other than a primary or general election must be borne by the political subdivision holding the election.

Sec. 24. NRS 293.730 is hereby amended to read as follows:

293.730 1. A person shall not:

- (a) Remain in or outside of any polling place so as to interfere with the conduct of the election.
- (b) Except an election board officer, receive from any voter a ballot prepared by the voter.
- (c) Remove a ballot from any polling place before the closing of the polls.
- (d) Apply for or receive a ballot at any election precinct or district other than ~~the~~ one at which the person is entitled to vote.
- (e) Show his or her ballot to any person, after voting, so as to reveal any of the names voted for.
- (f) Inside a polling place, ask another person for whom he or she intends to vote.
- (g) Except an election board officer, deliver a ballot to a voter.
- (h) Except an election board officer in the course of the election board officer's official duties, inside a polling place, ask another person his or her name, address or political affiliation.

2. A voter shall not:

- (a) Receive a ballot from any person other than an election board officer.
- (b) Deliver to an election board or to any member thereof any ballot other than the one received.
- (c) Place any mark upon his or her ballot by which it may afterward be identified as the one voted by the person.

3. Any person who violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 25. NRS 293.790 is hereby amended to read as follows:

293.790 If any person whose vote has been rejected offers to vote at the same election, at any polling place other than ~~the~~ one in which the person is ~~registered~~ **entitled** to vote, such person is guilty of a gross misdemeanor.

Sec. 26. Chapter 293C of NRS is hereby amended by adding thereto the provisions set forth as sections 27 to 31, inclusive, of this act.

Sec. 27. 1. ~~Each~~ A city clerk ~~shall~~ **may establish one or more polling places in the city where any person entitled to vote in the city by**

personal appearance may do so on the day of the primary city election or general city election.

2. Any person entitled to vote in the city by personal appearance may do so at any polling place established pursuant to subsection 1.

Sec. 28. 1. ~~Each~~ Except as otherwise provided in subsection 2, if a city clerk establishes one or more polling places pursuant to section 27 of this act, the city clerk ~~shall publish~~ must:

(a) Publish during the week before the election in a newspaper of general circulation a notice of the location of each such polling place ~~established by the city clerk pursuant to section 27 of this act.~~

~~2. The city clerk shall post:~~

(b) Post a list of ~~each~~ the location ~~established pursuant to section 27 of this act~~ of each such polling place on any bulletin board used for posting notice of meetings of the governing body of the city. The list must be posted continuously for a period beginning not later than the fifth business day before the election and ending at ~~7~~ 7 p.m. on the day of the election. The city clerk shall make copies of the list available to the public during the period of posting in reasonable quantities without charge.

2. The provisions of subsection 1 do not apply if every polling place in the city is designated as a polling place where any person entitled to vote in the city by personal appearance may do so on the day of the primary city election or general city election.

3. No additional polling place may be established pursuant to section 27 of this act after the publication pursuant to this section ~~for~~, except in the case of an emergency and if approved by the Secretary of State.

Sec. 29. 1. For each polling place established pursuant to section 27 of this act, if any, the city clerk shall prepare a roster that contains, for every registered voter in the city, the voter's name, the address where he or she is registered to vote, his or her voter identification number, the voter's precinct or district number and ~~a place for~~ the voter's signature.

2. The roster must be delivered or caused to be delivered by the city clerk to an election board officer of the proper polling place before the opening of the polls.

Sec. 30. 1. ~~Upon~~ Except as otherwise provided in NRS 293C.272, upon the appearance of a person to cast a ballot at a polling place established pursuant to section 27 of this act, if any, the election board officer shall:

(a) Determine that the person is a registered voter in the city and has not already voted in that city in the election;

(b) Instruct the voter to sign the roster ~~for~~ or a signature card; and

(c) Verify the signature of the voter in the manner set forth in NRS 293C.270.

2. If the signature of the voter does not match, the voter must be identified by:

(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or

(c) Providing the election board officer with proof of identification as described in NRS 293C.270 other than the card issued to the voter at the time he or she registered to vote.

3. If the signature of the voter has changed in comparison to the signature on the application to register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

4. The city clerk shall prescribe a procedure, approved by the Secretary of State, to verify that the voter has not already voted in that city in the current election.

~~3.5~~ 5. When a voter is entitled to cast a ballot and has identified himself or herself to the satisfaction of the election board officer, the voter is entitled to receive the appropriate ballot or ballots, but only for his or her own use at the polling place where he or she applies to vote.

~~4.4~~ 6. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the election board officer shall:

(a) Prepare the mechanical voting device for the voter;

(b) Ensure that the voter's precinct or voting district and the form of the ballot are indicated on the voting receipt, if the city clerk uses voting receipts; and

(c) Allow the voter to cast a vote.

~~5.5~~ 7. A voter applying to vote at a polling place established pursuant to section 27 of this act, if any, may be challenged pursuant to NRS 293C.292.

Sec. 31. 1. If an Indian reservation or Indian colony is located in whole or in part within a city, the Indian tribe may request to the city clerk for the establishment of a polling place within the boundaries of the Indian reservation or Indian colony.

2. A request for the establishment of a polling place within the boundaries of an Indian reservation or Indian colony must be submitted to the city clerk by the Indian tribe on or before:

(a) If the request is for a primary city election that is held:

(1) On the dates set forth for primary elections pursuant to the provisions of chapter 293 of NRS, the first Friday in January of the year in which the primary city election is to be held.

(2) On the dates set forth for primary city elections pursuant to the provisions of this chapter, the first Friday in December of the year immediately preceding the year in which the primary city election is to be held.

(b) If the request is for a general city election that is held:

(1) On the dates set forth for general elections pursuant to the provisions of chapter 293 of NRS, the first Friday in July of the year in which the general city election is to be held.

(2) On the dates set forth for general city elections pursuant to the provisions of this chapter, the first Friday in January of the year in which the general city election is to be held.

3. If the city clerk receives a request that satisfies the requirements set forth in subsection 2, the city clerk must establish at least one polling place within the boundaries of the Indian reservation or Indian colony at a location or locations, as applicable, approved by the Indian tribe.

Sec. 32. 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, **and section 31 of this act**, 293C.305 to 293C.340, inclusive, and 293C.355 to 293C.361, inclusive, 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. 33. NRS 293C.267 is hereby amended to read as follows:

293C.267 1. Except as otherwise provided in subsection 2 and NRS 293C.297, at all elections held pursuant to the provisions of this chapter, the polls must open at 7 a.m. and close at 7 ~~10~~ p.m.

2. Whenever at any election all the votes of ~~the~~ ~~the~~ polling place ~~, not designated pursuant to section 27 of this act as a site where any person entitled to vote in the city by personal appearance may do so on the day of the election have been cast~~ as shown on the roster, have been cast, the election board officers shall close the polls ~~(polling place)~~ and the counting of votes must begin and continue without unnecessary delay until the count is completed. The provisions of this subsection do not apply to any polling place established pursuant to section 27 of this act where any person entitled to vote in the city by personal appearance on the day of the election may do so.

3. Upon opening the polls, one of the election board officers shall cause a proclamation to be made so that all present may be aware of the fact that applications of registered voters to vote will be received.

4. No person other than election board officers engaged in receiving, preparing or depositing ballots may be permitted inside the guardrail during

the time the polls are open, except by authority of the election board as necessary to keep order and carry out the provisions of this chapter.

Sec. 34. NRS 293C.270 is hereby amended to read as follows:

293C.270 1. Except as otherwise provided in NRS 293C.272, if a person's name appears in the roster or if the person provides an affirmation pursuant to NRS 293C.525, the person is entitled to vote and must sign his or her name in the roster or on a signature card when he or she applies to vote. The signature must be compared by an election board officer with the signature or a facsimile thereof on the person's application to register to vote or one of the forms of identification listed in subsection 2.

2. The forms of identification that may be used to identify a voter at the polling place are:

- (a) The card issued to the voter at the time he or she registered to vote;
- (b) A driver's license;
- (c) An identification card issued by the Department of Motor Vehicles;
- (d) A military identification card; or
- (e) Any other form of identification issued by a governmental agency that contains the voter's signature and physical description or picture.

3. *The city clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted in that city in the current election.*

Sec. 34.5. NRS 293C.272 is hereby amended to read as follows:

293C.272 1. If, because of physical limitations, a registered voter is unable to sign his or her name in the roster or on a signature card as required by NRS 293C.270, the voter must be identified by:

- (a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;
- (b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or
- (c) Providing the election board officer with proof of identification as described in NRS 293C.270 other than the card issued to the voter at the time he or she registered to vote.

2. If the identity of the voter is verified, the election board officer shall indicate in the roster "Identified" by the voter's name.

Sec. 35. NRS 293C.275 is hereby amended to read as follows:

293C.275 1. Except as otherwise provided in NRS 293C.272, a registered voter who applies to vote must state his or her name to the election board officer in charge of the roster, and the officer shall immediately announce the name, instruct the voter to sign the roster ~~and~~ or signature card, verify the signature of the voter in the manner set forth in NRS 293C.270 ~~and verify that the registered voter has not already voted in that city in the current election.~~

2. If the signature does not match, the voter must be identified by:

(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or

(c) Providing the election board officer with proof of identification as described in NRS 293C.270 other than the card issued to the voter at the time he or she registered to vote.

3. If the signature of the voter has changed in comparison to the signature on the application to register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

Sec. 36. 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 or when the registered voter 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~~ a polling place ~~[-] at which he or she is entitled to vote.~~

Sec. 37. NRS 293C.3564 is hereby amended to read as follows:

293C.3564 1. The city clerk ~~may~~ ***in a city providing for early voting pursuant to subparagraph (1) of paragraph (b) of subsection 2 of NRS 293C.110 shall establish at least one*** permanent polling ~~places~~ ***place*** for early voting by personal appearance in the city at the locations selected pursuant to NRS 293C.3561.

2. Any person entitled to vote early by personal appearance may do so at any polling place for early voting.

Sec. 38. 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 ~~, except as otherwise provided in this subsection,~~ extends through the ~~Friday~~ ~~[-Sunday]~~ before election day, ~~[-Sundays and]~~ federal holidays excepted. **A city clerk may extend the period for early voting by personal appearance through the Sunday before election day.**

2. The city clerk may:

(a) ~~Include~~ **Except as otherwise provided in subsection 3, include** any Sunday or federal holiday that falls 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 permanent polling place for early voting must remain open:

(a) On Monday through Friday:

(1) During the first week of early voting, from 8 a.m. until 6 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) On any Saturday that falls within the period for early voting, for at least 4 hours between 10 a.m. and 6 p.m.

(c) **If a city clerk extends the period for early voting by personal appearance through the Sunday before election day pursuant to subsection 1, on the Sunday before election day during such hours as the clerk may establish.**

~~(d) If the city clerk includes a (On any)~~ Sunday that falls within the period for early voting pursuant to subsection 2, during such hours as the city clerk may establish.

Sec. 39. NRS 293C.3572 is hereby amended to read as follows:

293C.3572 1. In addition to permanent polling places for early voting, **except as otherwise provided in subsection 3,** the city clerk may establish temporary branch polling places for early voting pursuant to NRS 293C.3561.

2. **If an Indian reservation or Indian colony is located in whole or in part within a city, the Indian tribe may submit a request to the city clerk for the establishment of a temporary branch polling place within the boundaries of the Indian reservation or Indian colony.**

3. **A request for the establishment of a temporary branch polling place within the boundaries of an Indian reservation or Indian colony must be submitted to the city clerk by the Indian tribe on or before:**

(a) If the request is for a primary city election that is held:

(1) On the dates set forth for primary elections pursuant to the provisions of chapter 293 of NRS, the first Friday in January of the year in which the primary city election is to be held.

(2) On the dates set forth for primary city elections pursuant to the provisions of this chapter, the first Friday in December of the year immediately preceding the year in which the primary city election is to be held.

(b) If the request is for a general city election that is held:

(1) On the dates set forth for general elections pursuant to the provisions of chapter 293 of NRS, the first Friday in July of the year in which the general city election is to be held.

(2) On the dates set forth for general city elections pursuant to the provisions of this chapter, the first Friday in January of the year in which the general city election is to be held.

4. If the city clerk receives a request that satisfies the requirements set forth in subsection 3, the city clerk must establish at least one temporary branch polling place for early voting within the boundaries of the Indian reservation or Indian colony. The location and hours of operation of such a temporary branch polling place for early voting must be approved by the Indian tribe.

~~{3.4}~~ 5. The provisions of subsection 3 of NRS 293C.3568 do not apply to a temporary **branch** 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.

~~{3.4}~~ 6. The schedules for conducting voting are not required to be uniform among the temporary branch polling places.

~~{4.5}~~ 7. 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. 39.5. NRS 293C.3585 is hereby amended to read as follows:

293C.3585 1. Except as otherwise provided in NRS 293C.272, upon the appearance of a person to cast a ballot for early voting, an election board officer shall:

(a) Determine that the person is a registered voter in the county.

(b) Instruct the voter to sign the roster for early voting ~~{1}~~ or a signature card.

(c) Verify the signature of the voter in the manner set forth in NRS 293C.270.

(d) Verify that the voter has not already voted in that city in the current election pursuant to this section.

2. If the signature does not match, the voter must be identified by:

(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or

(c) Providing the election board officer with proof of identification as described in NRS 293C.270 other than the card issued to the voter at the time he or she registered to vote.

3. If the signature of the voter has changed in comparison to the signature on the application to register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

4. The city clerk shall prescribe a procedure, approved by the Secretary of State, to verify that the voter has not already voted in that city in the current election pursuant to this section.

5. The roster for early voting or signature card, as applicable, 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, if that information is available; and
- (c) The date of voting early in person.

6. When a voter is entitled to cast a ballot and has identified himself or herself to the satisfaction of the election board officer, 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.

7. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the election board officer shall:

- (a) Prepare the mechanical recording device for the voter;
- (b) Ensure that the voter's precinct or voting district, if that information is available, 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.

8. A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293C.292.

Sec. 39.7. 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 which identifies the mechanical recording device and the storage device required pursuant to NRS 293B.084;
- (3) The number of ballots voted on the mechanical recording device for that day; ~~and~~

(4) The number of signatures in the roster for early voting for that day ~~and~~; and

(5) The number of signatures on signature cards 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 signature cards used for early voting;**
- (d) The storage device required pursuant to NRS 293B.084 from each mechanical recording device used during the period for early voting; and
- ~~(d)~~ (e) 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) Indicate the number of ballots on an official statement of ballots; and
- (b) Place the storage devices 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 storage devices to the central counting place.

Sec. 40. NRS 293C.530 is hereby amended to read as follows:

293C.530 1. A city clerk may establish a system for distributing sample ballots by electronic means to each registered voter who elects to receive a sample ballot by electronic means. Such a system may include, without limitation, electronic mail or electronic access through an Internet website. If a city clerk establishes such a system and a registered voter elects to receive a sample ballot by electronic means, the city clerk shall distribute the sample ballot to the registered voter by electronic means pursuant to the procedures and requirements set forth by regulations adopted by the Secretary of State.

2. If a registered voter does not elect to receive a sample ballot by electronic means pursuant to subsection 1, the city clerk shall distribute the sample ballot to the registered voter by mail.

3. Before the period for early voting for any election begins, the city clerk shall distribute to each registered voter in the city by mail or electronic means, as applicable, the sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place ~~+~~ **or places**. If the location of the polling place **or places** has changed since the last election:

- (a) The city clerk shall mail a notice of the change to each registered voter in the city not sooner than 10 days before distributing the sample ballots; or
- (b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE **OR PLACES** HAS CHANGED SINCE THE LAST ELECTION

4. Except as otherwise provided in subsection 6, a sample ballot required to be distributed pursuant to this section must:

- (a) Be prepared in at least 12-point type;
- (b) Include the description of the anticipated financial effect and explanation of each citywide measure and advisory question, including arguments for and against the measure or question, as required pursuant to NRS 295.205 or 295.217; and

(c) Include on the front page, in a separate box created by bold lines, a notice prepared in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN
LARGE TYPE, CALL (Insert appropriate telephone number)

5. The word “Incumbent” must appear on the sample ballot next to the name of the candidate who is the incumbent, if required pursuant to NRS 293.2565.

6. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

7. The sample ballot distributed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be prepared in at least 14-point type, or larger when practicable.

8. If a person requests a sample ballot in large type, the city clerk shall ensure that all future sample ballots distributed to that person from the city are in large type.

9. The city clerk shall include in each sample ballot a statement indicating that the city clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place **or places** and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the city clerk has provided pursuant to subsection 4 of NRS 293C.281 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the city clerk shall include in the sample ballot a statement indicating:

(a) The addresses of such centralized voting locations;

(b) The types of specially equipped voting devices available at such centralized voting locations; and

(c) That a voter who is elderly or disabled may cast his or her ballot at such a centralized voting location rather than at the voter’s regularly designated polling place ~~or~~ **or places**.

10. The cost of distributing sample ballots for a city election must be borne by the city holding the election.

Sec. 41. NRS 293C.535 is hereby amended to read as follows:

293C.535 1. Except as otherwise provided by special charter, registration of electors in incorporated cities must be accomplished in the manner provided in this chapter.

2. The county clerk shall use the statewide voter registration list to prepare for the city clerk of each incorporated city within the county the roster of all electors eligible to vote at a regular or special city election.

3. ~~The~~ **Except as otherwise provided in section 27 of this act, the** rosters must be prepared, one for each ward or other voting district within

each incorporated city. The entries in the roster must be arranged alphabetically with the surnames first.

4. The county clerk shall keep duplicate originals or copies of the applications to register to vote in the county clerk's office.

Sec. 42. NRS 293C.715 is hereby amended to read as follows:

293C.715 1. If a city clerk maintains a website on the Internet for information relating to elections, the website must contain public information maintained, collected or compiled by the city clerk that relates to elections, which must include, without limitation:

(a) The locations of polling places for casting a ballot on election day in such a form that a registered voter may search the list to determine the location of the polling place **or places** at which the registered voter is ~~required~~ **entitled** to cast a ballot; and

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293C.387.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by a city clerk pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by the Secretary of State, a county clerk or another city clerk, the city clerk may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 43. 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. 44. This act becomes effective:

1. On July 1, 2017, 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, 2018, for all other purposes.

Assemblywoman Diaz moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 16.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 137.

SUMMARY—Revises provisions relating to ~~agricultural~~ **cooperative** extension programs. (BDR 49-440)

AN ACT relating to ~~agricultural~~ **cooperative** extension programs; requiring the Treasurer of the Nevada System of Higher Education, in consultation with the President of the University of Nevada, Reno, to submit

to the Legislature an annual report regarding cooperative ~~agricultural~~ extension work; revising provisions related to the State's cooperative share of the cost of ~~agricultural~~ cooperative extension work; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Director of the Agricultural Extension Department of the Public Service Division of the Nevada System of Higher Education and the board of county commissioners of each county to enter into a cooperative agreement to provide certain programs pertaining to agriculture, community development, health and nutrition, horticulture, personal and family development and natural resources in the rural and urban communities in this State. (NRS 549.010) **Sections 2-12** of this bill change the name of the agency authorized to enter into cooperative agreements with the boards of county commissioners from the Agricultural Extension Department of the Public Service Division of the Nevada System of Higher Education to the Cooperative Extension ~~Department~~ Program of the ~~University of Nevada, Reno,~~ Nevada System of Higher Education. **Section 1** of this bill requires the Treasurer of the Nevada System of Higher Education, in consultation with the President of the University of Nevada, Reno, to submit to the Legislature, if the Legislature is in session, or to the Interim Finance Committee, if the Legislature is not in session, an annual report: (1) detailing the cooperative ~~agricultural~~ extension work carried out in the preceding year; (2) specifying any county, state and federal money used to carry out the cooperative ~~agricultural~~ extension work; and (3) updating the status of any cooperative agreements entered into between the Director of the Cooperative Extension ~~Department~~ Program of the ~~University of Nevada, Reno,~~ Nevada System of Higher Education and a board of county commissioners.

Existing law requires the Director of the Agricultural Extension Department to prepare and submit to the board of county commissioners for each county participating in cooperative agricultural extension an annual financial budget covering the county, state and federal funds cooperating in the cost of cooperative agricultural extension programs. Existing law: (1) requires each county to levy a tax to meet the county's share of the cooperative agricultural extension work; and (2) prescribes the maximum amount of the State's cooperative share of the cost of agricultural extension work. (NRS 549.020) **Section 4** of this bill revises the amount of the State's cooperative share of the cost of agricultural extension work. ~~Section 4 also requires the Director to contribute a prescribed amount to each county to pay for certain ancillary services related to the operation of county agricultural extension offices.~~

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

Section 1. Chapter 549 of NRS is hereby amended by adding thereto a new section to read as follows:

The Treasurer of the Nevada System of Higher Education shall, in consultation with the President of the University of Nevada, Reno, annually on or before April 15, submit to the Legislature, if the Legislature is in session, or to the Interim Finance Committee, if the Legislature is not in session, a written report of:

1. *The cooperative ~~agricultural~~ extension work that was carried out pursuant to the provisions of this chapter in the preceding year;*

2. *The amounts, if any, of county, state and federal money used to carry out the cooperative ~~agricultural~~ extension work in the preceding year ~~for~~, including, without limitation, the amounts, if any, used at each campus of the Nevada System of Higher Education and in each participating county; and*

3. *Updating the status of any cooperative agreements entered into between the Director of the Cooperative Extension ~~Department~~ Program of the ~~University of Nevada, Reno,~~ Nevada System of Higher Education and a board of county commissioners authorized by NRS 549.010.*

Sec. 2. NRS 549.010 is hereby amended to read as follows:

549.010 To provide for continued educational, research, outreach and service programs pertaining to agriculture, community development, health and nutrition, horticulture, personal and family development, and natural resources in the rural and urban communities in the State of Nevada, the Director of the ~~Agricultural~~ **Cooperative** Extension ~~Department~~ **Program** of the ~~Public Service Division of the~~ Nevada System of Higher Education ~~University of Nevada, Reno,~~ and the boards of county commissioners of any or all of the respective counties of the State of Nevada may enter into cooperative agreements and activities subject to the provisions of this chapter.

Sec. 3. NRS 549.020 is hereby amended to read as follows:

549.020 1. The Director of the ~~Agricultural~~ **Cooperative** Extension ~~Department~~ **Program** of the ~~Public Service Division of the~~ Nevada System of Higher Education ~~University of Nevada, Reno,~~ shall prepare and submit to the board of county commissioners, for each county participating, an annual financial budget covering the county, state and federal funds cooperating in the cost of educational, research, outreach and service programs pertaining to agriculture, community development, health and nutrition, horticulture, personal and family development, and natural resources in the rural and urban communities in the State of Nevada.

2. The budget must be adopted by the board of county commissioners and certified as a part of the annual county budget, and the county tax levy provided for ~~agricultural~~ **cooperative** extension work in the annual county

budget must include a levy of not less than 1 cent on each \$100 of taxable property. If the proceeds of the county tax levy of 1 cent are insufficient to meet the county's share of the cooperative ~~[agricultural]~~ extension work, as provided in the combined annual financial budget, the board of county commissioners may, by unanimous vote, levy an additional tax so that the total in no instance exceeds 5 cents on each \$100 of the county tax rate.

3. The proceeds of such a tax must be placed in the ~~[agricultural]~~ cooperative extension fund in each county treasury and must be paid out on claims drawn by the ~~[agricultural]~~ cooperative extension agent of the county as designated by the Director of the ~~[Agricultural]~~ Cooperative Extension ~~[Department]~~ Program of the ~~[Public Service Division of the]~~ Nevada System of Higher Education, [University of Nevada, Reno,] when approved by the Director and countersigned by the Treasurer of the Nevada System of Higher Education.

4. A record of all such claims approved and paid, segregated by counties, must be kept by the Treasurer of the Nevada System of Higher Education. The cost of maintaining the record must be paid from state funds provided for by this chapter.

5. The State's cooperative share of the cost of such ~~[agricultural]~~ cooperative extension work, as entered in the budget described in this section, must not be more than a sum equal to the proceeds of 1 cent of such county tax rate; but when the proceeds of a 1-cent tax rate are insufficient to carry out the provisions of the budget previously adopted, the Director of the ~~[Agricultural]~~ Cooperative Extension ~~[Department]~~ Program of the ~~[Public Service Division of the]~~ Nevada System of Higher Education [University of Nevada, Reno,] is authorized to supplement the State's cooperative share from the funds as may be made available in the Public Service Division Fund of the Nevada System of Higher Education.

Sec. 4. NRS 549.020 is hereby amended to read as follows:

549.020 1. The Director of the Cooperative Extension Program of the Nevada System of Higher Education shall prepare and submit to the board of county commissioners, for each county participating, an annual financial budget covering the county, state and federal funds cooperating in the cost of educational, research, outreach and service programs pertaining to agriculture, community development, health and nutrition, horticulture, personal and family development, and natural resources in the rural and urban communities in the State of Nevada.

2. The budget must be adopted by the board of county commissioners and certified as a part of the annual county budget, and the county tax levy provided for cooperative extension work in the annual county budget must include a levy of not less than 1 cent on each \$100 of taxable property. If the proceeds of the county tax levy of 1 cent are insufficient to meet the county's share of the cooperative extension work, as provided in the combined annual financial budget, the board of county commissioners may, by unanimous

vote, levy an additional tax so that the total in no instance exceeds 5 cents on each \$100 of the county tax rate.

3. The proceeds of such a tax must be placed in the cooperative extension fund in each county treasury and must be paid out on claims drawn by the cooperative extension agent of the county as designated by the Director of the Cooperative Extension Program of the Nevada System of Higher Education when approved by the Director and countersigned by the Treasurer of the Nevada System of Higher Education.

4. A record of all such claims approved and paid, segregated by counties, must be kept by the Treasurer of the Nevada System of Higher Education. The cost of maintaining the record must be paid from state funds provided for by this chapter.

5. The State's cooperative share of the cost of such cooperative extension work, as entered in the budget ~~[described in this section,]~~ **prepared by the Director of the Cooperative Extension Program of the Nevada System of Higher Education pursuant to subsection 1,** must ~~[not]~~ be ~~[more than a sum]~~ **an amount** equal to the **aggregate** proceeds of 1 cent of ~~[such]~~ **the** county tax rate ~~[; but when]~~ **of each participating county, and averaged by the Director of the Cooperative Extension Program of the Nevada System of Higher Education for the immediately preceding 5 fiscal years. If the averaged** proceeds of a 1-cent tax rate **from each participating county** are insufficient to carry out the provisions of the budget previously adopted, the Director of the Cooperative Extension Program of the Nevada System of Higher Education is authorized to supplement the State's cooperative share from the funds as may be made available in the ~~[Public Service Division Fund]~~ **appropriate fund** of the Nevada System of Higher Education.

~~[6. In addition to the State's cooperative share of the cost of agricultural extension work prescribed in subsection 5, the Director of the Cooperative Extension Department of the University of Nevada, Reno, shall contribute to each county an amount equal to one half of the amount expended by the county to pay for ancillary costs, including, without limitation, the salaries of employees and the cost and expense of supplies, materials, equipment, property or land acquired for the use of county agricultural extension offices.]~~

Sec. 5. NRS 549.030 is hereby amended to read as follows:

549.030 1. A certified copy of the county extension work budget as adopted and approved pursuant to NRS 549.020 must be filed with the Treasurer of the Nevada System of Higher Education within 10 days after its approval by the board of county commissioners.

2. Necessary modifications thereof, involving county and state funds, resulting from leaves of absence without pay, resignations, changes in salary, dismissals or employment of any cooperative agent, variations in expense accounts or otherwise, not involving an increase in the total expenditures provided to be paid from the funds and consistent with the purposes of this chapter, may be made by filing with the Treasurer of the Nevada System of

Higher Education and the board of county commissioners a revised budget, approved by the Director of the ~~{Agricultural}~~ **Cooperative** Extension ~~{Department}~~ **Program** of the ~~{Public Service Division of the}~~ Nevada System of Higher Education ~~{University of Nevada, Reno,}~~ and countersigned by the Treasurer of the Nevada System of Higher Education.

Sec. 6. NRS 549.050 is hereby amended to read as follows:

549.050 All moneys appropriated pursuant to NRS 549.040 must be expended under the direction of the Director of the ~~{Agricultural}~~ **Cooperative** Extension ~~{Department}~~ **Program** of the ~~{Public Service Division of the}~~ Nevada System of Higher Education ~~{University of Nevada, Reno,}~~ to the extent of the financial budget for cooperation between the State and the respective counties provided for in NRS 549.020.

Sec. 6.5. NRS 549.060 is hereby amended to read as follows:

549.060 Any county in the state which has agreed or shall agree to participate in cooperative work in ~~{agricultural}~~ **cooperative** extension under the provisions of this chapter or acts previously passed by the Legislature and approved by the Governor shall, by the provisions hereof, come under this chapter.

Sec. 7. NRS 550.010 is hereby amended to read as follows:

550.010 As used in this chapter, unless the context otherwise requires:

1. "Board of Regents" means the Board of Regents of the University of Nevada.

2. "Director" means the Director of the ~~{Agricultural}~~ **Cooperative** Extension ~~{Department}~~ **Program** of the ~~{Public Service Division of the}~~ Nevada System of Higher Education. ~~{University of Nevada, Reno,}~~

3. "State 4-H Camp" means the State 4-H Camp Institute and Exhibit.

Sec. 8. NRS 553.040 is hereby amended to read as follows:

553.040 1. Every agricultural demonstration farm or plot under the provisions of this chapter must be conducted by the owner, lessee or manager thereof under the supervision of the ~~{Agricultural}~~ **Cooperative** Extension ~~{Department}~~ **Program** of the ~~{Public Service Division of the}~~ Nevada System of Higher Education ~~{University of Nevada, Reno,}~~ and in accordance with the terms of a written project agreement entered into with the ~~{Agricultural}~~ **Cooperative** Extension ~~{Department}~~ **Program** of the ~~{Public Service Division of the}~~ Nevada System of Higher Education ~~{University of Nevada, Reno,}~~ and approved by the board of county commissioners of the county in which the agricultural farm or plot is located.

2. The agreement must include the keeping by the owner, lessee or manager of accurate and systematic records and accounts in the form prescribed by the ~~{Agricultural}~~ **Cooperative** Extension ~~{Department}~~ **Program** of the ~~{Public Service Division of the}~~ Nevada System of Higher Education. ~~{University of Nevada, Reno,}~~ The records and accounts must be subject to inspection, use and publication in furtherance of the purposes of this chapter.

Sec. 9. NRS 553.050 is hereby amended to read as follows:

553.050 1. The purpose of demonstration farms is to demonstrate the results of improved systems of farm management and accountancy as prescribed by the ~~{Agricultural}~~ **Cooperative** Extension ~~{Department}~~ **Program** of the ~~{Public Service Division of the}~~ Nevada System of Higher Education ~~{University of Nevada, Reno,}~~ and applied to the farm units.

2. The purpose of demonstration plots is to demonstrate the value and importance of new or improved varieties of crops, soil management and soil and climate adaptability to certain crops.

Sec. 10. NRS 553.070 is hereby amended to read as follows:

553.070 1. Any county desiring to avail itself of the provisions of this chapter shall, by resolution of its board of county commissioners, bind itself to pay to the owner, lessee or manager of the demonstration farm or plot as follows:

(a) For each demonstration farm, the sum of \$10 per acre, but not exceeding the sum of \$100 for any such demonstration farm unit.

(b) For any demonstration plot, a minimum of \$25 if it is less than 3 acres, and \$10 per acre if it contains 3 acres or more.

2. The sums must be paid annually for each year the demonstration is to be continued on the certification by the ~~{Agricultural}~~ **Cooperative** Extension ~~{Department}~~ **Program** of the ~~{Public Service Division of the}~~ Nevada System of Higher Education ~~{University of Nevada, Reno,}~~ that the demonstration has been conducted in accordance with the agreement.

3. A county is not obligated under the provisions of this section, except with respect to demonstration farms and plots which have been approved by the board of county commissioners as provided in NRS 553.040.

4. The authority to provide for such expenditure in the county budget and to disburse the money is hereby granted to the board of county commissioners and the other officers of the several counties.

Sec. 11. NRS 553.090 is hereby amended to read as follows:

553.090 The ~~{Agricultural}~~ **Cooperative** Extension ~~{Department}~~ **Program** of the ~~{Public Service Division of the}~~ Nevada System of Higher Education ~~{University of Nevada, Reno,}~~ annually shall prepare the information resulting from the demonstration in a form serviceable to aid and advance agricultural welfare of the State. The ~~{Agricultural}~~ **Cooperative** Extension ~~{Department}~~ **Program** shall cause to be printed a number of copies thereof as may be deemed necessary, not exceeding 10,000, and shall distribute the copies without charge.

Sec. 12. NRS 284.140 is hereby amended to read as follows:

284.140 The unclassified service of the State consists of the following state officers or employees in the Executive Department of the State Government who receive annual salaries for their services:

1. Members of boards and commissions, and heads of departments, agencies and institutions required by law to be appointed.

2. Except as otherwise provided in NRS 223.085, 223.570 and 223.600, all persons required by law to be appointed by the Governor or heads of departments or agencies appointed by the Governor or by boards.

3. All employees other than clerical in the Office of the Attorney General and the State Public Defender required by law to be appointed by the Attorney General or the State Public Defender.

4. Except as otherwise provided by the Board of Regents of the University of Nevada pursuant to NRS 396.251, officers and members of the teaching staff and the staffs of the ~~[Agricultural]~~ **Cooperative** Extension ~~[Department of the University of Nevada, Reno,]~~ **Program** and the Experiment Station of the Nevada System of Higher Education, or any other state institution of learning, and student employees of these institutions. Custodial, clerical or maintenance employees of these institutions are in the classified service. The Board of Regents of the University of Nevada shall assist the Administrator in carrying out the provisions of this chapter applicable to the Nevada System of Higher Education.

5. All other officers and employees authorized by law to be employed in the unclassified service.

Sec. 12.5. NRS 396.600 is hereby amended to read as follows:

396.600 The Public Service Division of the System consists of the following public service departments:

1. ~~[Agricultural Extension.~~
- ~~2.]~~ Agricultural Experiment Station.
- ~~3.]~~ 2. Bureau of Mines and Geology.
- ~~4.]~~ 3. Such other departments as the Board of Regents may designate.

Sec. 12.7. NRS 396.690 is hereby amended to read as follows:

396.690 The assent of the State of Nevada by its Legislature is hereby given to the provisions and requirements of an Act of Congress entitled "An Act to provide for cooperative extension work between the agricultural colleges in the several States receiving the benefits of an Act of Congress approved July second, eighteen hundred and sixty-two, and of Acts supplementary thereto, and the United States Department of Agriculture," approved May 8, 1914 (c. 79, 38 Stat. 372), and any acts amendatory thereof and supplemental thereto. The Board of Regents is hereby authorized and empowered to receive the grants of money appropriated under such federal acts, and to organize and conduct ~~[agricultural]~~ **cooperative** extension work which must be carried on in connection with the College of Agriculture of the System, in accordance with the terms and conditions expressed in such Acts of Congress.

Sec. 13. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 14. 1. This section and sections 1, 2, 3 and 5 to 13, inclusive, of this act become effective upon passage and approval.

2. Section 4 of this act becomes effective on July 1, 2018.

Assemblywoman Swank moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 29.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 353.

AN ACT relating to off-highway vehicles; creating the Off-Highway Vehicles Program in the State Department of Conservation and Natural Resources; placing the Commission on Off-Highway Vehicles within the Department; revising provisions regarding the membership and duties of the Commission; reducing the late fee imposed for failure to register an off-highway vehicle; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Commission on Off-Highway Vehicles and authorizes the Commission to award grants of money from the Account for Off-Highway Vehicles to certain applicants for projects relating to off-highway vehicle use and off-highway trails and facilities. (NRS 490.067, 490.068, 490.069) **Sections 4 and 6** of this bill place the Commission within the State Department of Conservation and Natural Resources.

Section 1 of this bill creates the Off-Highway Vehicles Program in the State Department of Conservation and Natural Resources. In administering the Program, the Director of the Department, within the limits of approved funding, is required to: (1) provide certain support and assistance to the Commission on Off-Highway Vehicles; and (2) administer the Account for Off-Highway Vehicles. **Section 1** further requires the Director to include in his or her budget the money necessary, within the limits of legislative appropriations for the Account, for: (1) certain expenses of the Program and the Commission; and (2) a reserve amount.

Under existing law, each member of the Commission on Off-Highway Vehicles is entitled to receive, if money is available for that purpose, the per diem allowance and travel expenses provided for state officers and employees generally. (NRS 490.067) **Section 6** provides that, if money is available for that purpose, any member of the Commission who is not an officer or employee of the State is entitled to receive a salary of not more than \$80 per day for each day of attendance at a meeting of the Commission. **Section 6** further provides a procedure for replacing a member of the Commission who fails to attend at least three consecutive meetings.

Under existing law, the Commission on Off-Highway Vehicles is required to solicit nine nonvoting advisors to the Commission from various state and federal agencies. (NRS 490.068) **Section 7** of this bill removes that requirement, and **section 6** also: (1) revises the membership of the Commission; and (2) adds to the Commission four nonvoting, ex officio

members. **Section 7** also sets forth requirements for establishing a quorum of the Commission for transacting business. Finally, **sections 1 and 7** revise provisions requiring a comprehensive report that must be submitted to the Legislature, providing that the report must be prepared by the Director of the State Department of Conservation and Natural Resources, then reviewed and approved by the Chair of the Commission before being submitted to each regular session of the Legislature.

Under existing law, fees paid for titling and registration of an off-highway vehicle are deposited into the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration. (NRS 490.084) The Department of Motor Vehicles is required to transfer, at least once each fiscal quarter, any amount in excess of \$150,000 in that Account into the Account for Off-Highway Vehicles. (NRS 490.085) The Commission on Off-Highway Vehicles is required to administer the money in the Account for Off-Highway Vehicles. (NRS 490.069) **Section 8** of this bill requires the Director of the State Department of Conservation and Natural Resources to administer the Account. **Section 8** also requires a portion of the money in the Account be used to maintain a reserve amount.

Under existing law, if the owner of an off-highway vehicle that is registered in this State fails to renew the registration before it expires, the registration may be reinstated upon payment of the annual renewal fee, a late fee of \$25 and, if applicable, the submission of proof of insurance, which is only required for certain larger all-terrain vehicles that are authorized to operate on certain county roads. (NRS 490.082, 490.0825, 490.105) **Section 9** of this bill reduces the late fee to \$10.

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

Section 1. Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Off-Highway Vehicles Program is hereby created in the Department. The Director shall administer the Program. The Commission on Off-Highway Vehicles created by NRS 490.067 shall provide direction to the Program pursuant to its authority and duties provided in NRS 490.068 and 490.069.*

2. *In administering the Program, the Director shall, within the limits of authorized expenditures:*

(a) *Administer the Account for Off-Highway Vehicles created by NRS 490.069; and*

(b) *Provide staff to the Commission on Off-Highway Vehicles for the purposes of:*

(1) *Providing assistance, support and technical advice to the Commission; and*

(2) *Assisting in the coordination of the activities and duties of the Commission.*

3. *The Director may form a technical advisory committee as needed to provide input to the Commission on Off-Highway Vehicles regarding the completeness and merit of applications received by the Commission for a grant from the Account for Off-Highway Vehicles.*

4. *The Director shall prepare, for each regular session of the Legislature, a comprehensive report that includes, without limitation:*

(a) The general activities of the Commission on Off-Highway Vehicles;

(b) The fiscal activities of the Commission on Off-Highway Vehicles; and

(c) A summary of any grants awarded by the Commission on Off-Highway Vehicles.

↪ *Upon completion of the report, the Director shall submit the report to the Chair of the Commission on Off-Highway Vehicles for review pursuant to NRS 490.068.*

5. *The Director shall include in his or her budget the money necessary, within the limits of legislative authorizations for the Account for Off-Highway Vehicles, for:*

(a) The operating expenses of the Commission on Off-Highway Vehicles;

(b) The administrative expenses of the Program to carry out the provisions of this section; and

(c) A reserve amount as approved by the Legislature.

6. *The Director may adopt regulations for the operation of the Commission on Off-Highway Vehicles and the Program.*

7. *As used in this section:*

(a) "Administrative expenses" includes, without limitation, hiring any staff necessary to carry out the provisions of this section.

(b) "Operating expenses" includes, without limitation, any costs of contracting with a third party to provide education and information to the members of the public relating to the provisions of chapter 490 of NRS governing the lawful use and registration of off-highway vehicles.

Sec. 2. NRS 232.010 is hereby amended to read as follows:

232.010 As used in NRS 232.010 to 232.162, inclusive ~~{ }~~, **and section 1 of this act:**

1. "Department" means the State Department of Conservation and Natural Resources.

2. "Director" means the Director of the State Department of Conservation and Natural Resources.

Sec. 3. NRS 232.070 is hereby amended to read as follows:

232.070 1. As executive head of the Department, the Director is responsible for the administration, through the divisions and other units of the Department, of all provisions of law relating to the functions of the Department, except functions assigned by law to the State Environmental Commission, the State Conservation Commission, the Commission for

Cultural Centers and Historic Preservation , ***the Commission on Off-Highway Vehicles*** or the Sagebrush Ecosystem Council.

2. Except as otherwise provided in subsection 4, the Director shall:

- (a) Establish departmental goals, objectives and priorities.
- (b) Approve divisional goals, objectives and priorities.
- (c) Approve divisional and departmental budgets, legislative proposals, contracts, agreements and applications for federal assistance.
- (d) Coordinate divisional programs within the Department and coordinate departmental and divisional programs with other departments and with other levels of government.
- (e) Appoint the executive head of each division within the Department.
- (f) Delegate to the executive heads of the divisions such authorities and responsibilities as the Director deems necessary for the efficient conduct of the business of the Department.

(g) Establish new administrative units or programs which may be necessary for the efficient operation of the Department, and alter departmental organization and reassign responsibilities as the Director deems appropriate.

(h) From time to time adopt, amend and rescind such regulations as the Director deems necessary for the administration of the Department.

(i) Consider input from members of the public, industries and representatives of organizations, associations, groups or other entities concerned with matters of conservation and natural resources on the following:

(1) Matters relating to the establishment and maintenance of an adequate policy of forest and watershed protection;

(2) Matters relating to the park and recreational policy of the State;

(3) The use of land within this State which is under the jurisdiction of the Federal Government;

(4) The effect of state and federal agencies' programs and regulations on the users of land under the jurisdiction of the Federal Government, and on the problems of those users of land; and

(5) The preservation, protection and use of this State's natural resources.

3. Except as otherwise provided in subsection 4, the Director may enter into cooperative agreements with any federal or state agency or political subdivision of the State, any public or private institution located in or outside the State of Nevada, or any other person, in connection with studies and investigations pertaining to any activities of the Department.

4. This section does not confer upon the Director any powers or duties which are delegated by law to the State Environmental Commission, the State Conservation Commission, the Commission for Cultural Centers and Historic Preservation , ***the Commission on Off-Highway Vehicles*** or the Sagebrush Ecosystem Council, but the Director may foster cooperative

agreements and coordinate programs and activities involving the powers and duties of the Commissions and the Council.

5. Except as otherwise provided in NRS 232.159 and 232.161, all gifts of money and other property which the Director is authorized to accept must be accounted for in the Department of Conservation and Natural Resources Gift Fund which is hereby created as a trust fund.

Sec. 4. NRS 232.090 is hereby amended to read as follows:

232.090 1. The Department consists of the Director and the following:

- (a) The Division of Water Resources.
- (b) The Division of State Lands.
- (c) The Division of Forestry.
- (d) The Division of State Parks.
- (e) The Division of Environmental Protection.
- (f) The Office of Historic Preservation.
- (g) Such other divisions as the Director may from time to time establish.

2. The State Environmental Commission, the State Conservation Commission, the Commission for Cultural Centers and Historic Preservation, **the Commission on Off-Highway Vehicles**, the Conservation Districts Program, the Nevada Natural Heritage Program, the Sagebrush Ecosystem Council and the Board to Review Claims are within the Department.

Sec. 5. NRS 490.066 is hereby amended to read as follows:

490.066 ~~[The]~~ **Except as otherwise provided in NRS 490.068 and section 1 of this act, the** Director may adopt and enforce such administrative regulations as are necessary to carry out the provisions of this chapter.

Sec. 6. NRS 490.067 is hereby amended to read as follows:

490.067 1. The Commission on Off-Highway Vehicles is hereby created ~~[i] in the State Department of Conservation and Natural Resources.~~

2. The Commission consists of : ~~[11 members as follows:]~~

- (a) One member who is an authorized dealer, appointed by the Governor;
- (b) One member who is a sportsman, appointed by the Governor from a list of persons submitted by the Director of the Department of Wildlife;
- (c) One member who is a rancher, appointed by the Governor from a list of persons submitted by the Director of the State Department of Agriculture;
- (d) One member who is a representative of the Nevada Association of Counties, appointed by the Governor from a list of persons submitted by the Executive Director of the Association;
- (e) One member who is a representative of law enforcement, appointed by the Governor from a list of persons submitted by the Nevada Sheriffs' and Chiefs' Association;

(f) One member ~~[i] who is a representative of~~ **actively engaged in and possesses experience and expertise in advocating for issues relating to conservation, [organizations],** appointed by the Governor ~~[from a list of persons submitted by the Director of the State Department of Conservation and Natural Resources, who:~~

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

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

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

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

~~—(h) Four;~~

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

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

(2) One member who represents persons who own or operate all-terrain motorcycles ~~};~~ **and who is involved with or participates in the racing of off-highway motorcycles; and**

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

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

3. The following are nonvoting, ex officio members of the Commission:

(a) The State Director of the Nevada State Office of the Bureau of Land Management;

(b) The Forest Supervisor for the Humboldt-Toiyabe National Forest;

(c) The Director of the Department of Tourism and Cultural Affairs; and

(d) The Director of the Department of Motor Vehicles.

4. A nonvoting, ex officio member of the Commission may appoint, in writing, an alternate to serve in his or her place on the Commission.

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

~~{4.}~~ **6.** After the initial terms, each member of the Commission **appointed pursuant to subsection 2** serves for a term of 3 years. A vacancy on the Commission must be filled in the same manner as the original appointment.

~~{5-}~~ 7. Except as otherwise provided in this subsection, a member of the Commission **who is appointed** may not serve more than two consecutive terms on the Commission. A member who has served two consecutive terms on the Commission may be reappointed if the Governor does not receive any applications for that member's seat or if the Governor determines that no qualified applicants are available to fill that member's seat.

~~{6-}~~ 8. The Governor shall ensure that, insofar as practicable, the members appointed to the Commission **pursuant to subsection 2** reflect the geographical diversity of this State.

~~{7-}~~ 9. Each member of the Commission:

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

(b) **Who is not an officer or employee of the State of Nevada is entitled to receive, if money is available for that purpose, a salary of not more than \$80 per day for each day of attendance at a meeting of the Commission.**

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

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

~~9. The Commission may adopt regulations for the operation of the Commission. Upon request by the Commission, the nonvoting advisers solicited by the Commission pursuant to NRS 490.068 may provide assistance to the Commission in adopting those regulations.}~~

10. A member of the Commission who is appointed by the Governor and who fails to attend at least three consecutive meetings of the Commission is subject to replacement. The Commission shall notify the appointing authority or group who recommended the member for appointment, if any, and the appointing authority or group may recommend a person to replace that member of the Commission. The replacement of a member pursuant to this subsection must be conducted in the same manner as the original appointment.

Sec. 7. NRS 490.068 is hereby amended to read as follows:

490.068 1. The Commission shall:

(a) Elect a Chair ~~{,}~~ **and** Vice Chair ~~{, Secretary and Treasurer}~~ from among its members.

(b) Meet at the call of the Chair.

(c) Meet at least four times each year.

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

- ~~— (1) One adviser from the Bureau of Land Management.~~
- ~~— (2) One adviser from the United States Forest Service.~~
- ~~— (3) One adviser who is:~~
 - ~~— (I) From the Natural Resources Conservation Service of the United States Department of Agriculture; or~~
 - ~~— (II) A teacher, instructor or professor at an institution of the Nevada System of Higher Education and who provides instruction in environmental science or a related field.~~
- ~~— (4) One adviser from the State Department of Conservation and Natural Resources.~~
- ~~— (5) One adviser from the Department of Wildlife.~~
- ~~— (6) One adviser from the Department of Motor Vehicles.~~
- ~~— (7) One adviser from the Commission on Tourism, other than the Chair of the Nevada Indian Commission.~~
- ~~— (8) One adviser from the Nevada Indian Commission.~~
- ~~— (9) One adviser from the United States Fish and Wildlife Service.]~~

Provide direction to the Off-Highway Vehicles Program created by section 1 of this act.

(e) Perform the duties assigned to the Commission set forth in NRS 490.083 and 490.084.

2. A majority of the voting members of the Commission constitutes a quorum for the transaction of business, and a majority vote of those members present at any meeting is sufficient for any official action taken by the Commission.

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

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

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

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

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

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

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

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

(b) Adopt regulations for awarding grants from the Account ~~for~~

~~—(c) Adopt regulations for determining the~~ **, including, without limitation, the developing criteria:**

(1) That promote projects which integrate multiple grant categories;

(2) That encourage a distribution of grants among all grant categories; and

(3) For the determination of acceptable performance of work on a project for which a grant is awarded.

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

~~—(e) Monitor the accounting activities of the Account.~~

~~—3. The nonvoting advisers solicited by the~~

4. The Commission ~~[pursuant to paragraph (d) of subsection 1 shall assist the Commission in carrying out the duties set forth in this section and shall review for completeness and for compliance with the requirements of paragraph (a) of subsection 2 all]~~ **may solicit input regarding** applications for grants ~~for~~

~~—4.] from a technical advisory committee formed pursuant to section 1 of this act.~~

5. For each regular session of the Legislature, the Chair of the Commission shall ~~[prepare a]~~ **review the** comprehensive report ~~[, including, without limitation, a summary of any grants that the Commission awarded and of the accounting activities of the Account, and any recommendations of the Commission for proposed legislation. The]~~ **prepared pursuant to section 1 of this act. Upon approval of the report by the Chair of the Commission, the** report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than September 1 of each even-numbered year.

Sec. 8. NRS 490.069 is hereby amended to read as follows:

490.069 1. The Account for Off-Highway Vehicles is hereby created in the State General Fund as a revolving account. The ~~[Commission]~~ **Director of the State Department of Conservation and Natural Resources** shall administer 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.

2. ~~[During the period beginning on July 1, 2012, and ending on June 30, 2013, money in the Account may only be used by the Commission for the~~

reasonable administrative costs of the Commission and to inform the public of the requirements of this chapter.

~~—3.~~ On or after July 1, ~~{2013,}~~ **2017**, money in the Account may only be used ~~{by the Commission}~~ as follows:

(a) ~~{Not more than 5 percent of the money that is in the Account as of January 1 of each year may be used for the reasonable}~~ **To pay for the operating expenses of the Commission, including, without limitation, any debts or obligations lawfully incurred by the Commission before July 1, 2017, and the administrative {costs} expenses of the {Account.}** **Off-Highway Vehicles Program created by section 1 of this act, consistent with the legislatively approved budget of the State Department of Conservation and Natural Resources pursuant to section 1 of this act.**

(b) ~~{Except as otherwise provided in subsection 4, 20 percent of any money in the Account as of January 1 of each year that is not used pursuant to paragraph (a) must be used for law enforcement, as recommended by the Office of Criminal Justice Assistance of the Department of Public Safety, or its successor, and any remaining portion of that money may be used as follows:~~

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

~~——{(1)} To fund a reserve amount as provided in the legislatively approved budget of the State Department of Conservation and Natural Resources pursuant to section 1 of this act.~~

(c) **Any money in the Account that is not used pursuant to paragraph (a) or (b) each fiscal year may be used by the Commission to award grants as provided in NRS 490.068 for projects relating to:**

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

~~{(II)}~~ (2) The mapping and signing of those trails and facilities.

~~{(III)}~~ (3) The acquisition of land for those trails and facilities.

~~{(IV)}~~ (4) The enhancement ~~{and}~~ **or** maintenance, **or both**, of those trails and facilities.

~~{(V)}~~ (5) The construction of those trails and facilities.

~~{(VI)}~~ (6) The restoration of areas that have been damaged by the use of off-highway vehicles.

~~{(2) Fifteen percent of the money may be used for safety}~~

(7) **The prevention of impacts to important environmental areas or wildlife habitat that would be subject to damage by the use of off-highway vehicles.**

~~——(8) Safety~~ training and education relating to **the use of** off-highway vehicles.

~~{4. If money is used for the projects described in paragraph (b) of subsection 3, not more than 30 percent of such money may be allocated to~~

~~any one category of projects described in subparagraph (1) of that paragraph.~~

~~490.082~~ ***(9) Efforts to improve compliance with and enforcement of the requirements relating to off-highway vehicles.***

Sec. 9. NRS 490.082 is hereby amended to read as follows:

490.082 1. An owner of an off-highway vehicle that is acquired:

(a) Before July 1, 2011:

(1) May apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, shall, within 1 year after July 1, 2011, apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, the registration of the off-highway vehicle.

(b) On or after July 1, 2011, shall, within 30 days after acquiring ownership of the off-highway vehicle:

(1) Apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, the registration of the off-highway vehicle pursuant to this section or NRS 490.0825.

2. If an owner of an off-highway vehicle applies to the Department or to an authorized dealer for:

(a) A certificate of title for the off-highway vehicle, the owner shall submit to the Department or to the authorized dealer proof prescribed by the Department that he or she is the owner of the off-highway vehicle.

(b) Except as otherwise provided in NRS 490.0825, the registration of the off-highway vehicle, the owner shall submit:

(1) If ownership of the off-highway vehicle was obtained before July 1, 2011, proof prescribed by the Department:

(I) That he or she is the owner of the off-highway vehicle; and

(II) Of the unique vehicle identification number, serial number or distinguishing number obtained pursuant to NRS 490.0835 for the off-highway vehicle; or

(2) If ownership of the off-highway vehicle was obtained on or after July 1, 2011:

(I) Evidence satisfactory to the Department that he or she has paid all taxes applicable in this State relating to the purchase of the off-highway vehicle, or submit an affidavit indicating that he or she purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off-highway vehicle; and

(II) Proof prescribed by the Department that he or she is the owner of the off-highway vehicle and of the unique vehicle identification number,

serial number or distinguishing number obtained pursuant to NRS 490.0835 for the off-highway vehicle.

3. Registration of an off-highway vehicle is not required if the off-highway vehicle:

(a) Is owned and operated by:

(1) A federal agency;

(2) An agency of this State; or

(3) A county, incorporated city or unincorporated town in this State;

(b) Is part of the inventory of a dealer of off-highway vehicles and is affixed with a special plate provided to the off-highway vehicle dealer pursuant to NRS 490.0827;

(c) Is registered or certified in another state and is located in this State for not more than 15 days;

(d) Is used solely for husbandry on private land or on public land that is leased to or used under a permit issued to the owner or operator of the off-highway vehicle;

(e) Is used for work conducted by or at the direction of a public or private utility;

(f) Was manufactured before January 1, 1976;

(g) Is operated solely in an organized race, festival or other event that is conducted:

(1) Under the auspices of a sanctioning body; or

(2) By permit issued by a governmental entity having jurisdiction;

(h) Except as otherwise provided in paragraph (d), is operated or stored on private land or on public land that is leased to the owner or operator of the off-highway vehicle, including when operated in an organized race, festival or other event;

(i) Is used in a search and rescue operation conducted by a governmental entity having jurisdiction; or

(j) Has a displacement of not more than 70 cubic centimeters.

➡ As used in this subsection, “sanctioning body” means an organization that establishes a schedule of racing events, grants rights to conduct those events and establishes and administers rules and regulations governing the persons who conduct or participate in those events.

4. The registration of an off-highway vehicle pursuant to this section or NRS 490.0825 expires 1 year after its issuance. If an owner of an off-highway vehicle fails to renew the registration of the off-highway vehicle before it expires, the registration may be reinstated upon the payment to the Department of the annual renewal fee, a late fee of ~~15~~ **\$10** and, if applicable, proof of insurance required pursuant to NRS 490.0825. Any late fee collected by the Department must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

5. If a certificate of title or registration for an off-highway vehicle is lost or destroyed, the owner of the off-highway vehicle may apply to the

Department by mail, or to an authorized dealer, for a duplicate certificate of title or registration. The Department may collect a fee to replace a certificate of title or registration certificate, sticker or decal that is lost, damaged or destroyed. Any such fee collected by the Department must be:

- (a) Set forth by the Department by regulation; and
- (b) Deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

6. The provisions of subsections 1 to 5, inclusive, do not apply to an owner of an off-highway vehicle who is not a resident of this State.

Sec. 10. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 11. 1. The terms of the members of the Commission on Off-Highway Vehicles who are appointed pursuant to paragraphs (f) and (g) and subparagraphs (2) and (4) of paragraph (h) of subsection 2 of NRS 490.067, as those provisions exist on June 30, 2017, expire on July 1, 2017.

2. On or before July 1, 2017, the Governor shall appoint to the Commission on Off-Highway Vehicles the members of the Commission on Off-Highway Vehicles specified in paragraph (f) and subparagraph (2) of paragraph (g) of subsection 2 of NRS 490.067, as amended by section 6 of this act, to initial terms of 3 years commencing on July 1, 2017.

Sec. 12. 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, 2017, for all other purposes.

Assemblyman Carrillo moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 97.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 569.

~~ASSEMBLYWOMAN~~ **ASSEMBLYMEN** BENITEZ-THOMPSON **AND YEAGER**

SUMMARY—Revises provisions relating to evidence collected from and the reimbursement of payment for forensic medical examinations of victims of sexual assault. (BDR 15-538)

AN ACT relating to crimes; requiring a law enforcement agency to submit certain sexual assault forensic evidence kits to a forensic laboratory within a certain period ~~for time~~ after receipt thereof; requiring a forensic laboratory ~~to test sexual assault forensic evidence kits within a certain period after receipt thereof and to report certain information concerning sexual assault forensic evidence kits on an annual basis; making~~ to test sexual assault forensic evidence kits within a certain period after receipt thereof and to report certain information concerning sexual assault forensic evidence kits on an annual basis; making

~~various changes to the Subcommittee to Review Arrestee DNA of the Advisory Commission on the Administration of Justice;~~ **authorizing a county to be reimbursed from the Fund for the Compensation of Victims of Crime for the payment of costs associated with forensic medical examinations of victims of sexual assault; making an appropriation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires a law enforcement agency to submit a sexual assault forensic evidence kit (hereinafter "SAFE kit") to the applicable forensic laboratory responsible for conducting a genetic marker analysis not later than 30 days after receiving the SAFE kit. **Such a requirement does not apply with regard to any noninvestigatory SAFE kit associated with a victim who: (1) has chosen to remain anonymous; or (2) indicates that he or she is not a victim of sexual assault.** Section 1 also requires each forensic laboratory that receives a SAFE kit from a law enforcement agency to: (1) test the SAFE kit not later than ~~[190]~~ **120** days after receiving the SAFE kit ; ~~[, if the victim of a sexual assault requests such testing;]~~ and (2) **upon completion of a genetic marker analysis, include the DNA profile obtained from the genetic marker analysis in the State DNA Database and the Federal Bureau of Investigation's Combined DNA Index System. Section 1 further requires each forensic laboratory to submit a** report annually to ~~[the Subcommittee to Review DNA of the Advisory Commission on the Administration of Justice and to]~~ the Director of the Legislative Counsel Bureau, for ~~[transmission]~~ **transmittal** to the next session of the Legislature ~~[,]~~ or to the Legislative Commission, as applicable. The report must include **certain** information concerning ~~[the number of]~~ SAFE kits ~~[that have been in the possession of]~~ **received by** the forensic laboratory ~~[for a period longer than 1 year and which have not been tested.~~
~~Existing law establishes the Subcommittee to Review Arrestee DNA of the Advisory Commission on the Administration of Justice and requires the Subcommittee to evaluate, review and submit a report to the Commission regarding certain issues relating to arrestee DNA. (NRS 176.01246) Section 3 of this bill: (1) revises the name of the Subcommittee to reflect the broader duties assigned pursuant to this bill; and (2) requires the Subcommittee to additionally evaluate, review and submit a report to the Commission regarding the submittal, storage and testing of SAFE kits.] , depending on whether a SAFE kit was received by the forensic laboratory before January 1, 2015, or on or after January 1, 2015.~~

Existing law requires a county in whose jurisdiction a sexual assault is committed to pay any costs incurred by a hospital for the forensic medical examination of the victim of the sexual assault. (NRS 217.300) Existing law also authorizes a compensation officer of the Department of Administration to order the payment of compensation from the Fund for the Compensation of Victims of Crime to or for the benefit of victims of certain crimes or to certain other specified persons. (NRS 217.033,

217.160, 217.260) Section 3.3 of this bill additionally authorizes a compensation officer to order the payment of compensation to a county for the reimbursement of costs associated with conducting forensic medical examinations of victims of sexual assault that are paid by the county, in an amount equal to the cost of 10 forensic medical examinations or \$10,000, whichever is less, each fiscal year.

Section 3.7 of this bill makes an appropriation of \$3,000,000 to the Office of the Attorney General to be allocated pursuant to an interlocal agreement to a public entity for the purpose of making payments to forensic laboratories to reduce the backlog of sexual assault forensic evidence kits that have not been tested.

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

Section 1. Chapter 200 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Each~~ Except as otherwise provided in this subsection, a law enforcement agency shall, not later than 30 days after receiving a sexual assault forensic evidence kit, submit the sexual assault forensic evidence kit to the applicable forensic laboratory responsible for conducting a genetic marker analysis. The provisions of this subsection do not apply to any noninvestigatory sexual assault forensic evidence kit associated with a victim who:

(a) Has chosen to remain anonymous; or

(b) Indicates that he or she is not a victim of sexual assault.

2. ~~If a victim of sexual assault so requests, at~~ A forensic laboratory shall, not later than ~~190~~ 120 days after receiving a sexual assault forensic evidence kit from a law enforcement agency, test the sexual assault forensic evidence kit. Upon completion of a genetic marker analysis, the forensic laboratory shall include the DNA profile obtained from the genetic marker analysis in the State DNA Database and CODIS.

3. ~~Each forensic laboratory that receives a sexual assault forensic evidence kit from a law enforcement agency shall, on or before August 31 of each year, submit a report to the Subcommittee to Review DNA of the Advisory Commission on the Administration of Justice pursuant to NRS 176.01246 and the Director of the Legislative Counsel Bureau for transmittal to the Legislature, if the Legislature is in session, or to the Legislative Commission, if the Legislature is not in session. If the Legislature is in session, the Director shall ensure that each member of the Assembly and Senate Standing Committees on Judiciary receives a copy of the report. The report must contain the:~~

(a) With regard to any sexual assault forensic evidence kit received by the forensic laboratory before January 1, 2015:

(1) The total number of such sexual assault forensic evidence kits which have

~~(a) Been in the possession of the forensic laboratory for a period longer than 1~~ tested during the immediately preceding calendar year; and

(2) The total number of such sexual assault forensic evidence kits that have not been tested.

~~(b) Not~~ With regard to any sexual assault forensic evidence kit received by the forensic laboratory on or after January 1, 2015:

(1) The total number of such sexual assault forensic evidence kits tested during the immediately preceding calendar year and, for each such sexual assault forensic evidence kit, the date on which:

(I) The forensic evidence was obtained from a forensic medical examination;

(II) The sexual assault forensic evidence kit was submitted to the forensic laboratory; and

(III) The DNA profile obtained from the genetic marker analysis was included in the State DNA Database and CODIS.

(2) The total number of such sexual assault forensic evidence kits that have not been tested ~~for~~ and, for each such sexual assault forensic evidence kit, the date on which:

(I) The forensic evidence was obtained from a forensic medical examination; and

(II) The sexual assault forensic evidence kit was submitted to the forensic laboratory.

4. As used in this section:

(a) "CODIS" has the meaning ascribed to it in NRS 176.09113.

(b) "Forensic laboratory" has the meaning ascribed to it in NRS 176.09117.

~~(b)~~ (c) "Forensic medical examination" has the meaning ascribed to it in NRS 217.300.

~~(c)~~ (d) "Genetic marker analysis" has the meaning ascribed to it in NRS 176.09118.

~~(d)~~ (e) "Sexual assault forensic evidence kit" means the forensic evidence obtained from a forensic medical examination.

~~(e)~~ (f) "State DNA Database" has the meaning ascribed to it in NRS 176.09119.

(g) "Victim of sexual assault" has the meaning ascribed to it in NRS 217.280.

Sec. 2. NRS 200.364 is hereby amended to read as follows:

200.364 As used in NRS 200.364 to 200.3784, inclusive, **and section 1 of this act**, unless the context otherwise requires:

1. "Offense involving a pupil" means any of the following offenses:

(a) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.

(b) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.

2. “Perpetrator” means a person who commits a sexual offense, an offense involving a pupil or sex trafficking.

3. “Sex trafficking” means a violation of subsection 2 of NRS 201.300.

4. “Sexual offense” means any of the following offenses:

(a) Sexual assault pursuant to NRS 200.366.

(b) Statutory sexual seduction pursuant to NRS 200.368.

5. “Sexual penetration” means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person’s body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning. The term does not include any such conduct for medical purposes.

6. “Statutory sexual seduction” means ordinary sexual intercourse, anal intercourse or sexual penetration committed by a person 18 years of age or older with a person who is 14 or 15 years of age and who is at least 4 years younger than the perpetrator.

7. “Victim” means a person who is a victim of a sexual offense, an offense involving a pupil or sex trafficking.

Sec. 3. ~~NRS 176.01246 is hereby amended to read as follows:~~

~~176.01246 1. There is hereby created the Subcommittee to Review [Arrestee] DNA of the Commission.~~

~~2. The Chair of the Commission shall appoint the members of the Subcommittee which must include, without limitation:~~

~~(a) A member experienced in defending criminal actions;~~

~~(b) A member of a minority community organization whose mission includes the protection of civil rights for minorities.~~

~~3. The Chair of the Commission shall designate one of the members of the Subcommittee as Chair of the Subcommittee.~~

~~4. The Subcommittee shall meet at the times and places specified by a call of the Chair. A majority of the members of the Subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the Subcommittee.~~

~~5. The Subcommittee shall consider issues relating to DNA [of arrested persons] and shall evaluate, review and submit a report to the Commission with recommendations concerning such issues. The issues considered by the Subcommittee and the report submitted by the Subcommittee must include, without limitation:~~

~~(a) The costs and procedures relating to the methods, implementation and utilization of the provisions for the destruction of biological specimens and purging of DNA profiles and DNA records of arrested persons; [and]~~

~~(b) The collection and review of information concerning the number of requests for the destruction of biological specimens and purging of DNA profiles and DNA records of arrested persons and the number and percentage of such requests that are denied [.] ; and~~

~~(e) The submittal, storage and testing of sexual assault forensic evidence kits, including, without limitation, the review of any report required pursuant to section 1 of this act.~~

~~6. Any Legislators who are members of the Subcommittee are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Subcommittee.~~

~~7. While engaged in the business of the Subcommittee, to the extent of legislative appropriation, each member of the Subcommittee is entitled to receive the per diem allowance and travel expenses as provided for state officers and employees generally.~~

~~8. As used in this section:~~

~~(a) "Biological specimen" has the meaning ascribed to it in NRS 176.09112.~~

~~(b) "DNA" has the meaning ascribed to it in NRS 176.09114.~~

~~(c) "DNA profile" has the meaning ascribed to it in NRS 176.09115.~~

~~(d) "DNA record" has the meaning ascribed to it in NRS 176.09116.~~

~~(e) "Sexual assault forensic evidence kit" has the meaning ascribed to it in section 1 of this act. (Deleted by amendment.)~~

Sec. 3.3. NRS 217.160 is hereby amended to read as follows:

217.160 1. The compensation officer may order the payment of compensation:

(a) To or for the benefit of the victim.

(b) If the victim has suffered personal injury, to any person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of the injury.

(c) If the victim dies, to or for the benefit of any one or more of the dependents of the victim.

(d) To a minor who is a member of the household or immediate family of a victim of a battery which constitutes domestic violence pursuant to NRS 33.018 who needs an assessment, a psychological evaluation or psychological counseling for emotional trauma suffered by the minor as a result of the battery.

(e) To a member of the victim's household or immediate family for psychological counseling for emotional trauma suffered by the member as a result of the crime of murder as defined in NRS 200.010.

(f) To a county in whose jurisdiction a sexual assault was committed for the reimbursement of costs associated with a forensic medical examination of a victim of sexual assault that are paid by the county pursuant to NRS 217.300. A county may be reimbursed pursuant to this paragraph in an amount equal to the cost of 10 forensic medical examinations or \$10,000, whichever is less, each fiscal year.

2. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) **“Forensic medical examination” has the meaning ascribed to it in NRS 217.300.**

(c) “Household” means an association of persons who live in the same home or dwelling and who:

(1) Have significant personal ties to the victim; or

(2) Are related by blood, adoption or marriage, within the first degree of consanguinity or affinity.

~~[(c)]~~ **(d)** “Immediate family” means persons who are related by blood, adoption or marriage, within the first degree of consanguinity or affinity.

(e) “Victim of sexual assault” has the meaning ascribed to it in NRS 217.280.

Sec. 3.7. There is hereby appropriated from the State General Fund to the Office of the Attorney General the sum of \$3,000,000 to be allocated pursuant to an interlocal agreement to a public entity for the purpose of making payments to forensic laboratories to reduce the backlog of sexual assault forensic evidence kits that have not been tested.

Sec. 4. 1. The amendatory provisions of :

(a) Subsections 1 and 2 of section 1 of this act apply to any sexual assault forensic evidence kit received by a forensic laboratory from a law enforcement agency on or after ~~July 1,~~ **October 1, 2017.**

(b) Section 3.3 of this act apply to costs associated with a forensic medical examination of a victim of sexual assault that are paid by a county on or after October 1, 2017.

2. Each forensic laboratory shall, on or before ~~August 31,~~ **January 31, 2018,** submit its first report to the ~~{Subcommittee to Review DNA of the Advisory Commission on the Administration of Justice.}~~ **Legislative Commission.**

3. As used in this section:

(a) “Forensic laboratory” has the meaning ascribed to it in NRS 176.09117.

(b) **“Forensic medical examination” has the meaning ascribed to it in NRS 217.300.**

(c) “Sexual assault forensic evidence kit” has the meaning ascribed to it in section 1 of this act.

(d) “Victim of sexual assault” has the meaning ascribed to it in NRS 217.280.

Sec. 5. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 6. 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. 7. ~~{This act becomes effective on July 1, 2017.}~~ (Deleted by amendment.)

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 102.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 16.

AN ACT relating to civil actions; revising certain provisions relating to the proper venue in civil actions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a court to maintain continuing jurisdiction over certain matters relating to domestic relations, including, without limitation, divorce, child custody and child support matters. (NRS 125.150, 125A.315, 126.191, 130.202, 130.205-130.206) Continuing jurisdiction allows a court to modify its final order, judgment or decree to account for changed circumstances relating to the parties or instances of fraud or mistake. (NRS 125.150, 125A.315) Existing law also requires that a civil action must be removed from a court of this State if venue is not proper and the defendant, before the time for filing an answer to the complaint has expired, demands in writing that the trial be carried out in a court where venue is proper. (NRS 13.050) Existing law does not, however, authorize a change of venue after a trial is complete. (NRS 13.050)

This bill authorizes a court to remove a civil proceeding, including, without limitation, matters relating to domestic relations, to a court in another county after: (1) a final order, judgment or decree has been entered in ~~the~~ a proceeding ~~in which the court has continuing jurisdiction;~~ (2) a party to the final order, judgment or decree ~~files~~ has filed a subsequent petition or motion relating to the proceeding; ~~and~~ (3) none of the parties currently reside in the county where the final order, judgment or decree was entered ~~;~~ ; and (4) the respondent files a timely demand for the petition or motion to be heard in a county where either party to the proceeding resides or where the child which is the subject of the proceeding resides. ~~[This bill also authorizes the respondent, before the time for filing a response to the subsequent motion has expired, to file a demand for the motion to be heard in a county where venue is proper. This]~~ Finally, this bill authorizes a court to approve ~~this~~ such a demand and remove the proceeding to another court within this State where venue is proper and which is agreed upon by the parties or ordered by the court.

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

Section 1. NRS 13.050 is hereby amended to read as follows:

13.050 1. If the county designated for that purpose in the complaint ~~be~~ **, petition or motion is** not the proper county, the ~~action~~ **proceeding** may, notwithstanding, be tried **or heard** therein, unless :

(a) ~~After the filing of a complaint, or petition,~~ the defendant ~~before the time for answering expires demand~~ **demands** in writing , **before the time for answering expires**, that the trial be had in the proper county, and the place of trial be thereupon changed by consent of the parties, or by order of the court, as provided in this section.

(b) ~~After the entry of a final order, judgment or decree when~~ **In a proceeding in which the court has continuing jurisdiction after the issuance of a final order, judgment or decree, including, without limitation, any proceeding for divorce, annulment, separate maintenance or parentage or custody of a child and where no party currently resides in the county in which the order, judgment or decree was entered, the respondent demands in writing, before the time for filing a response expires, that the petition or motion be heard in the proper county, and be thereupon changed by consent of the parties, of residence of either party to the proceeding or in the county where the child who is the subject of the proceeding resides, or by order of the court, as provided in this section.**

2. The court may, on motion ~~or stipulation~~ **, or stipulation**, change the place of ~~trial~~ **the proceeding** in the following cases:

(a) When the county designated in the complaint **, petition or motion** is not the proper county.

(b) When there is reason to believe that an impartial ~~trial~~ **proceeding** cannot be had therein.

(c) When the convenience of the witnesses and the ends of justice would be promoted by the change.

(d) When any defendant in a case commenced in a county without a business court requests a change to a county:

(1) With a business court; and

(2) In which the case, if originally commenced in such county, would be eligible for assignment to the business court.

(e) When each of the parties consent to the change.

3. When the place of ~~trial~~ **the proceeding** is changed, all other ~~proceedings~~ **matters relating to the proceeding** shall be had in the county to which the place of ~~trial~~ **the proceeding** is changed, unless otherwise provided by the consent of the parties in writing duly filed, or by order of the court, and the papers shall be filed or transferred accordingly.

4. As used in this section, “business court” means, as designated pursuant to the rules of the applicable district court:

(a) A business court docket;

(b) A business matter designation; or

(c) At least one business court judge.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 132.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 562.

SUMMARY—Provides for enhanced penalties for committing assault or battery against certain civilian employees and volunteers of ~~law enforcement agencies~~ **certain governmental entities**. (BDR 15-111)

AN ACT relating to crimes; revising the definition of “officer” to include certain civilian employees and volunteers of ~~law enforcement agencies~~ **certain governmental entities** for the purpose of enhancing the penalties for assault and battery against such a person; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that a person is guilty of: (1) a category D felony if the person commits an assault upon an officer; and (2) a category B felony if the person commits an assault upon an officer with the use of a deadly weapon or the present ability to use a deadly weapon. (NRS 200.471) Existing law also provides that a person is guilty of: (1) a category B felony if the person commits a battery upon an officer which causes substantial bodily harm or is committed by strangulation; and (2) a gross misdemeanor if the person commits a battery upon an officer and the person knew or should have known that the victim was an officer. (NRS 200.481) This bill revises the definition of “officer” to include certain civilian employees and volunteers of law enforcement agencies **, fire-fighting agencies, this State and political subdivisions of this State** for the purpose of enhancing the penalties for the crimes of assault and battery against such a person.

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

Section 1. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) “Assault” means:

(1) Unlawfully attempting to use physical force against another person;

or

(2) Intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) **“Fire-fighting agency” has the meaning ascribed to it in NRS 239B.020.**

(c) “Officer” means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, judge of the Court of Appeals, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; ~~for~~

(6) An employee of ~~the~~ this State or a political subdivision of ~~the~~ this State whose official duties require the employee to make home visits ~~for~~ for;

(7) *A civilian employee or a volunteer of a law enforcement agency whose official duties require the employee or volunteer to:*

(I) Interact with the public;

(II) Perform tasks related to law enforcement; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for the law enforcement agency ~~for~~

~~—(c)—~~ ;

(8) A civilian employee or a volunteer of a fire-fighting agency whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to fire fighting or fire prevention; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for the fire-fighting agency; or

(9) A civilian employee or volunteer of this State or a political subdivision of this State whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to code enforcement; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for this State or a political subdivision of this State.

(d) “Provider of health care” means a physician, a medical student, a perfusionist or a physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor’s assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a medication aide - certified, a dentist, a dental student, a dental hygienist, a dental hygienist student, a pharmacist, a pharmacy student, an intern pharmacist, an attendant on an

ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern, a licensed dietitian, an emergency medical technician, an advanced emergency medical technician and a paramedic.

~~((d))~~ (e) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100 or 391.281.

~~((e))~~ (f) "Sporting event" has the meaning ascribed to it in NRS 41.630.

~~((f))~~ (g) "Sports official" has the meaning ascribed to it in NRS 41.630.

~~((g))~~ (h) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

~~((h))~~ (i) "Taxicab driver" means a person who operates a taxicab.

~~((i))~~ (j) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment

in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

Sec. 2. NRS 200.481 is hereby amended to read as follows:

200.481 1. As used in this section:

(a) “Battery” means any willful and unlawful use of force or violence upon the person of another.

(b) “Child” means a person less than 18 years of age.

(c) **“Fire-fighting agency” has the meaning ascribed to it in NRS 239B.020.**

(d) “Officer” means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail or detention facility;

(5) A justice of the Supreme Court, judge of the Court of Appeals, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including, without limitation, a person acting pro tempore in a capacity listed in this subparagraph; ~~for~~

(6) An employee of ~~the~~ **this** State or a political subdivision of ~~the~~ **this** State whose official duties require the employee to make home visits ~~for~~ **for**

(7) **A civilian employee or a volunteer of a law enforcement agency whose official duties require the employee or volunteer to:**

(I) Interact with the public;

(II) Perform tasks related to law enforcement; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for the law enforcement agency.

~~for~~ **for** ;

(8) A civilian employee or a volunteer of a fire-fighting agency whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to fire fighting or fire prevention; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for the fire-fighting agency; or

(9) A civilian employee or volunteer of this State or a political subdivision of this State whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to code enforcement; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for this State or a political subdivision of this State.

~~(e)~~ **(e)** “Provider of health care” has the meaning ascribed to it in NRS 200.471.

~~(e)~~ **(f)** “School employee” means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100 or 391.281.

~~(f)~~ **(g)** “Sporting event” has the meaning ascribed to it in NRS 41.630.

~~(g)~~ **(h)** “Sports official” has the meaning ascribed to it in NRS 41.630.

~~(h)~~ **(i)** “Strangulation” means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person in a manner that creates a risk of death or substantial bodily harm.

~~(i)~~ **(j)** “Taxicab” has the meaning ascribed to it in NRS 706.8816.

~~(j)~~ **(k)** “Taxicab driver” means a person who operates a taxicab.

~~(k)~~ **(l)** “Transit operator” means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. Except as otherwise provided in NRS 200.485, a person convicted of a battery, other than a battery committed by an adult upon a child which constitutes child abuse, shall be punished:

(a) If the battery is not committed with a deadly weapon, and no substantial bodily harm to the victim results, except under circumstances where a greater penalty is provided in this section or NRS 197.090, for a misdemeanor.

(b) If the battery is not committed with a deadly weapon, and either substantial bodily harm to the victim results or the battery is committed by strangulation, for a category C felony as provided in NRS 193.130.

(c) If:

(1) The battery is committed upon an officer, provider of health care, school employee, taxicab driver or transit operator who was performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event;

(2) The officer, provider of health care, school employee, taxicab driver, transit operator or sports official suffers substantial bodily harm or the battery is committed by strangulation; and

(3) The person charged knew or should have known that the victim was an officer, provider of health care, school employee, taxicab driver, transit operator or sports official,

➤ 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, or by a fine of not more than \$10,000, or by both fine and imprisonment.

(d) If the battery is committed upon an officer, provider of health care, school employee, taxicab driver or transit operator who is performing his or her duty or upon a sports official based on the performance of his or her

duties at a sporting event and the person charged knew or should have known that the victim was an officer, provider of health care, school employee, taxicab driver, transit operator or sports official, for a gross misdemeanor, except under circumstances where a greater penalty is provided in this section.

(e) If the battery is committed with the use of a deadly weapon, and:

(1) No substantial bodily harm to the victim results, 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 may be further punished by a fine of not more than \$10,000.

(2) Substantial bodily harm to the victim results or the battery is committed by strangulation, 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 15 years, and may be further punished by a fine of not more than \$10,000.

(f) If the battery is committed by a probationer, a prisoner who is in lawful custody or confinement or a parolee, without the use of a deadly weapon, whether or not substantial bodily harm results and whether or not the battery is committed by strangulation, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

(g) If the battery is committed by a probationer, a prisoner who is in lawful custody or confinement or a parolee, with the use of a deadly weapon, and:

(1) No substantial bodily harm to the victim results, 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.

(2) Substantial bodily harm to the victim results or the battery is committed by strangulation, 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 15 years.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 181.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 393.

AN ACT relating to civil rights; revising provisions governing the restoration of civil rights to certain persons who have been convicted of felonies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, unless a person has been convicted of certain specified felonies, a person who has been convicted of a felony is restored to his or her civil rights by operation of law upon: (1) an honorable discharge from probation; (2) an honorable discharge from parole; or (3) the completion of his or her sentence and release from prison. Conversely, a person must petition a court for the restoration of his or her civil rights if the person was convicted: (1) of a category A felony; (2) of an offense that would constitute a category A felony if committed as of the date of discharge from probation, discharge from parole or release from prison; (3) of a category B felony involving the use of force or violence that resulted in substantial bodily harm; (4) of an offense involving the use of force or violence that resulted in substantial bodily harm and that would constitute a category B felony if committed as of the date of discharge from probation, discharge from parole or release from prison; or (5) two or more times of a felony, except under certain circumstances. (NRS 176A.850, 213.155, 213.157) **Sections 1-3** of this bill provide, respectively, that if the probationer, parolee or person who completed his or her sentence and was released from prison was convicted: (1) two or more times of a felony, his or her right to vote must be restored immediately after discharge from probation, discharge from parole or release from prison; and (2) of any of the other offenses enumerated above, his or her right to vote must be restored 2 years after discharge from probation, discharge from parole or release from prison.

Existing law sets forth circumstances under which a person whose term of probation has expired must be given a dishonorable discharge and precludes the probationer from obtaining the restoration of certain civil rights. (NRS 176A.870) **Section 1** maintains the requirement that such a probationer be given a dishonorable discharge, but **section 5** of this bill eliminates the prohibition on the restoration of civil rights.

Section 4 of this bill provides for the restoration of ~~the~~ civil rights ~~to serve as a juror in a civil action and to vote~~ to residents of this State who: (1) have not had their civil rights ~~to serve as a juror in a civil action and to vote~~ restored; (2) are not on probation or parole or serving a sentence of imprisonment on October 1, 2017; and (3) before October 1, 2017, were discharged from probation or parole or released from prison after serving their sentences.

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

Section 1. NRS 176A.850 is hereby amended to read as follows:

176A.850 1. A person who:

- (a) Has fulfilled the conditions of probation for the entire period thereof;
- (b) Is recommended for earlier discharge by the Division; or

(c) Has demonstrated fitness for honorable discharge but because of economic hardship, verified by the Division, has been unable to make restitution as ordered by the court,

➡ may be granted an honorable discharge from probation by order of the court.

2. *A person whose term of probation has expired and:*

(a) *Whose whereabouts are unknown;*

(b) *Who has failed to make restitution in full as ordered by the court, without a verified showing of economic hardship; or*

(c) *Who has otherwise failed to qualify for an honorable discharge as provided in subsection 1,*

➡ *is not eligible for an honorable discharge and must be given a dishonorable discharge. A dishonorable discharge releases the person from any further obligation, except as otherwise provided in subsection 3.*

3. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of discharge and is enforceable pursuant to NRS 176.275.

~~{3. Except as otherwise provided in subsection 4, a}~~

4. A person who has been ~~{honorable}~~ discharged from probation:

(a) Is free from the terms and conditions of probation.

(b) Is immediately restored to the ~~{following civil rights:~~

~~— (1) The right to vote; and~~

~~— (2) The right to serve as a juror in a civil action.~~

(c) *Except as otherwise provided in paragraph (d), is immediately restored to the right to vote.*

(d) *Two years after the date of discharge from probation, is restored to the right to vote if the person has previously been convicted in this State:*

(1) *Of a category A felony.*

(2) *Of an offense that would constitute a category A felony if committed as of the date of discharge from probation.*

(3) *Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.*

(4) *Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of discharge from probation.*

(e) Four years after the date of ~~{honorable}~~ discharge from probation, is restored to the right to hold office.

~~{(d)}~~ (f) Six years after the date of ~~{honorable}~~ discharge from probation, is restored to the right to serve as a juror in a criminal action.

~~{(e)}~~ (g) If the person meets the requirements of NRS 179.245, may apply to the court for the sealing of records relating to the conviction.

~~{(f)}~~ (h) Must be informed of the provisions of this section and NRS 179.245 in the person's probation papers.

~~{(g)}~~ (i) Is exempt from the requirements of chapter 179C of NRS, but is not exempt from the requirements of chapter 179D of NRS.

~~{(h)}~~ **(j)** Shall disclose the conviction to a gaming establishment and to the State and its agencies, departments, boards, commissions and political subdivisions, if required in an application for employment, license or other permit. As used in this paragraph, “establishment” has the meaning ascribed to it in NRS 463.0148.

~~{(i)}~~ **(k)** Except as otherwise provided in paragraph ~~{(h)}~~, **(j)**, need not disclose the conviction to an employer or prospective employer.

~~{4.} Except as otherwise provided in this subsection, the civil rights set forth in subsection 3 are not restored to a person honorably discharged from probation if the person has previously been convicted in this State:~~

~~—(a) Of a category A felony;~~

~~—(b) Of an offense that would constitute a category A felony if committed as of the date of the honorable discharge from probation;~~

~~—(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim;~~

~~—(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of honorable discharge from probation;~~

~~—(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph;~~

~~→ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of civil rights as set forth in subsection 3.]~~

5. The prior conviction of a person who has been ~~honorably~~ discharged from probation may be used for purposes of impeachment. In any subsequent prosecution of the person, the prior conviction may be pleaded and proved if otherwise admissible.

6. ~~{Except for a person subject to the limitations set forth in subsection 4, upon honorable}~~ **Upon** discharge from probation, the person so discharged must be given an official document which provides:

(a) That the person has received an honorable discharge **or dishonorable discharge, as applicable**, from probation;

(b) That the person ~~has been~~ **is** restored to his or her civil rights to vote and to serve as a juror in a civil action as of the ~~{date of honorable discharge from probation;}~~ **applicable dates set forth in paragraphs (b), (c) and (d) of subsection 4;**

(c) The date on which the person’s civil right to hold office will be restored pursuant to paragraph ~~{(c)}~~ **(e)** of subsection ~~{3;}~~ **4;** and

(d) The date on which the person’s civil right to serve as a juror in a criminal action will be restored pursuant to paragraph ~~{(d)}~~ **(f)** of subsection ~~{3;}~~ **4.**

7. ~~{Subject to the limitations set forth in subsection 4, a}~~ A person who has been ~~honorably~~ discharged from probation in this State or elsewhere

and whose official documentation of ~~{honorable}~~ discharge from probation is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore the person's civil rights pursuant to this section. Upon verification that the person has been ~~{honorable}~~ discharged from probation and is eligible to be restored to the civil rights set forth in subsection ~~{3.}~~ 4, the court shall issue an order restoring the person to the civil rights set forth in subsection ~~{3.}~~ 4. A person must not be required to pay a fee to receive such an order.

8. A person who has been ~~{honorable}~~ discharged from probation in this State or elsewhere may present:

(a) Official documentation of ~~{honorable}~~ discharge from probation, if it contains the provisions set forth in subsection 6; or

(b) A court order restoring the person's civil rights,
 ➤ as proof that the person has been restored to the civil rights set forth in subsection ~~{3.}~~ 4.

Sec. 2. NRS 213.155 is hereby amended to read as follows:

213.155 1. ~~{Except as otherwise provided in subsection 2, a}~~ A person who receives ~~{an honorable}~~ a discharge from parole pursuant to NRS 213.154:

(a) Is immediately restored to the ~~{following civil rights}~~:

~~—(1) The right to vote; and~~

~~—(2) The right to serve as a juror in a civil action.~~

(b) ***Except as otherwise provided in paragraph (c), is immediately restored to the right to vote.***

(c) ***Two years after the date of his or her discharge from parole, is restored to the right to vote if the person has previously been convicted in this State:***

(1) Of a category A felony.

(2) Of an offense that would constitute a category A felony if committed as of the date of discharge from parole.

(3) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(4) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of discharge from parole.

(d) Four years after the date of his or her ~~{honorable}~~ discharge from parole, is restored to the right to hold office.

~~{(e)}~~ (e) Six years after the date of his or her ~~{honorable}~~ discharge from parole, is restored to the right to serve as a juror in a criminal action.

2. ~~{Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has received an honorable discharge from parole if the person has previously been convicted in this State:~~

- ~~— (a) Of a category A felony.~~
- ~~— (b) Of an offense that would constitute a category A felony if committed as of the date of his or her honorable discharge from parole.~~
- ~~— (c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.~~
- ~~— (d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his or her honorable discharge from parole.~~
- ~~— (e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.~~
- ~~→ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of his or her civil rights as set forth in subsection 1.~~
- ~~3. Except for a person subject to the limitations set forth in subsection 2, upon~~ **Upon** his or her ~~{honorable}~~ discharge from parole, a person so discharged must be given an official document which provides:
 - (a) That the person has received an honorable discharge **or dishonorable discharge, as applicable**, from parole;
 - (b) That the person ~~{has been}~~ **is** restored to his or her civil rights to vote and to serve as a juror in a civil action as of the ~~{date of his or her honorable discharge from parole;}~~ **applicable dates set forth in paragraphs (a), (b) and (c) of subsection 1;**
 - (c) The date on which his or her civil right to hold office will be restored to the person pursuant to paragraph ~~{(b)}~~ **(d)** of subsection 1; and
 - (d) The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to paragraph ~~{(c)}~~ **(e)** of subsection 1.
- ~~{4. Subject to the limitations set forth in subsection 2, a}~~
- 3.** A person who has been ~~{honorable}~~ discharged from parole in this State or elsewhere and whose official documentation of his or her ~~{honorable}~~ discharge from parole is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has been ~~{honorable}~~ discharged from parole and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.
- ~~{5.}~~ **4.** A person who has been ~~{honorable}~~ discharged from parole in this State or elsewhere may present:
 - (a) Official documentation of his or her ~~{honorable}~~ discharge from parole, if it contains the provisions set forth in subsection ~~{3;}~~ **2;** or
 - (b) A court order restoring his or her civil rights,

↪ as proof that the person has been restored to the civil rights set forth in subsection 1.

~~{6.}~~ 5. The Board may adopt regulations necessary or convenient for the purposes of this section.

Sec. 3. NRS 213.157 is hereby amended to read as follows:

213.157 1. ~~{Except as otherwise provided in subsection 2, a}~~ A person convicted of a felony in the State of Nevada who has served his or her sentence and has been released from prison:

(a) Is immediately restored to the ~~following civil rights:~~

~~—(1) The right to vote; and~~

~~—(2) The right to serve as a juror in a civil action.~~

(b) *Except as otherwise provided in paragraph (c), is immediately restored to the right to vote.*

(c) *Two years after the date of his or her release from prison, is restored to the right to vote if the person has previously been convicted in this State:*

(1) Of a category A felony.

(2) Of an offense that would constitute a category A felony if committed as of the date of his or her release from prison.

(3) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(4) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his or her release from prison.

(d) Four years after the date of his or her release from prison, is restored to the right to hold office.

~~{(e)}~~ (e) Six years after the date of his or her release from prison, is restored to the right to serve as a juror in a criminal action.

2. ~~{Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has been released from prison if the person has previously been convicted in this State:~~

~~—(a) Of a category A felony.~~

~~—(b) Of an offense that would constitute a category A felony if committed as of the date of his or her release from prison.~~

~~—(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.~~

~~—(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his or her release from prison.~~

~~—(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.~~

↪ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of his or her civil rights as set forth in subsection 1.

~~3. Except for a person subject to the limitations set forth in subsection 2, upon~~ **Upon** his or her release from prison, a person so released must be given an official document which provides:

- (a) That the person has been released from prison;
- (b) That the person ~~has been~~ **is** restored to his or her civil rights to vote and to serve as a juror in a civil action as of the ~~date of his or her release from prison;~~ **applicable dates set forth in paragraphs (a), (b) and (c) of subsection 1;**
- (c) The date on which his or her civil right to hold office will be restored to the person pursuant to paragraph ~~((b))~~ **(d)** of subsection 1; and
- (d) The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to paragraph ~~((c))~~ **(e)** of subsection 1.

~~4. Subject to the limitations set forth in subsection 2, a)~~

3. A person who has been released from prison in this State or elsewhere and whose official documentation of his or her release from prison is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has been released from prison and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.

~~5. 4.~~ **A person who has been released from prison in this State or elsewhere may present:**

- (a) Official documentation of his or her release from prison, if it contains the provisions set forth in subsection ~~3;~~ **2;** or
- (b) A court order restoring his or her civil rights,
 ➤ as proof that the person has been restored to the civil rights set forth in subsection 1.

Sec. 4. 1. Any person residing in this State who:

- (a) Is not subject to the provisions of subsection 2;**
- (b) Before October 1, 2017, was discharged from probation pursuant to NRS 176A.850 or 176A.870, discharged from parole pursuant to NRS 213.155 or released from prison pursuant to NRS 213.157, as those sections existed before October 1, 2017;**
- (c) Is not on probation or parole or serving a sentence of imprisonment on October 1, 2017; and**
- (d) Has not already had his or her civil rights restored,**
 ➤ **is immediately restored to the right to serve as a juror in a civil action and the right to vote. Four years after the date on which the person was discharged from probation, discharged from parole or released from prison, as applicable, he or she is restored to the right to hold office. Six years after the date on which the person was discharged from probation, discharged from parole or released from prison, as applicable, he or she is restored to the right to serve as a juror in a criminal action.**

2. Any person residing in this State who:

(a) Before October 1, 2017:

(1) Was discharged from probation pursuant to NRS 176A.850 or 176A.870, discharged from parole pursuant to NRS 213.155 or released from prison pursuant to NRS 213.157, as those sections existed before October 1, 2017; and

(2) Was previously convicted in this State:

(I) Of a category A felony;

(II) Of an offense that would constitute a category A felony if committed as of the date of discharge from probation, discharge from parole or release from prison, as applicable;

(III) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim; ~~for~~

(IV) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of discharge from probation, discharge from parole or release from prison, as applicable; or

(V) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this sub-subparagraph;

(b) Is not on probation or parole or serving a sentence of imprisonment on October 1, 2017; and

(c) Has not already had his or her civil rights restored,

↪ is immediately restored to the right to serve as a juror in a civil action. Two years after the date on which the person was discharged from probation, discharged from parole or released from prison, as applicable, he or she is restored to the right to vote. Four years after the date on which the person was discharged from probation, discharged from parole or released from prison, as applicable, he or she is restored to the right to hold office. Six years after the date on which the person was discharged from probation, discharged from parole or released from prison, as applicable, he or she is restored to the right to serve as a juror in a criminal action.

~~2-1~~ 3. A person who is restored to his or her civil rights pursuant to this section and whose official documentation which demonstrates that the person qualifies to have his or her civil rights restored pursuant to ~~subsection 1-1~~ **this section** is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person qualifies to have his or her civil rights restored pursuant to ~~subsection 1-1~~ **this section**, the court shall issue an order restoring the person to the civil rights set forth in ~~subsection 1-1~~ **this section**. A person must not be required to pay a fee to receive such an order.

~~2-1~~ 4. A person who is restored to his or her civil rights pursuant to this section may present official documentation that he or she qualifies to have

his or her civil rights restored pursuant to ~~subsection 1~~ **this section** or a court order restoring his or her civil rights as proof that he or she has been restored to the civil rights set forth in ~~subsection 1~~ **this section.**

Sec. 5. NRS 176A.870 is hereby repealed.

TEXT OF REPEALED SECTION

176A.870 Dishonorable discharge. A defendant whose term of probation has expired and:

1. Whose whereabouts are unknown;
2. Who has failed to make restitution in full as ordered by the court, without a verified showing of economic hardship; or
3. Who has otherwise failed to qualify for an honorable discharge as provided in NRS 176A.850,

↪ is not eligible for an honorable discharge and must be given a dishonorable discharge. A dishonorable discharge releases the probationer from any further obligation, except a civil liability arising on the date of discharge for any unpaid restitution which is enforceable pursuant to NRS 176.275, but does not entitle the probationer to any privilege conferred by NRS 176A.850.

Assemblyman Ohrenschaal moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 258.

Bill read second time and ordered to third reading.

Assembly Bill No. 276.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 399.

ASSEMBLYMEN SPIEGEL, JOINER, DIAZ; BILBRAY- AXELROD, CARLTON, COHEN, MILLER, SWANK, ~~AND~~ THOMPSON **AND YEAGER**

SENATORS PARKS; ~~AND~~ MANENDO **AND SEGERBLOM**

AN ACT relating to employment; prohibiting an employer, employment agency or labor organization from discriminating against certain persons for inquiring about, discussing or **voluntarily** disclosing information about wages under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes certain employment practices as unlawful and prohibits **certain** employers, employment agencies and labor organizations from engaging in such practices. (NRS 613.330) **With certain exceptions, this prohibition only applies to employers who have 15 or more employees for each working day in each of 20 or more calendar weeks, either in the same or the preceding calendar year as when an unlawful**

employment practice occurred. (NRS 613.310) This bill prohibits such an employer, an employment agency or a labor organization from discriminating against a person with respect to employment or membership, as applicable, for inquiring about, discussing or voluntarily disclosing information about wages. This provision does not apply to any person who has access to information about the wages of other persons as part of his or her essential job functions and discloses the information to a person who does not have access to that information ~~for~~, **except as ordered by the Labor Commissioner or a court of competent jurisdiction.**

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

Section 1. NRS 613.330 is hereby amended to read as follows:

613.330 1. Except as otherwise provided in NRS 613.350, it is an unlawful employment practice for an employer:

(a) To fail or refuse to hire or to discharge any person, or otherwise to discriminate against any person with respect to the person's compensation, terms, conditions or privileges of employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; ~~for~~

(b) To limit, segregate or classify an employee in a way which would deprive or tend to deprive the employee of employment opportunities or otherwise adversely affect his or her status as an employee, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin ~~for~~; or

(c) Except as otherwise provided in subsection 7, to discriminate against any employee because the employee has inquired about, discussed or voluntarily disclosed his or her wages or the wages of another employee.

2. It is an unlawful employment practice for an employment agency : ~~to~~

(a) ~~Fail~~ **To fail** or refuse to refer for employment, or otherwise to discriminate against, any person because of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person; ~~for~~

(b) ~~Classify~~ **To classify** or refer for employment any person on the basis of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person ~~for~~; or

(c) Except as otherwise provided in subsection 7, to discriminate against any person because the person has inquired about, discussed or voluntarily disclosed his or her wages or the wages of another person.

3. It is an unlawful employment practice for a labor organization:

(a) To exclude or to expel from its membership, or otherwise to discriminate against, any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin;

(b) To limit, segregate or classify its membership, or to classify or fail or refuse to refer for employment any person, in any way which would deprive or tend to deprive the person of employment opportunities, or would limit the person's employment opportunities or otherwise adversely affect the person's status as an employee or as an applicant for employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; ~~for~~

(c) ***Except as otherwise provided in subsection 7, to discriminate or take any other action prohibited by this section against any member thereof or any applicant for membership because the member or applicant has inquired about, discussed or voluntarily disclosed his or her wages or the wages of another member or applicant; or***

(d) To cause or attempt to cause an employer to discriminate against any person in violation of this section.

4. It is an unlawful employment practice for any employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including, without limitation, on-the-job training programs, to discriminate against any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

5. Except as otherwise provided in subsection 6, it is an unlawful employment practice for any employer, employment agency, labor organization or joint labor-management committee to discriminate against a person with a disability by interfering, directly or indirectly, with the use of an aid or appliance, including, without limitation, a service animal, by such a person.

6. It is an unlawful employment practice for an employer, directly or indirectly, to refuse to permit an employee with a disability to keep the employee's service animal with him or her at all times in his or her place of employment, except that an employer may refuse to permit an employee to keep a service animal that is a miniature horse with him or her if the employer determines that it is not reasonable to comply, using the assessment factors set forth in 28 C.F.R. § 36.302.

7. ***The provisions of paragraph (c) of subsection 1, paragraph (c) of subsection 2 and paragraph (c) of subsection 3, as applicable, do not apply to any person who has access to information about the wages of other persons as part of his or her essential job functions and discloses that information to a person who does not have access to that information unless the disclosure is ~~in response to a charge, complaint or investigation for a violation of this section,~~ ordered by the Labor Commissioner or a court of competent jurisdiction.***

8. As used in this section, “service animal” has the meaning ascribed to it in NRS 426.097.

Sec. 2. This act becomes effective ~~on July 1, 2017,~~ **upon passage and approval.**

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 279.

Bill read second time.

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

Amendment No. 491.

AN ACT relating to financial institutions; changing the method by which the Commissioner of Financial Institutions charges and collects fees for providing supervision, audits, examinations, investigations or hearings; requiring the Commissioner to adjust the rate at which such a fee is to be paid by banks and other financial institutions for supervision and examinations in certain circumstances; requiring the Commissioner to publish each year the amount of the fee that is to be paid by banks and other financial institutions for the following year; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Commissioner of Financial Institutions to establish by regulation rates to be paid by banks and other financial institutions for supervision and examinations by the Commissioner or the Division of Financial Institutions of the Department of Business and Industry. (NRS 658.101)

Section 7 of this bill requires the Commissioner to **, at least once per year, review and analyze the proportional utilization of the resources of the Division of Financial Institutions by banks and other financial institutions as compared to the annual budget approved by the Legislature for the Division of Financial Institutions. Section 7 further requires the Commissioner to** ~~adjust [such]~~ **by regulation the** ~~rates [when deemed]~~ **to be paid by banks and other financial institutions if after such review and analysis the Commissioner deems such an adjustment necessary.** ~~[by a percentage not to exceed the percentage change in the most recent annual budget approved by the Legislature for the Division of Financial Institutions.]~~ **Section 7** further requires the Commissioner to publish on the Internet website of the Division of Financial Institutions by December 31 of each year the amount of the fee for the following year and defines the term “financial institution” to include a depository institution and any other institution or business regulated by the Division.

Existing law requires the Commissioner to charge and collect from a check-cashing service, or certain loan services, or an issuer of instruments for

transmission or payment of money a fee for supervision and examinations of not more than \$80 or \$10 per hour, respectively. (NRS 604A.740, 671.170) **Sections 1 and 12** of this bill remove the per hour cap on the fee and instead require the Commissioner to charge and collect the fee at the rate established and, if applicable, adjusted pursuant to **section 7** for any supervision, audit, examination, investigation or hearing.

Existing law requires the costs for additional examinations and investigations of a foreign credit union to be paid by the credit union at an hourly rate that is deemed reasonable by the Commissioner. (NRS 678.3435) **Section 17** of this bill instead requires the credit union to pay the Commissioner for additional examinations and investigations at the rate established and, if applicable, adjusted pursuant to **section 7**.

Existing law authorizes the Commissioner to supervise, audit, examine, investigate or conduct a hearing regarding a bank or other financial institution in order to ensure compliance with the laws governing financial institutions. (NRS 657.210, 675.400, 676A.730) **Sections 5, 14 and 15** of this bill require the Commissioner to charge and collect a fee at the rate established and, if applicable, adjusted pursuant to **section 7** for any such supervision, audit, examination, investigation or hearing. **Section 14** further requires the Commissioner or his or her authorized representatives at least once each year to examine the accounts of the holder of a license to engage in the business of lending so far as they pertain to the business that is licensed.

~~[Existing law exempts various entities from the requirements of the Nevada Administrative Procedure Act. (NRS 233B.029) Section 2 of this bill exempts the Commissioner from the Nevada Administrative Procedure Act when the Commissioner is adjusting the rates upon which the schedule of fees is based pursuant to section 7.]~~

Sections 3, 4, 6, 8-11, 13, 16 and 18 of this bill make conforming changes based on the provisions of **section 7**.

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

Section 1. NRS 604A.740 is hereby amended to read as follows:

604A.740 1. The Commissioner shall charge and collect from each licensee a fee ~~for not more than \$80 per hour~~ **at the rate established and, if applicable, adjusted pursuant to NRS 658.101 for the cost of** any supervision, audit, examination, investigation or hearing conducted pursuant to this chapter or any regulations adopted pursuant thereto.

2. The Commissioner shall bill each licensee upon the completion of the activity for the fee required pursuant to subsection 1. The licensee shall pay the fee within 30 days after the date the bill is received. Except as otherwise provided in this subsection, any payment received after the date due must include a penalty of 10 percent of the fee plus an additional 1 percent of the

fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

3. The failure of a licensee to pay the fee required pursuant to subsection 1 as provided in this section constitutes grounds for revocation of the license of the licensee.

~~[4. The Commissioner shall adopt regulations establishing the amount of the fee required pursuant to this section.]~~

~~Sec. 2. NRS 233B.039 is hereby amended to read as follows:~~

~~233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:~~

~~(a) The Governor;~~

~~(b) Except as otherwise provided in NRS 209.221, the Department of Corrections;~~

~~(c) The Nevada System of Higher Education;~~

~~(d) The Office of the Military;~~

~~(e) The Nevada Gaming Control Board;~~

~~(f) Except as otherwise provided in NRS 368A.140 and 463.765, the Nevada Gaming Commission;~~

~~(g) The Division of Welfare and Supportive Services of the Department of Health and Human Services;~~

~~(h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services;~~

~~(i) The State Board of Examiners acting pursuant to chapter 217 of NRS;~~

~~(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer;~~

~~(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375;~~

~~(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260;~~

~~(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 445C.310;~~

~~(n) The Silver State Health Insurance Exchange;~~

~~**(o) The Commissioner of Financial Institutions in adjusting the rates to be paid by banks and other financial institutions pursuant to subsection 3 of NRS 658.101.**~~

~~2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.~~

~~3. The special provisions of:~~

~~— (a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;~~

~~— (b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;~~

~~— (c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and~~

~~— (d) NRS 90.800 for the use of summary orders in contested cases,~~

~~— prevail over the general provisions of this chapter.~~

~~4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.~~

~~5. The provisions of this chapter do not apply to:~~

~~— (a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;~~

~~— (b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;~~

~~— (c) A regulation adopted by the State Board of Education pursuant to NRS 388.255 or 394.1694; or~~

~~— (d) The judicial review of decisions of the Public Utilities Commission of Nevada.~~

~~6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case. } (Deleted by amendment.)~~

Sec. 3. NRS 628B.560 is hereby amended to read as follows:

628B.560 1. Except as otherwise provided in NRS 159.076, a licensee shall maintain a separate guardianship account for each ward into which all money received for the benefit of the ward must be deposited. Each guardianship account must be maintained in an insured bank or credit union located in this State, be held in a name which is sufficient to distinguish it from the personal or general checking account of the licensee and be designated as a guardianship account. Each guardianship account must at all times account for all money received for the benefit of the ward and account for all money dispersed for the benefit of the ward, and no disbursement may be made from the account except as authorized under chapter 159 of NRS or as authorized by court order.

2. Each licensee shall keep a record of all money deposited in each guardianship account maintained for a ward, which must clearly indicate the date and from whom the money was received, the date the money was

deposited, the dates of withdrawals of money and other pertinent information concerning the transactions. Records kept pursuant to this subsection must be maintained for at least 6 years after the completion of the last transaction concerning the account. The records must be maintained at the premises in this State at which the licensee is authorized to conduct business.

3. The Commissioner or his or her designee may conduct an examination of the guardianship accounts and records relating to wards of each private professional guardian company licensed pursuant to this chapter at any time to ensure compliance with the provisions of this chapter.

4. During the first year a private professional guardian is licensed in this State, the Commissioner or his or her designee may conduct any examinations deemed necessary to ensure compliance with the provisions of this chapter.

5. If there is evidence that a private professional guardian company has violated a provision of this chapter, the Commissioner or his or her designee may conduct additional examinations to determine whether a violation has occurred.

6. Each licensee shall authorize the Commissioner or his or her designee to examine all books, records, papers and effects of the private professional guardian company.

7. If the Commissioner determines that the records of a licensee are not maintained in accordance with subsections 1 and 2, the Commissioner may require the licensee to submit, within 60 days, an audited financial statement prepared from the records of the licensee by a certified public accountant who holds a certificate to engage in the practice of public accounting in this State. The Commissioner may grant a reasonable extension of time for the submission of the financial statement if an extension is requested before the statement is due.

8. Upon the request of the Division, a licensee must provide to the Division copies of any documents reviewed during an examination conducted by the Commissioner or his or her designee pursuant to subsection 4, 5 or 6. If the copies are not provided, the Commissioner may subpoena the documents.

9. For each examination of the books, papers, records and effects of a private professional guardian company that is required or authorized pursuant to this chapter, the Commissioner shall charge and collect from the private professional guardian company a fee for conducting the examination and preparing a report of the examination based upon the rate established ~~by regulation~~ **and, if applicable, adjusted** pursuant to NRS 658.101. Failure to pay the fee within 30 days after receipt of the bill is grounds for revoking the license of the private professional guardian company.

10. All money collected under this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 4. NRS 649.295 is hereby amended to read as follows:

649.295 1. A nonrefundable fee of not more than \$500 for the application and survey must accompany each new application for a license as a collection agency. Each applicant shall also pay any additional expenses incurred in the process of investigation. All money received by the Commissioner pursuant to this subsection must be placed in the Investigative Account created by NRS 232.545.

2. A fee of not less than \$200 or more than \$600, prorated on the basis of the licensing year as provided by the Commissioner, must be charged for each original license issued. A fee of not more than \$500 must be charged for each annual renewal of a license.

3. A fee of not more than \$20 must be charged for each duplicate license or license for a transfer of location issued.

4. A nonrefundable application fee of not more than \$500 and a nonrefundable investigation fee of not more than \$150 must accompany each application for a manager's certificate.

5. A fee of not more than \$40 must be charged for each manager's certificate issued and for each annual renewal of such a certificate.

6. A fee of not more than \$60 must be charged for the reinstatement of a manager's certificate.

7. A fee of not more than \$10 must be charged for each day an application for the renewal of a license or certificate, or a required report, is filed late, unless the fee or portion thereof is excused by the Commissioner for good cause shown.

8. A nonrefundable fee of not more than \$250 for the application and an examination must accompany each application for a permit to operate a branch office of a licensed collection agency. A fee of not more than \$500 must be charged for each annual renewal of such a permit.

9. For each examination the Commissioner shall charge and collect from the licensee a fee for conducting the examination and preparing and typing the report of the examination at the rate established **and, if applicable, adjusted** pursuant to NRS 658.101. Failure to pay the fee within 30 days after receipt of the bill is a ground for revoking the collection agency's license.

10. ~~{The}~~ **Except as otherwise provided in NRS 658.101, the** Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section.

11. Except as otherwise provided in subsection 1, all money received by the Commissioner pursuant to this chapter must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 5. NRS 657.210 is hereby amended to read as follows:

657.210 1. For the purpose of discovering violations of this title or of securing information lawfully required under this title, the Commissioner or the Commissioner's duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:

(a) Any licensee;
 (b) Any other person engaged in an activity for which a license is required pursuant to the provisions of this title; and

(c) Any person whom the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this title, whether or not the person claims to be within the authority or beyond the scope of this title.

2. For the purpose of examination, the Commissioner or the Commissioner's authorized representatives must have and be given free access to the offices and places of business, files, safes and vaults of such persons.

3. The Commissioner may require the attendance of any person and examine the person under oath regarding:

(a) Any transaction or business regulated pursuant to the provisions of this title; or

(b) The subject matter of any audit, examination, investigation or hearing.

4. The Commissioner shall charge and collect from each licensee or other person a fee at the rate established and, if applicable, adjusted pursuant to NRS 658.101 for the cost of any supervision, audit, examination, investigation or hearing conducted pursuant to this title or any regulations adopted pursuant thereto.

Sec. 6. NRS 658.096 is hereby amended to read as follows:

658.096 1. The Commissioner shall charge and collect the following fees in connection with the Commissioner's official duties:

(a) For licensing of state banks:

(1) A fee of not more than \$400 for each parent bank, payable on June 30 of each year.

(2) A fee of not more than \$200 for each branch bank or trust office, payable on June 30 of each year.

➡ The fees must accompany the application for renewal of the license. A penalty of 10 percent of the fee must be charged for each month or part of a month that the fees are not paid after June 30 of each year.

(b) For applications for new branch banks or trust offices, a nonrefundable fee of not more than \$400 for the application and survey, to be paid by the applicant at the time of making the application. The applicant must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary. All money received by the Commissioner pursuant to this paragraph must be placed in the Investigative Account for Financial Institutions created by NRS 232.545.

(c) For examinations and the examination of trust departments of state banks or trust offices, a fee for conducting the examination and for preparing and typing the report of the examination at the rate established **and, if applicable, adjusted** pursuant to NRS 658.101.

2. ~~The~~ **Except as otherwise provided in NRS 658.101, the** Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section.

3. Except as otherwise provided in paragraph (b) of subsection 1, all money collected pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

4. As used in this section, "trust office" has the meaning ascribed to it in subsection 4 of NRS 662.239.

Sec. 7. NRS 658.101 is hereby amended to read as follows:

658.101 1. The Commissioner shall establish by regulation rates to be paid by banks and other financial institutions for supervision and examinations by the Commissioner or the Division of Financial Institutions.

2. In establishing a rate pursuant to subsection 1, the Commissioner shall consider:

- (a) The complexity of the various examinations to which the rate applies;
- (b) The skill required to conduct the examinations;
- (c) The expenses associated with conducting the examination and preparing a report; and
- (d) Any other factors the Commissioner deems relevant.

3. *At least once each year, the Commissioner shall review and analyze the proportional utilization of the resources of the Division of Financial Institutions by banks and other financial institutions as compared to the annual budget approved by the Legislature for the Division of Financial Institutions. If after such review and analysis the Commissioner deems it necessary, the Commissioner shall adjust by regulation the rates established pursuant to subsection 1 .* ~~*by a percentage not to exceed the percentage change in the most recent annual budget approved by the Legislature for the Division of Financial Institutions.*~~

4. *The Commissioner shall publish on the Internet website of the Division of Financial Institutions by December 31 of each year the amount of each fee for the following year that results from the rates established and, if applicable, adjusted pursuant to this section.*

5. *As used in this section, "financial institution" means a depository institution or any other institution or business regulated by the Division of Financial Institutions pursuant to titles 52, 54, 55 and 56. The term includes, without limitation, a holding company, affiliate or subsidiary of such an institution.*

Sec. 8. NRS 666A.330 is hereby amended to read as follows:

666A.330 1. A state branch, agency or representative office is subject to examination by the Commissioner to the same extent and in the same manner as if the state branch, agency or representative office were a Nevada bank.

2. In conducting an examination pursuant to this section, the Commissioner:

- (a) Is entitled to full access to the offices, books, accounts, papers, records, files, safes and vaults of each office; and
- (b) May require the attendance of and examine under oath all persons whose testimony may be required relative to the activities of the office.

3. A foreign bank which is licensed to establish and maintain a state branch, agency or representative office shall pay a fee for conducting the examination and the expenses of preparing and typing the report of the examination at the rate established **and, if applicable, adjusted** pursuant to NRS 658.101.

Sec. 9. NRS 669.250 is hereby amended to read as follows:

669.250 1. For each examination of a trust company's books and records required or authorized under this chapter, the Commissioner shall charge and collect from the trust company a fee for conducting the examination and in preparing and typing the report of the examination at the rate established **and, if applicable, adjusted** pursuant to NRS 658.101.

2. All money collected under this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

3. The Commissioner shall examine a licensee as often as the Commissioner deems necessary.

Sec. 10. NRS 669A.260 is hereby amended to read as follows:

669A.260 1. The Commissioner may examine the books and records of a licensed family trust company. For each examination of the books and records of a licensed family trust company as authorized under this chapter, the Commissioner shall charge and collect from the licensed family trust company a fee for conducting the examination and in preparing, typing and copying the report of the examination at the rate established **and, if applicable, adjusted** pursuant to NRS 658.101.

2. All money collected under this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 11. NRS 671.120 is hereby amended to read as follows:

671.120 1. Except as **otherwise** provided in subsection 4, once each year the Commissioner shall examine the financial accounts of each licensee and any other documents relevant to the conduct of the licensee's business, and the Commissioner may conduct examinations at additional times.

2. For the purpose of the examinations, the Commissioner may enter upon any of the business premises of a licensee or the licensee's agents and obtain access to the relevant documents. Any obstruction or denial of such an entry or access is a violation of this chapter.

3. For each examination the Commissioner shall charge and collect from the licensee a fee for conducting the examination and in preparing and typing the report at the rate established **and, if applicable, adjusted** pursuant to NRS 658.101.

4. The Commissioner may accept a report of an audit of the licensee which covers the most recent fiscal year in lieu of conducting an examination.

Sec. 12. NRS 671.170 is hereby amended to read as follows:

671.170 1. The Commissioner may conduct any necessary investigations and hearings to determine whether any licensee or other person has violated any of the provisions of this chapter or whether any licensee has

conducted himself or herself in a manner which requires the suspension, revocation or denial of renewal of his or her license.

2. In conducting any investigation or hearing pursuant to this chapter, the Commissioner, or any person designated by the Commissioner, may require the attendance and testimony of any person and compel the production of all relevant books, records, accounts and other documents. The **Commissioner shall charge and collect from each licensee or other person a fee at the rate established and, if applicable, adjusted pursuant to NRS 658.101 for the cost of any supervision, audit, examination, ~~for~~ investigation ~~[-not to exceed \$10 an hour, must be borne by the licensee.] or hearing conducted pursuant to this chapter or any regulations adopted pursuant thereto.~~**

3. The Commissioner may require any licensee to submit such reports concerning the licensee's business as the Commissioner deems necessary for the enforcement of this chapter.

4. Except as otherwise provided in NRS 239.0115, all reports of investigations and examinations and other reports rendered pursuant to this section, and all correspondence and memoranda relating to or arising therefrom, including any authenticated copies thereof in the possession of any licensee or the Commissioner, are confidential communications, are not subject to any subpoena, and must not be made public unless the Commissioner determines that justice and the public advantage will be served by their publication. This subsection does not preclude any party to an administrative or judicial proceeding from introducing into evidence any information or document otherwise available or admissible.

Sec. 13. NRS 673.430 is hereby amended to read as follows:

673.430 1. Each association doing business in this State shall file annually with the Commissioner on or before March 1, a sworn statement in two sections.

2. One section of the annual report must contain, in such form and detail as the Commissioner may prescribe, the following:

(a) The amount of authorized capital by classes and the par value of each class of stock.

(b) A statement of its assets, liabilities and capital accounts as of the immediately preceding December 31.

(c) Any other facts which the Commissioner requires.

➤ This section must be furnished in duplicate, one certified copy to be returned for publication at least two times in a newspaper having a general circulation in each county in which the association maintains an office. Publication must be completed on or before May 1, and proof of publication must be filed in the Office of the Commissioner.

3. One section of the annual report must contain such other information as the Commissioner may require to be furnished. This section need not be published and, except as otherwise provided in NRS 239.0115, must be treated as confidential by the Commissioner.

4. The Commissioner may impose and collect a fee of not more than \$10 for each day the annual report is overdue. The Commissioner shall adopt regulations establishing the amount of the fee that may be imposed pursuant to this subsection.

5. Every association shall pay to the Commissioner for supervision and examination a fee based on the rate established **and, if applicable, adjusted** pursuant to NRS 658.101.

~~{5.}~~ 6. All sums received by the Commissioner pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 14. NRS 675.400 is hereby amended to read as follows:

675.400 1. At least once each year, the Commissioner or his or her authorized representatives shall make an examination of the place of business of each licensee and of the loans, transactions, books, **accounts**, papers and records of the licensee so far as they pertain to the business licensed under this chapter.

2. ~~{For each examination the}~~ **The** Commissioner shall charge and collect from ~~{the}~~ **each** licensee a fee ~~{for conducting the examination and preparing and typing the report of the examination}~~ at the rate established **and, if applicable, adjusted** pursuant to NRS 658.101~~{}~~ **for the cost of any supervision, audit, examination, investigation or hearing conducted pursuant to this chapter or any regulations adopted pursuant thereto.**

3. All money collected by the Commissioner pursuant to subsection 2 must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 15. NRS 676A.730 is hereby amended to read as follows:

676A.730 1. The Commissioner may act on his or her own initiative or in response to complaints and may receive complaints, take action to obtain voluntary compliance with this chapter, refer cases to the Attorney General and seek or provide remedies as provided in this chapter.

2. The Commissioner may investigate and examine, in this State or elsewhere, by subpoena or otherwise, the activities, books, accounts and records of a person that provides or offers to provide debt-management services, or a person to which a provider has delegated its obligations under an agreement or this chapter, to determine compliance with this chapter. Information that identifies individuals who have agreements with the provider must not be disclosed to the public. In connection with the investigation, the Commissioner : ~~{may:}~~

(a) ~~{Charge}~~ **Shall charge and collect from** the person ~~{the reasonable expenses necessarily incurred to conduct the examination;}~~ **a fee at the rate established and, if applicable, adjusted pursuant to NRS 658.101 for the cost of any supervision, audit, examination, investigation or hearing conducted pursuant to this chapter or any regulations adopted pursuant thereto;**

(b) ~~{Require}~~ **May require** or permit a person to file a statement under oath as to all the facts and circumstances of a matter to be investigated; and

(c) ~~{Seek}~~ **May seek** a court order authorizing seizure from a bank at which the person maintains a trust account required by NRS 676A.570, any or all money, books, records, accounts and other property of the provider that is in the control of the bank and relates to individuals who reside in this State.

3. The Commissioner may adopt regulations to implement the provisions of this chapter.

4. The Commissioner may enter into cooperative arrangements with any other federal or state agency having authority over providers and may exchange with any of those agencies information about a provider, including, without limitation, information obtained during an examination of the provider.

5. ~~{The}~~ **Except as otherwise provided in NRS 658.101, the** Commissioner, by regulation, shall establish reasonable fees to be paid by providers for the expense of administering this chapter. The Commissioner may, in his or her discretion, establish a reduced fee schedule for providers that are qualified nonprofit entities.

6. The Commissioner, by regulation, shall adopt dollar amounts instead of those specified in NRS 676A.030, 676A.310, 676A.350, 676A.390, 676A.580, 676A.740 and 676A.760 to reflect inflation, as measured by the Consumer Price Index for All Urban Consumers, published by the United States Department of Labor, or, if that Index is not available, another index adopted by regulation by the Commissioner. The Commissioner shall adopt a base year and adjust the dollar amounts, effective on July 1 of each year, if the change in the index from the base year, as of December 31 of the preceding year, is at least 10 percent. The dollar amount must be rounded to the nearest \$100, except that the amounts in NRS 676A.580 must be rounded to the nearest dollar.

7. The Commissioner shall notify registered providers of any change in dollar amounts made pursuant to subsection 6 and make that information available to the public.

8. The Commissioner, by regulation, may:

(a) Require a provider to make additional disclosures before an individual assents to an agreement, including, without limitation, disclosures that:

(1) Nothing in the agreement requires the individual's creditors to accept payments pursuant to a plan.

(2) Nothing in the agreement prevents creditors of the individual from pursuing collection efforts, including, without limitation, telephone calls for the purpose of collecting a debt, and that creditors may sue the individual for any debt that remains unpaid.

(3) The provider cannot provide legal services or advice and, if the individual is sued, the individual should seek legal services or advice.

(4) The provider is not a credit repair organization and does not claim that the plan will have a positive impact on the credit score of the individual.

(5) If an agreement contemplates that a provider will develop and implement a debt-management plan, a creditor may be included in the debt-management plan even if the creditor does not make a contribution.

(b) Establish any requirements and prohibitions with respect to advertising by providers which do not violate the Nevada Constitution or the Constitution of the United States. Such regulations may include, without limitation, a requirement that a provider submit all advertising used by the provider to the Commissioner within 30 days after the first publication of the advertisement.

Sec. 16. NRS 677.430 is hereby amended to read as follows:

677.430 1. At least once each year, the Commissioner or his or her authorized representatives shall make an examination of the place of business of each licensee and of the loans, transactions, books, papers and records of such licensee so far as they pertain to the business licensed under this chapter.

2. For each examination the Commissioner shall charge and collect from the licensee a fee for conducting the examination and preparing and typing the report of the examination at the rate established **and, if applicable, adjusted** pursuant to NRS 658.101.

Sec. 17. NRS 678.3435 is hereby amended to read as follows:

678.3435 1. The Commissioner shall charge and collect a fee of not more than \$1,000 for an initial investigation from each foreign credit union which applies for certification. The fee is not refundable. An annual fee of not more than \$1,000 must be paid by each foreign credit union for its initial office and not more than \$200 for each branch office. Costs for additional examinations and investigations must be paid by the credit union **to the Commissioner** at ~~an hourly~~ **the** rate ~~deemed reasonable by the Commissioner~~ **established and, if applicable, adjusted pursuant to NRS 658.101.**

2. ~~The~~ **Except as otherwise provided in NRS 658.101, the** Commissioner shall by regulation determine the amount of the fees required pursuant to this section.

Sec. 18. NRS 678.790 is hereby amended to read as follows:

678.790 1. The Commissioner shall make a thorough examination of and into the affairs of each credit union organized under the provisions of this chapter, as often as the Commissioner may deem necessary, but at least once within each 18-month period. In lieu thereof, the Commissioner may accept any or all of a report of an examination of a credit union made by a federal regulatory agency. If the Commissioner accepts any part of such a report in one 18-month period, he or she shall examine the credit union to which the report pertains in the succeeding 18-month period. For the purpose of performing the examination, the Commissioner may:

- (a) Subpoena witnesses and documents;
- (b) Administer oaths; and
- (c) Compel the giving of testimony.

2. The report of the examination must contain comments to the members relative to the management of the affairs of the credit union and the general condition of the assets. Within 30 days following the receipt of the report, the directors shall call a general meeting of key personnel to consider matters contained in the report.

3. The Commissioner shall forward a copy of the report to the chair of each credit union within 30 days after it is completed. The board of directors shall inform the members of the credit union of its general condition at the next annual meeting.

4. For each examination the credit union shall pay a fee based on the rate established **and, if applicable, adjusted** pursuant to NRS 658.101.

5. The board of directors may engage a certified public accountant to perform such an examination in lieu of the Commissioner. In such cases, the examination must be equivalent to the type of examination made by the Commissioner and the expense must be borne by the credit union being inspected.

6. The Commissioner shall determine whether an examination performed by an accountant pursuant to subsection 5 is equivalent to an examination conducted by the Commissioner. The Commissioner may examine any area of the operation of a credit union if the Commissioner determines that the examination of that area is not equivalent to an examination conducted by the Commissioner.

Sec. 19. This act becomes effective upon passage and approval.

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 301.

Bill read second time.

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

Amendment No. 227.

AN ACT relating to public employees; providing **, with limited exceptions,** that ~~that certain~~ communications between parties during a peer support counseling session for law enforcement or public safety personnel are confidential and not admissible in certain proceedings; conferring upon certain law enforcement and public safety personnel **, with limited exceptions,** a privilege to refuse to disclose those communications; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides **, with limited exceptions,** that any communications made between parties during a peer support counseling session are confidential, ~~and may not be disclosed or admitted in any judicial, administrative, arbitration or other adjudicatory proceeding.~~

Section 1 also provides immunity from liability to a law enforcement or

public safety agency for any disclosure made in violation of the provisions of this bill by any personnel of the agency who participate in a peer support counseling session.

Section 2 of this bill creates a testimonial privilege allowing , with limited exceptions, a counselor or participant in a peer support counseling session to refuse to disclose or to prevent another party from disclosing any communication made during a peer support counseling session in certain court proceedings.

Section 3 of this bill provides that any notes, records or reports of any peer support counseling session are not public records.

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

Section 1. Chapter 281 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any communication made between parties during a peer support counseling session is confidential and ~~is except as otherwise provided in this section,~~ must not be disclosed by any person participating in the peer support counseling session ~~if~~ unless:

(a) The communication is any of the following:

(1) Any explicit threat of suicide;

(2) Any explicit threat of imminent and serious physical harm or death to a clearly identified or identifiable person;

(3) Any information relating to the abuse or neglect of a child, older person or vulnerable person, or any information that is required by law to be reported; or

(4) Any admission of criminal conduct;

(b) The law enforcement or public safety personnel who were a party to the communication waive the confidentiality of the communication; or

(c) A court of competent jurisdiction issues an order or subpoena requiring the disclosure of the communication.

2. This section ~~applies~~:

(a) Applies to all oral communications, notes, records and reports arising out of a peer support counseling session. Any notes, records or reports arising out of a peer support counseling session are not public records.

~~*3. Any communication or document which is confidential pursuant to this section is not admissible in any judicial, administrative, arbitration or other adjudicatory proceeding.*~~

~~*4. This section does:*~~

(b) Does not prohibit any communications between counselors who conduct peer support counseling sessions, or any communications between counselors and the supervisors or staff of a peer support counseling or employee assistance program. Any such communications are confidential for purposes of this section.

~~{ 5. This section does not apply to any of the following communications made during a peer support counseling session:~~

- ~~— (a) Any threat of suicide;~~
 - ~~— (b) Any explicit threat of imminent and serious physical harm or death to a clearly identified or identifiable person;~~
 - ~~— (c) Any information relating to child abuse or elder abuse, or any information that is required by law to be reported; or~~
 - ~~— (d) Any admission of criminal conduct.~~
- ~~6. This section does}~~

(c) Does not limit the discovery or introduction into evidence of any knowledge acquired or observations made by any law enforcement or public safety personnel in the scope of their employment and outside of a peer support counseling session and which is otherwise subject to discovery or introduction into evidence.

~~{7}~~ 3. A person who discloses a communication pursuant to paragraph (a), (b) or (c) of subsection 1 is not liable for any error or omission in such a disclosure.

4. A law enforcement or public safety agency is not liable for any disclosure made in violation of this section by any law enforcement or public safety personnel of the agency who participate in a peer support counseling session.

5. As used in this section:

(a) “Counselor” means a person who:

(1) Has received training in peer support counseling and in providing emotional and moral support to law enforcement or public safety personnel who have been involved in or exposed to emotionally traumatic experiences in the course of their employment; and

(2) Is designated by a law enforcement agency, public safety agency or employee assistance program to provide the services described in subparagraph (1).

(b) “Employee assistance program” means a program provided by a law enforcement or public safety agency to provide counseling services to its personnel through the use of law enforcement or public safety personnel who have received special training to act as peer support counselors.

(c) “Law enforcement or public safety personnel” includes, without limitation, peace officers, sheriffs’ deputies, corrections officers, probation officers, firefighters, paramedics, emergency dispatchers or any other employee or volunteer reserve member of a law enforcement or public safety agency whose duties involve emergency response or criminal investigation.

(d) “Peer support counseling session” means any counseling formally provided through ~~an employee assistance~~ a peer support program between a counselor and one or more law enforcement or public safety personnel.

Sec. 2. Chapter 49 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any law enforcement or public safety personnel who participate in a peer support counseling session and any counselor providing such counseling have a privilege to refuse to disclose, and to prevent any other person from disclosing, any confidential communications set forth in section 1 of this act ~~if~~ unless:

(a) The communication is any of the following:

(1) Any explicit threat of suicide;

(2) Any explicit threat of imminent and serious physical harm or death to a clearly identified or identifiable person;

(3) Any information relating to the abuse or neglect of a child, older person or vulnerable person, or any information that is required by law to be reported; or

(4) Any admission of criminal conduct;

(b) The law enforcement or public safety personnel who were a party to the communication waive the confidentiality of the communication; or

(c) A court of competent jurisdiction issues an order or subpoena requiring the disclosure of the communication.

2. As used in this section, “counselor,” “law enforcement or public safety personnel” and “peer support counseling session” have the meanings ascribed to them in section 1 of this act.

Sec. 3. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061,

332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 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.

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

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 334.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 356.

~~ASSEMBLYMAN~~ ASSEMBLYMEN ELLISON AND EDWARDS

SUMMARY—Prohibits a driver from operating a motor vehicle in the extreme left lane of a controlled-access highway under certain circumstances. (BDR 43-154)

AN ACT relating to highways; prohibiting a driver from operating a motor vehicle in the extreme left lane of a controlled-access highway under certain circumstances; providing exceptions; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a driver operating a motor vehicle at a speed so slow as to impede the forward movement of traffic proceeding immediately behind the driver on a highway with two or more lanes for traffic traveling in the

same direction must drive in the extreme right lane of the highway. (NRS 484B.627) This bill newly provides that a driver on a controlled-access highway with two or more lanes for traffic traveling in the same direction may not continue to operate a motor vehicle in the extreme left lane of the highway if the driver knows, or reasonably should know, that he or she is driving at a rate of speed that is below the posted speed limit and is being overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed. Exceptions are provided for ~~for~~ a person driving: (1) a vehicle in the extreme left lane for the purpose of overtaking another vehicle or preparing for a left turn; (2) a vehicle lawfully operating in a lane designated for high-occupancy vehicles; (3) a vehicle engaged in the construction, maintenance or repair of the highway; (4) when traffic conditions, inclement weather, obstructions, hazards or compliance with an official traffic control device or the directions of a peace officer make it necessary to drive in the extreme left lane; ~~and~~ (5) an authorized emergency vehicle in the course of his or her official duties ~~in~~ A; and (6) a vehicle within the geographical limits of a city or town. Existing law makes a violation of the prohibition ~~is~~ a misdemeanor ~~. It and a violator must be punished: (1) for the first offense within the immediately preceding 7 years, by a fine of \$50; (2) for a second offense within the immediately preceding 7 years, by a fine of \$100; and (3) for a third or subsequent offense within the immediately preceding 7 years, by a fine of \$250.)~~ (NRS 484A.900)

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

Section 1. Chapter 484B of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 2, on a controlled-access highway which has two or more clearly marked lanes for traveling in the same direction, a driver may not continue to operate a motor vehicle in the extreme left lane if the driver knows, or reasonably should know, that he or she is traveling at a rate of speed which is less than the posted speed limit for that portion of the controlled-access highway and is being overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed.*

2. *The requirements of subsection 1 do not apply:*

(a) To a driver operating a motor vehicle that is:

(1) Overtaking another vehicle proceeding in the same direction;

(2) Preparing for a left turn at an intersection;

(3) Traveling in a lane designated for the use of high-occupancy vehicles pursuant to NRS 484A.460, if the driver complies with the requirements to travel in such a lane; or

(4) Engaged in the construction, maintenance or repair of the highway, including, without limitation, the removal of snow.

(b) When traffic conditions, inclement weather, obstructions or hazards make it necessary to drive in the extreme left lane.

(c) When compliance with an official traffic control device or the directions given by a peace officer makes it necessary to drive in the extreme left lane.

(d) To the driver of an authorized emergency vehicle in the course of his or her official duties.

~~3. A person who violates subsection 1 is guilty of a misdemeanor and:~~

~~(a) For the first offense within the immediately preceding 7 years, shall pay a fine of \$50.~~

~~(b) For the second offense within the immediately preceding 7 years, shall pay a fine of \$100.~~

~~(c) For the third or subsequent offense within the immediately preceding 7 years, shall pay a fine of \$250.~~

(e) To a driver operating a motor vehicle within the geographical limits of a city or town.

Sec. 2. This act becomes effective on July 1, 2017.

Assemblyman Carrillo moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 335.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 355.

~~[ASSEMBLYMAN]~~ ASSEMBLYMEN EDWARDS AND CARRILLO

AN ACT relating to vehicles; ~~authorizing the operation of an unregistered vehicle in certain circumstances; prohibiting the driver of a motor vehicle from intentionally interfering with a person lawfully riding a moped;~~ requiring a person driving a moped to drive ~~to~~ in the right ~~side~~ lane of the ~~roadway~~ highway in certain circumstances; ~~removing the requirement for a person operating an off-highway vehicle on a highway in this State to wear a helmet;~~ providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law requires every owner of a motor vehicle intended to be operated upon the highways of this State to obtain the registration of the motor vehicle, except for certain vehicles such as implements of husbandry, electric bicycles and golf carts. (NRS 482.205, 482.210) A person who has purchased a vehicle from a person who is not a dealer may apply for a permit from the Department of Motor Vehicles to operate the unregistered vehicle for a limited period until the expiration of the permit or the issuance of a new permit or certificate of registration for the vehicle. (NRS 482.396) Section 3 of this bill newly provides that, instead of obtaining a permit from the~~

~~Department, a resident of this State who has purchased a vehicle from a person who is not a dealer may operate the unregistered vehicle for not more than 14 days after the date on which the vehicle is purchased if certain conditions are met. A person operating an unregistered vehicle in such a manner must, upon demand, provide to a peace officer proof of ownership of the vehicle. Section 1 of this bill adds the operation of such an unregistered vehicle to the list of exceptions to the requirement for registration.~~

~~Existing law requires the owner of a motor vehicle to provide certain insurance on a motor vehicle. (NRS 485.185) Existing law also prohibits the owner of the motor vehicle from: (1) operating or knowingly permitting the operation of the motor vehicle without having evidence of insurance in the vehicle; and (2) failing or refusing to surrender, upon demand, the evidence of insurance to a peace officer or an authorized representative of the Department. An exception is provided from those two requirements if the motor vehicle in question is being operated pursuant to a permit issued by the Department authorizing the movement or operation of that vehicle for a limited time. (NRS 485.187) Section 5 of this bill revises that exception to include an unregistered vehicle being operated within 14 days after purchase as authorized in section 3.~~

Under existing law, a person driving a moped upon the highways of this State is entitled to full use of the traffic lane the moped is occupying and is entitled to all the rights and subject to all the duties applicable to the driver of a motor vehicle as provided by law. (NRS 486.331, 486.341) **Section 7** of this bill requires a person driving a moped, except a police officer in the performance of his or her duty, to drive ~~as near to~~ in the right side **extreme right-hand lane** of the ~~roadway as is practicable, including, at the discretion of the driver, on the paved shoulder of the roadway.~~ **highway if the highway has two or more clearly marked lanes for traveling in the same direction in which the driver is traveling.** Exceptions are provided for: (1) when the driver is preparing to turn left; (2) when driving to the right side of the roadway would not be safe; and (3) compliance with the directions of a police officer. Existing law makes a violation of this section a misdemeanor. (NRS 486.381) ~~Under existing law, a person riding a bicycle or an electric bicycle must ride as near to the right side of the roadway as is practicable, with certain exceptions. (NRS 484B.777) Existing law also provides certain protections from motor vehicles to a person lawfully riding a bicycle or an electric bicycle. (NRS 484B.270) Section 4 of this bill provides those same protections to a person lawfully riding a moped.~~

~~Existing law authorizes a person to operate an off-highway vehicle on a highway in this State under certain circumstances. (NRS 490.090, 490.100, 490.110) A person operating an off-highway vehicle on a highway under those circumstances is required to wear a helmet. (NRS 490.130) Section 8 of this bill removes the requirement to wear a helmet.~~ **Section 6 of this bill makes a conforming change.**

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

Section 1. ~~[NRS 482.210 is hereby amended to read as follows:~~

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

~~(a) Special mobile equipment;~~

~~(b) Implements of husbandry;~~

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

~~(d) Electric bicycles;~~

~~(e) Golf carts which are:~~

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

~~(2) Operating pursuant to a permit issued pursuant to this chapter;~~

~~(f) Towable tools or equipment as defined in NRS 484D.055;~~

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

~~(h) A vehicle which is being operated pursuant to NRS 482.396.~~

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

~~(a) Can carry a wheelchair;~~

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

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

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

~~The term does not include a tractor.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 482.3955 is hereby amended to read as follows:~~

~~482.3955 1. The Department shall issue to any dealer, distributor, rebuilder or other person, upon request, and upon payment of a fee of \$8.25, a special permit, in a form to be determined by the Department, for the movement of any vehicle to sell outside the State of Nevada, or for the movement outside the State of any vehicle purchased by a nonresident. The permit must be affixed to the vehicle to be so moved in a manner and position to be determined by the Department, and expires 15 days after its issuance.~~

~~2. [The] Except as otherwise provided in NRS 482.396, the Department may issue a permit to a resident of this State who desires to move an unregistered vehicle within the State upon the payment of a fee of \$8.25. The permit is valid for 24 hours.~~

~~3. The Department shall, upon the request of a charitable organization which intends to sell a vehicle which has been donated to the organization, issue to the organization a permit for the operation of the vehicle until the~~

vehicle is sold by the organization. The Department shall not charge a fee for the issuance of the permit.] **(Deleted by amendment.)**

Sec. 3. ~~[NRS 482.396 is hereby amended to read as follows:~~

~~482.396 1. A [person] **resident of this State** who is not a dealer, manufacturer or rebuilder **and who purchases a vehicle** may [apply to the Department for a permit to] operate [a] the vehicle [which:] **on the highways of this State for not more than 14 days after the resident purchases the vehicle if the vehicle:**~~

~~—(a) Is not subject to the provisions of NRS 482.390, 482.395 and 706.801 to 706.861, inclusive; and~~

~~—(b) Is not currently registered in this State, another state or a foreign country, [or] **and** has been purchased by the [applicant] **resident** from a person who is not a dealer.~~

~~2. [The Department shall adopt regulations imposing a fee for the issuance of the permit.~~

~~3. Each permit must:~~

~~—(a) Bear the date of expiration in numerals of sufficient size to be plainly readable from a reasonable distance during daylight;~~

~~—(b) Expire at 5 p.m. not more than 60 days after its date of issuance;~~

~~—(c) Be affixed to the vehicle in the manner prescribed by the Department; and~~

~~—(d) Be removed and destroyed upon its expiration or the issuance of a new permit or a certificate of registration for the vehicle, whichever occurs first.~~

~~4. The Department may authorize the issuance of more than one permit for the vehicle to be operated by the applicant.] **A person operating an unregistered vehicle pursuant to subsection 1 must, upon demand, provide to a peace officer proof of ownership of the vehicle.** (Deleted by amendment.)~~

Sec. 4. ~~[NRS 484B.270 is hereby amended to read as follows:~~

~~484B.270 1. The driver of a motor vehicle shall not intentionally interfere with the movement of a person lawfully riding a bicycle, [or] an electric bicycle [.] **or a moped.**~~

~~2. When overtaking or passing a bicycle, [or] electric bicycle **or moped** proceeding in the same direction, the driver of a motor vehicle shall exercise due care and:~~

~~—(a) If there is more than one lane for traffic proceeding in the same direction, move the vehicle to the lane to the immediate left, if the lane is available and moving into the lane is reasonably safe; or~~

~~—(b) If there is only one lane for traffic proceeding in the same direction, pass to the left of the bicycle, [or] electric bicycle **or moped** at a safe distance, which must be not less than 3 feet between any portion of the vehicle and the bicycle, [or] electric bicycle [.] **or moped**, and shall not move again to the right side of the highway until the vehicle is safely clear of the overtaken bicycle, [or] electric bicycle [.] **or moped.**~~

~~2. The driver of a motor vehicle shall yield the right of way to any person riding a bicycle or an electric bicycle or a pedestrian as provided in subsection 6 of NRS 484B.297 on the pathway or lane. The driver of a motor vehicle shall not enter, stop, stand, park or drive within a pathway or lane provided for bicycles or electric bicycles except:~~

- ~~— (a) When entering or exiting an alley or driveway;~~
- ~~— (b) When operating or parking a disabled vehicle;~~
- ~~— (c) To avoid conflict with other traffic;~~
- ~~— (d) In the performance of official duties;~~
- ~~— (e) In compliance with the directions of a police officer; or~~
- ~~— (f) In an emergency.~~

~~4. Except as otherwise provided in subsection 3, the driver of a motor vehicle shall not enter or proceed through an intersection while driving within a pathway or lane provided for bicycles or electric bicycles.~~

~~5. The driver of a motor vehicle shall:~~

- ~~— (a) Exercise due care to avoid a collision with a person riding a bicycle, [or] an electric bicycle [;] or a moped; and~~
- ~~— (b) Give an audible warning with the horn of the vehicle if appropriate and when necessary to avoid such a collision.~~

~~6. If, while violating any provision of subsections 1 to 5, inclusive, the driver of a motor vehicle is the proximate cause of a collision with a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.~~

~~7. The operator of a bicycle or an electric bicycle shall not:~~

- ~~— (a) Intentionally interfere with the movement of a motor vehicle; or~~
- ~~— (b) Overtake and pass a motor vehicle unless the operator can do so safely without endangering himself or herself or the occupants of the motor vehicle.] (Deleted by amendment.)~~

Sec. 5. ~~[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) *Displays* a valid permit issued by the Department pursuant to subsection 1 or 2 of NRS 482.3955 [, or NRS 482.396] or NRS 482.3965 authorizing the movement or operation of that vehicle within the State for a limited time [.] ; or~~

~~— (b) *Is being operated pursuant to NRS 482.396.* (Deleted by amendment.)~~

Sec. 6. NRS 486.331 is hereby amended to read as follows:

486.331 ~~[A]~~ ***Except as otherwise provided in NRS 486.351, a*** person driving a motorcycle or moped upon a highway is entitled to all the rights and subject to all the duties applicable to the drivers of motor vehicles as provided by law, except those provisions which by their nature can have no application.

Sec. 7. NRS 486.351 is hereby amended to read as follows:

486.351 1. A person, except a police officer in the performance of his or her duty, shall not drive a motorcycle or moped between moving or stationary vehicles occupying adjacent traffic lanes.

2. Except as provided in subsection 3, a person shall not drive a motorcycle, moped or trimobile abreast of or overtake or pass another vehicle within the same traffic lane.

3. Motorcycles and mopeds may, with the consent of the drivers, be operated no more than two abreast in a single traffic lane.

4. *A person, except a police officer in the performance of his or her duty, driving a moped shall, except:*

(a) *When preparing to turn left as provided in subsection 5;*

(b) *When doing so would not be safe; or*

(c) *In compliance with the directions of a police officer,*

↪ drive ~~as near to the right side of the roadway as is practicable, including, at the discretion of the driver of the moped, on the paved shoulder of the roadway if such a shoulder exists and is safe for travel,~~ in the extreme right-hand lane if the highway has two or more clearly marked lanes for traffic traveling in the same direction in which the driver is traveling.

5. *A person driving a moped as required pursuant to subsection 4 who is preparing to turn left may enter the lane from which the left turn will be made not more than one-quarter of a mile from where the left turn will be made.*

Sec. 8. ~~NRS 490.130 is hereby amended to read as follows:~~

~~490.130 The operator of an off highway vehicle that is being driven on a highway in this State in accordance with NRS 490.090 to 490.130, inclusive, shall:~~

~~1. Comply with all traffic laws of this State; and~~

~~2. Ensure that the registration of the off highway vehicle is attached to the vehicle in accordance with NRS 490.083 or a special plate issued pursuant to NRS 490.0827 is attached to the vehicle . [; and~~

~~3. Wear a helmet.}] (Deleted by amendment.)~~

Sec. 9. This act becomes effective on ~~July 1, 2017,~~ **January 1, 2018.**

Assemblyman Carrillo moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 380.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 584.

AN ACT relating to real property; authorizing the recording of certain documents relating to real property; limiting an action constituting an easement by prescription under certain circumstances; **authorizing the governing body of a city or county to adopt certain ordinances governing a sign posted by an owner of land;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the recording of certain documents relating to real property. (Chapter 111 of NRS) **Section 1** of this bill authorizes an owner of real property to record a notice in the office of ~~the~~ any county recorder, wherein the subject property is located, which provides that any use of the owner's real property is with the permission of and subject to the control of the owner.

Existing law limits certain actions for the recovery of real property. (NRS 11.030-11.180) **Section 3** of this bill: (1) authorizes an owner of land to post certain notice stating that the right to pass over such land is by permission and subject to the control of the owner; and (2) prohibits a person from maintaining an action constituting an easement by prescription regardless of whether the owner posts certain notice on the property or records a notice pursuant to **section 1**. **Section 3 also authorizes a governing body of a city or county to adopt ordinances governing a sign posted by an owner of land under certain circumstances.**

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

Section 1. Chapter 111 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any owner of real property , who opens any part of his or her real property for use by the public, may record in the office of the county recorder of the county or counties in which any part of the real property is situated, a description of the real property and notice in substantially the following form:

The right of the public or any person to make any use whatsoever of the real property described or any portion thereof, other than any use expressly allowed by a written or recorded map, agreement, grant of easement, deed or dedication, is by permission, and subject to control, of owner pursuant to section 1 of this act.

2. The recording of a notice pursuant to this section is conclusive evidence that subsequent use of the real property during the time such notice is in effect by the public or any person for any purpose, other than any use ~~expressly allowed~~ in accordance with a right granted by a written or recorded map, agreement, grant of easement, deed or dedication, is permissive and with consent in any judicial proceeding involving the issue as to whether all or any portion of such real property has been dedicated to public use or whether any person has a prescriptive right in such real property or any portion thereof. The notice may be revoked by the owner of the real property by recording a notice of revocation in the office of the county recorder where the notice is recorded. After recording the notice, and before any revocation of such notice, the owner of the real property

shall not prevent any appropriate public use by physical obstruction, notice or otherwise.

3. ~~In the event of the use of real property pursuant to this section by any person other than the general public, any such notice, to be effective, must also be served by registered mail upon the person using such real property.~~

~~4.~~ The notice pursuant to this section shall not be deemed to affect rights vested at the time of recording.

~~5.~~ 4. Permission for the ~~public~~ use of real property ~~provided for~~ by the public or any person, other than any use expressly allowed by a written or recorded map, agreement, grant of easement, deed or dedication described in the notice recorded pursuant to ~~this section~~ subsection 1 may be conditioned upon reasonable restrictions on the time, place and manner of such ~~public~~ use. Any use of the real property in violation of such restrictions may not be considered public use for the purposes of a finding of implied dedication.

Sec. 2. NRS 111.312 is hereby amended to read as follows:

111.312 1. The county recorder shall not record with respect to real property, a notice of completion, a declaration of homestead, a lien or notice of lien, an affidavit of death, a mortgage or deed of trust, ~~for~~ any conveyance of real property or instrument in writing setting forth an agreement to convey real property **or a notice pursuant to section 1 of this act** unless the document being recorded contains:

(a) The mailing address of the grantee or, if there is no grantee, the mailing address of the person who is requesting the recording of the document; and

(b) Except as otherwise provided in subsection 2, the assessor's parcel number of the property at the top left corner of the first page of the document, if the county assessor has assigned a parcel number to the property. The parcel number must comply with the current system for numbering parcels used by the county assessor's office. The county recorder is not required to verify that the assessor's parcel number is correct.

2. Any document relating exclusively to the transfer of water rights may be recorded without containing the assessor's parcel number of the property.

3. The county recorder shall not record with respect to real property any deed, including, without limitation:

- (a) A grant, bargain or deed of sale;
- (b) Quitclaim deed;
- (c) Warranty deed; or
- (d) Trustee's deed upon sale,

↪ unless the document being recorded contains the name and address of the person to whom a statement of the taxes assessed on the real property is to be mailed.

4. The assessor's parcel number shall not be deemed to be a complete legal description of the real property conveyed.

5. Except as otherwise provided in subsection 6, if a document that is being recorded includes a legal description of real property that is provided in metes and bounds, the document must include the name and mailing address of the person who prepared the legal description. The county recorder is not required to verify the accuracy of the name and mailing address of such a person.

6. If a document including the same legal description described in subsection 5 previously has been recorded, the document must include all information necessary to identify and locate the previous recording, but the name and mailing address of the person who prepared the legal description is not required for the document to be recorded. The county recorder is not required to verify the accuracy of the information concerning the previous recording.

Sec. 3. Chapter 11 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~No. If an owner of land opens his or her land for use by the public, no use by any person or the public, no matter for how long of a period, of any land shall ever ripen into an easement by prescription, if the owner of the land posts at each entrance to the land or at intervals of not more than 200 feet along the boundary of such land a sign reading substantially as follows:~~

*Right to pass by permission, and subject to control, of owner:
section 3 of this act.*

2. *Regardless of whether an owner of land has recorded a notice pursuant to section 1 of this act or has posted signs on such land pursuant to subsection 1, and except as otherwise provided in subsection 3, if an owner of land opens his or her land for use by the public, no use of such land by any person or the public on or after October 1, 2017, shall ever ripen to confer upon the public or any governmental entity a vested right to continue to make such use permanently, in the absence of an express written grant of easement or other conveyance of such land for such use, or irrevocable offer of dedication of such property for such use, made by the owner, which has been accepted by the governmental entity to which the offer of dedication was made.*

3. *Where a governmental entity is using private land by an expenditure of public money on visible improvements on or across such lands or on the cleaning or maintenance related to the public use of such land in such a manner so that the owner knows or should have known that the public is making such use of his or her land, such use, including any public use reasonably related to the purposes of such improvement, in the absence of either express permission by the owner to continue such use or the taking by the owner of reasonable steps to enjoin, remove or prohibit such use, shall after 5 years ripen to confer upon the governmental entity a vested*

right to continue such use ~~if~~ if the owner of land opens his or her land for use by the public.

4. The governing body of any city or county pursuant to the powers granted in NRS 278.010 to 278.630, inclusive, may by ordinance establish provisions governing the size, placement and contents of a sign posted by an owner of land pursuant to subsection 1.

5. As used in this section, “governmental entity” has the meaning ascribed to it in NRS 363C.040.

Sec. 4. NRS 107A.200 is hereby amended to read as follows:

107A.200 “Submit for recording” means to submit a document complying with applicable legal standards, with required fees and taxes, to the appropriate governmental office pursuant to NRS 111.310 to 111.365, inclusive ~~to~~, **and section 1 of this act.**

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 382.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 427.

AN ACT relating to health care; requiring certain hospitals, independent centers for emergency medical care and physicians to accept certain rates as payment in full for the provision of emergency services and care to certain patients; providing an exception under certain circumstances; requiring the submission of certain reports relating to policies of health insurance and similar contractual agreements by certain third parties who issue those policies and agreements; requiring certain hospitals and independent centers for emergency medical care to submit reports to the Department of Health and Human Services concerning patient debt and rate increases; requiring the Governor’s Consumer Health Advocate to adopt certain regulations; requiring the Commissioner of Insurance to consider certain information when determining the adequacy of a network plan; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, a hospital is required to provide emergency services and care and to admit certain patients where appropriate, regardless of the financial status of the patient. (NRS 439B.410) Existing law also requires certain major hospitals to reduce total billed charges by at least 30 percent for hospital services provided to certain patients who have no insurance or other contractual provision for the payment of the charges by a third party. (NRS 439B.260) **Section 17** of this bill requires an out-of-network hospital with 100 or more beds that is not operated by a federal, state or local governmental entity or an out-of-network independent center for emergency

medical care that is operated by a person who also operates such a hospital to accept, under certain circumstances, as payment in full for the provision of emergency services and care, other than services and care provided to stabilize a patient, to certain patients a rate which does not exceed the greater of: (1) the average amount that the third party has negotiated with other hospitals in this State; or (2) one hundred twenty-five percent of the average amount paid by Medicare for the same or similar services in the same geographic area. The Commissioner of Insurance is ~~authorized~~ **required** to adopt regulations to interpret these provisions in a manner that is similar to the interpretation of the federal regulation establishing the amount that certain health insurance providers must pay to out-of-network hospitals for emergency services. (29 C.F.R. § 2590.715-2719A) **Such regulations must provide for a system for verifying negotiated contract prices by a third party or out-of-network facility submitted to the Commissioner of Insurance pursuant to sections 17-19 of this bill.** Section 18 of this bill requires an out-of-network physician on the medical staff of an out-of-network hospital with 100 or more beds or an out-of-network independent center for emergency medical care that is operated by a person who also operates such a hospital to accept as payment in full for the provision of emergency services and care, other than services and care provided to stabilize a patient, a rate which is similarly calculated to that in **section 17**. **Section 19** of this bill requires an out-of-network physician on the medical staff of an in-network hospital with 100 or more beds or an in-network independent center for emergency medical care that is operated by a person who also operates such a hospital to accept as payment in full for the provision of emergency services and care, other than services and care provided to stabilize a patient, a rate which is similarly calculated to that in **sections 17 and 18**. **Sections 17-19** further provide that, if a hospital, center or physician, as applicable, determines that the amount prescribed pursuant to those sections is not sufficient reimbursement for the provision of emergency services and care to a patient, the hospital, center or physician may negotiate a different rate with the third party and may, under certain circumstances, file a complaint and request for mediation with the Governor's Consumer Health Advocate. ~~[Section]~~ **Sections 21.3 and 22** of this bill ~~[requires]~~ **require** the Advocate to establish a procedure for filing and processing such complaints and requests for mediation.

Existing law requires the Commissioner of Insurance to make an annual determination concerning the availability and accessibility of the health care services of any network plan offered for sale in this State. (NRS 687B.490) **Section 20** of this bill requires a third party who wishes to pay the amounts prescribed pursuant to **sections 17-19** to conduct a review of the adequacy of the network of the third party and submit certain reports to the Commissioner and to the Legislative Committee on Health Care. **Section 23** of this bill requires the Commissioner to consider such a report when making a

determination concerning the availability and accessibility of the network plan to which the report pertains.

Section 21 of this bill requires a hospital with 100 or more beds that is not operated by a federal, state or local governmental entity or an independent center for emergency medical care that is operated by a person who also operates such a hospital to annually report certain information concerning the collection of debts, rate increases and negotiated payments for emergency services and care to the Department of Health and Human Services.

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

Section 1. Chapter 439B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 21, inclusive, of this act.

Sec. 2. *As used in sections 2 to 21, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 16, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Advocate” means the Governor’s Consumer Health Advocate appointed pursuant to NRS 223.550.*

Sec. 4. ~~“Air ambulance” has the meaning ascribed to it in NRS 450B.030.~~ **(Deleted by amendment.)**

Sec. 5. ~~“Ambulance” has the meaning ascribed to it in NRS 450B.040.~~ **(Deleted by amendment.)**

Sec. 6. *“Emergency services and care” has the meaning ascribed to it in NRS 439B.410.*

Sec. 7. ~~“Fire fighting agency” has the meaning ascribed to it in NRS 450B.072.~~ **(Deleted by amendment.)**

Sec. 8. *“Independent center for emergency medical care” has the meaning ascribed to it in NRS 449.013.*

Sec. 9. *“In-network hospital” means, for a particular patient, a hospital that has entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.*

Sec. 10. *“In-network independent center for emergency medical care” means, for a particular patient, an independent center for emergency medical care that has entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.*

Sec. 11. *“In-network physician” means, for a particular patient, a physician who has entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.*

Sec. 11.5. *“Medically necessary emergency services” has the meaning ascribed to it in NRS 695G.170.*

Sec. 12. *“Out-of-network hospital” means, for a particular patient, a hospital that has not entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.*

Sec. 13. *“Out-of-network independent center for emergency medical care” means, for a particular patient, an independent center for emergency medical care that has not entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.*

Sec. 14. *“Out-of-network physician” means, for a particular patient, a physician who has not entered into a contract with a third party for the provision of health care to persons who are covered by a policy of insurance or other contractual agreement which provides coverage to the patient and which is issued by that third party.*

Sec. 15. *“Third party” includes, without limitation:*

1. An insurer as defined in NRS 679B.540;
2. A health benefit plan, as defined in NRS 689A.540, for employees which provides coverage for emergency services and care at a hospital;
3. A participating public agency, as defined in NRS 287.04052, and any other local governmental agency of the State of Nevada which provides a system of health insurance for the benefit of its officers and employees, and the dependents of such officers and employees, pursuant to chapter 287 of NRS; and
4. Any other insurer or organization providing health coverage or benefits in accordance with state or federal law.

Sec. 16. *“To stabilize” has the meaning ascribed to it in 42 U.S.C. § 1395dd.*

Sec. 17. 1. Except as otherwise provided in subsections 3 and 4, an out-of-network hospital with 100 or more beds that is not operated by a federal, state or local governmental agency or an out-of-network independent center for emergency medical care that is operated by a person who also operates such a hospital shall accept as payment in full for the provision of emergency services and care to a patient, other than services and care provided to stabilize the patient, a rate in accordance with subsection 2 if the patient:

(a) Was ~~transported~~ presented to the out-of-network hospital or out-of-network independent center for emergency medical care for the provision of medically necessary emergency services; ~~and care by an ambulance, air ambulance or vehicle of a fire fighting agency which has received a permit to operate pursuant to chapter 450B of NRS;~~ and

(b) Has a policy of insurance or other contractual agreement with a third party that provides coverage to the patient for emergency services and care provided by more than one hospital and independent center for emergency medical care in this State other than the hospital or independent center for emergency medical care to which the patient was ~~transported~~ presented.

2. Except as otherwise provided in subsections 3 and 4, an out-of-network hospital with 100 or more beds that is not operated by a federal, state or local governmental agency or an out-of-network independent center for emergency medical care that is operated by a person who also operates such a hospital that provides to a patient described in subsection 1 emergency services and care, other than services and care provided to stabilize the patient, shall accept as payment in full for such emergency services and care a rate which does not exceed the greater of:

(a) The average amount negotiated by the third party with in-network hospitals in this State for the same or similar emergency services and care, excluding any deductible, copayment or coinsurance paid by the patient.

(b) One hundred twenty-five percent of the average amount paid by Medicare pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq., on a fee-for-service basis for the same or similar emergency services and care in the geographic region in which the emergency services and care are rendered, excluding any deductible, copayment or coinsurance paid by the patient.

↪ The Commissioner of Insurance ~~may~~ shall adopt regulations that interpret the provisions of this subsection ~~to~~ which must provide for, without limitation, a system for verifying a negotiated contract price submitted to the Commissioner of Insurance by a third party or entity described in subsection 2, and which must be consistent with the provisions of 29 C.F.R. § 2590.715-2719A to the extent practicable. Except as otherwise provided in NRS 239.0115, any information submitted pursuant to this section must be kept confidential by the Commissioner of Insurance.

3. An out-of-network hospital or out-of-network independent center for emergency medical care is not required to accept as payment in full the amount specified pursuant to subsection 2 if:

(a) The third party that issued the policy of insurance or other contractual agreement which provides coverage to the patient has not submitted the quarterly reports required by section 20 of this act;

(b) The third party which provides coverage to the patient has not, in good faith, participated in a negotiation or mediation pursuant to subsection 4 and has not documented the occurrence and outcome of any negotiation or mediation;

(c) The patient has not paid the deductible, copayment or coinsurance that the patient would have paid for the provision of emergency services and care at an in-network hospital or in-network independent center for emergency medical care; or

(d) The third party has not paid the out-of-network hospital or out-of-network independent center for emergency medical care, as applicable, for the emergency services and care within 60 days after receipt of the bill and all necessary medical records required to pay the claim or, if applicable, within 60 days after the conclusion of any negotiation or mediation between the third party and the out-of-network hospital or out-of-network independent center for emergency medical care.

4. If an out-of-network hospital or out-of-network independent center for emergency medical care believes that the amounts prescribed in subsection 2 are insufficient to compensate the out-of-network hospital or out-of-network independent center for emergency medical care for the emergency services and care provided by the out-of-network hospital or out-of-network independent center for emergency medical care, the out-of-network hospital or out-of-network independent center for emergency medical care ~~may~~ must, within 30 days of receiving written notice of such amount from the third party, request in writing to enter into negotiations with the third party which provides coverage to the patient to resolve the difference between the amount charged by the out-of-network hospital or out-of-network independent center for emergency medical care and the amount paid by the third party. Such negotiations must begin within 2 weeks of the out-of-network hospital or out-of-network independent center for emergency medical care making the request for negotiation. If such negotiations do not result in an agreement on the amount that will be paid for the emergency services and care, the out-of-network hospital or out-of-network independent center for emergency medical care may file a complaint with the Advocate pursuant to NRS 223.560 and request that the Advocate mediate to determine the amount that must be paid for such emergency services and care.

5. In no event shall the patient who received emergency services and care be:

(a) Responsible for payment of any amount greater than any deductible, copayment or coinsurance paid by the patient pursuant to his or her policy of insurance; or

(b) Required to participate in any negotiation entered into pursuant to this section or any mediation entered into pursuant to NRS 223.560.

Sec. 18. 1. Except as otherwise provided in subsections 3 and 4, an out-of-network physician on the medical staff of an out-of-network hospital with 100 or more beds or an out-of-network independent center for emergency medical care that is operated by a person who also operates such a hospital shall accept as payment in full for the provision of emergency services and care to a patient, other than services and care provided to stabilize the patient, a rate in accordance with subsection 2 if the patient:

(a) ~~Was transported~~ presented to the out-of-network hospital or out-of-network independent center for emergency medical care for the provision

~~of medically necessary emergency services; and care by an ambulance, air ambulance or vehicle of a fire fighting agency which has received a permit to operate pursuant to chapter 450B of NRS;~~ and

(b) Has a policy of insurance or other contractual agreement with a third party that provides coverage to the patient for the provision of emergency services and care by more than one in-network physician in this State who provides the same type of emergency services and care other than the out-of-network physician who provided the emergency services and care at the out-of-network hospital or out-of-network independent center for emergency medical care to which the patient was ~~transported~~ presented.

2. Except as otherwise provided in subsections 3 and 4, an out-of-network physician on the medical staff of an out-of-network hospital with 100 or more beds or an out-of-network independent center for emergency medical care that is operated by a person who also operates such a hospital who provides to a patient described in subsection 1 emergency services and care, other than services and care provided to stabilize the patient, shall accept as payment in full for such emergency services and care a rate which does not exceed the greater of:

(a) The average amount negotiated by the third party with in-network physicians in this State for the same or similar emergency services and care, excluding any deductible, copayment or coinsurance paid by the patient.

(b) One hundred twenty-five percent of the average amount paid by Medicare pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq., on a fee-for-service basis for the same or similar emergency services and care in the geographic region in which the emergency services and care are rendered, excluding any deductible, copayment or coinsurance paid by the patient.

↪ The Commissioner of Insurance ~~may~~ shall adopt regulations that interpret the provisions of this subsection ~~for~~ which must provide for, without limitation, a system for verifying a negotiated contract price submitted to the Commissioner of Insurance by a third party or entity described in subsection 2, and which must be consistent with the provisions of 29 C.F.R. § 2590.715-2719A to the extent practicable. Except as otherwise provided in NRS 239.0115, any information submitted pursuant to this section must be kept confidential by the Commissioner of Insurance.

3. An out-of-network physician is not required to accept as payment in full the amount specified pursuant to subsection 2 if:

(a) The third party that issued the policy of insurance or other contractual agreement which provides coverage to the patient has not submitted the quarterly reports required by section 20 of this act;

(b) The third party which provides coverage to the patient has not, in good faith, participated in a negotiation or mediation pursuant to

subsection 4 and has not documented the occurrence and outcome of any negotiation or mediation;

(c) The patient has not paid the deductible, copayment or coinsurance that the patient would have paid for the provision of emergency services and care by an in-network physician; or

(d) The third party has not paid the out-of-network physician for the emergency services and care within 60 days after receipt of the bill and all necessary medical records required to pay the claim or, if applicable, within 60 days after the conclusion of any negotiation or mediation between the third party and the out-of-network physician.

4. If an out-of-network physician believes that the amounts prescribed in subsection 2 are insufficient to compensate the out-of-network physician for the emergency services and care provided by the out-of-network physician, the out-of-network physician ~~may~~ must, within 30 days of receiving written notice of such amount from the third party, request in writing to enter into negotiations with the third party which provides coverage to the patient to resolve the difference between the amount charged by the out-of-network physician and the amount paid by the third party. Such negotiations must begin within 2 weeks of the out-of-network physician making the request for negotiation. If such negotiations do not result in an agreement on the amount that will be paid for emergency services and care, the out-of-network physician may file a complaint with the Advocate pursuant to NRS 223.560 and request that the Advocate mediate to determine the amount that must be paid for such emergency services and care.

5. In no event shall the patient who received emergency services and care be:

(a) Responsible for payment of any amount greater than any deductible, copayment or coinsurance paid by the patient pursuant to his or her policy of insurance; or

(b) Required to participate in any negotiation entered into pursuant to this section or any mediation entered into pursuant to NRS 223.560.

Sec. 19. 1. Except as otherwise provided in subsections 3 and 4, an out-of-network physician on the medical staff of an in-network hospital with 100 or more beds or an in-network independent center for emergency medical care that is operated by a person who also operates such a hospital shall accept as payment in full for the provision of emergency services and care to a patient, other than services and care provided to stabilize the patient, a rate in accordance with subsection 2 if the patient has a policy of insurance or other contractual agreement with a third party that provides coverage to the patient for the provision of emergency services and care by more than one physician in this State who provides the same type of emergency services and care other than the physician who provided the emergency services and care.

2. Except as otherwise provided in subsections 3 and 4, an out-of-network physician on the medical staff of an in-network hospital with 100 or more beds or an in-network independent center for emergency medical care that is operated by a person who also operates such a hospital who provides to a patient described in subsection 1 emergency services and care, other than services and care provided to stabilize the patient, shall accept as payment in full for such emergency services and care a rate which does not exceed the greater of:

(a) The average amount negotiated by the third party with in-network physicians in this State for the same or similar emergency services and care, excluding any deductible, copayment or coinsurance paid by the patient.

(b) One hundred twenty-five percent of the average amount paid by Medicare pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq., on a fee-for-service basis for the same or similar emergency services and care in the geographic region in which the services are rendered, excluding any deductible, copayment or coinsurance paid by the patient.

↪ The Commissioner of Insurance ~~may~~ shall adopt regulations that interpret the provisions of this subsection ~~to~~ which must provide for, without limitation, a system for verifying a negotiated contract price submitted to the Commissioner of Insurance by a third party or entity described in subsection 2, and which must be consistent with the provisions of 29 C.F.R. § 2590.715-2719A to the extent practicable. Except as otherwise provided in NRS 239.0115, any information submitted pursuant to this section must be kept confidential by the Commissioner of Insurance.

3. An out-of-network physician is not required to accept as payment in full the amount specified pursuant to subsection 2 if:

(a) The third party that issued the policy of insurance or other contractual agreement which provides coverage to the patient has not submitted the quarterly reports required by section 20 of this act;

(b) The third party which provides coverage to the patient has not, in good faith, participated in a negotiation or mediation pursuant to subsection 4 and has not documented the occurrence and outcome of any negotiation or mediation;

(c) The patient has not paid the deductible, copayment or coinsurance that the patient would have paid for the provision of emergency services and care to an in-network physician; or

(d) The third party has not paid the out-of-network physician for the emergency services and care within 60 days after receipt of the bill and all necessary medical records required to pay the claim or, if applicable, within 60 days after the conclusion of any negotiation or mediation between the third party and the out-of-network physician.

4. If an out-of-network physician believes that the amounts prescribed in subsection 2 are insufficient to compensate the out-of-network physician

for the emergency services and care provided by the out-of-network physician, the out-of-network physician ~~may~~ must, within 30 days of receiving written notice of such amount from the third party, request in writing to enter into negotiations with the third party which provides coverage to the patient to resolve the difference between the amount charged by the out-of-network physician and the amount paid by the third party. Such negotiations must begin within 2 weeks of the out-of-network physician making the request for negotiation. If such negotiations do not result in an agreement on the amount that will be paid for emergency services and care, the out-of-network physician may file a complaint with the Advocate pursuant to NRS 223.560 and request that the Advocate mediate to determine the amount that must be paid for such emergency services and care.

5. In no event shall the patient who received emergency services and care be:

(a) Responsible for payment of any amount greater than any deductible, copayment or coinsurance paid by the patient pursuant to his or her policy of insurance; or

(b) Required to participate in any negotiation entered into pursuant to this section or any mediation entered into pursuant to NRS 223.560.

Sec. 20. If a third party who issues a policy of insurance or other contractual agreement that provides coverage for health care in this State wishes for out-of-network hospitals, out-of-network independent centers for emergency medical care and out-of-network physicians to accept as payment in full the amounts prescribed in sections 17, 18 and 19 of this act, the third party shall:

1. Review the in-network hospitals, in-network independent centers for emergency medical care and in-network physicians of the third party to determine whether a person who is covered by that policy of insurance or other contractual agreement that provides coverage for health care has adequate access to health care, including, without limitation, a review of:

(a) The number and types of in-network hospitals, in-network independent centers for emergency medical care and in-network physicians, including, without limitation, emergency room physicians, anesthesiologists and specialty physicians;

(b) Whether a person who is covered by the policy of insurance or other contractual agreement that provides coverage for the provision of health care has access to in-network hospitals, in-network independent centers for emergency medical care and in-network physicians without experiencing an unreasonable delay in the provision of health care; and

(c) The in-network hospitals and in-network independent centers for emergency medical care which provide emergency services and care and the number and type of in-network physicians on the medical staff of those in-network hospitals and in-network independent centers for emergency medical care to ensure that the third party has contracted with a sufficient

number and type of physicians who are on the medical staff of those in-network hospitals and in-network independent centers for emergency medical care.

2. Review the frequency with which persons covered by the policy of insurance or other contractual agreement that provides coverage for the provision of health care are treated for emergency services and care by out-of-network physicians at in-network hospitals and in-network independent centers for emergency medical care and the rate at which those services and care are reimbursed by the third party.

3. Ensure that persons covered by the policy of insurance or other contractual agreement that provides coverage for the provision of health care receive adequate information regarding in-network hospitals, in-network independent centers for emergency medical care and in-network physicians and the financial impact of receiving emergency services and care from out-of-network hospitals, out-of-network independent centers for emergency medical care and out-of-network physicians, including, without limitation, the financial impact of receiving emergency services and care from an out-of-network physician on the medical staff of an in-network hospital or in-network independent center for emergency medical care. The information must be provided in a format that is meaningful for persons making an informed decision concerning emergency services and care and must be accessible to persons covered by the policy of insurance or other contractual agreement.

4. Submit once each calendar quarter to the Commissioner of Insurance and the Legislative Committee on Health Care a report containing a summary of the reviews conducted pursuant to subsections 1 and 2 and the educational efforts undertaken pursuant to subsection 3.

Sec. 21. Each hospital with 100 or more beds that is not operated by a federal, state or local governmental agency and each independent center for emergency medical care that is operated by a person who also operates such a hospital shall submit to the Department an annual report which must include:

1. The number of patients from whom the hospital or independent center for emergency medical care or a person acting on its behalf has attempted to collect a debt for any amount owed to the hospital or independent center for emergency medical care for emergency services and care;

2. The number of patients from whom a physician on the medical staff at the hospital or independent center for emergency medical care or a person acting on behalf of such a physician has attempted to collect a debt for any amount owed to the physician for emergency services and care;

3. The amount of any increase in the rate negotiated with a third party for emergency services and care that exceeds the percentage of increase in the Consumer Price Index, Medical Care Component, for the year in which the rate is increased and any justification for the increase; and

4. *The amount of each payment negotiated by the hospital or independent center for emergency medical care pursuant to subsection 4 of section 17 of this act or a physician on the medical staff of the hospital or independent center for emergency medical care pursuant to subsection 4 of section 18 or subsection 4 of section 19 of this act and the emergency services and care for which the payment was made.*

Sec. 21.3. Chapter 223 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The procedure established by regulation pursuant to paragraph (j) of subsection 1 of NRS 223.560 for filing and processing complaints concerning the rate of payment prescribed by sections 17, 18 and 19 of this act and the mediation of those complaints must:

(a) Require the Advocate or the Advocate's designee to determine, if an agreement between the parties cannot be reached, an acceptable rate that must be paid to the hospital, independent center for emergency medical care or physician within 10 days of the conclusion of the mediation;

(b) Provide that a decision made by the Advocate or the Advocate's designee is binding on both parties subject to the mediation; and

(c) Provide that the costs of the mediation must be equally shared between the two parties subject to the mediation.

2. Except as otherwise provided in NRS 239.0115, any information received by the Advocate or the Advocate's designee during the mediation procedure established pursuant to paragraph (j) of subsection 1 of NRS 233.560 must be kept confidential by the Advocate or the Advocate's designee.

Sec. 21.6. NRS 223.500 is hereby amended to read as follows:

223.500 As used in NRS 223.500 to 223.575, inclusive, **and section 21.3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 223.505 to 223.535, inclusive, have the meanings ascribed to them in those sections.

Sec. 21.9. NRS 223.540 is hereby amended to read as follows:

223.540 The provisions of NRS 223.085 do not apply to the provisions of NRS 223.500 to 223.575, inclusive **[.]**, **and section 21.3 of this act.**

Sec. 22. NRS 223.560 is hereby amended to read as follows:

223.560 1. The Advocate shall:

(a) Respond to written and telephonic inquiries received from consumers and injured employees regarding concerns and problems related to health care and workers' compensation;

(b) Assist consumers and injured employees in understanding their rights and responsibilities under health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance;

(c) Identify and investigate complaints of consumers and injured employees regarding their health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance and

assist those consumers and injured employees to resolve their complaints, including, without limitation:

(1) Referring consumers and injured employees to the appropriate agency, department or other entity that is responsible for addressing the specific complaint of the consumer or injured employee; and

(2) Providing counseling and assistance to consumers and injured employees concerning health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance;

(d) Provide information to consumers and injured employees concerning health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance in this State;

(e) Establish and maintain a system to collect and maintain information pertaining to the written and telephonic inquiries received by the Office for Consumer Health Assistance;

(f) Take such actions as are necessary to ensure public awareness of the existence and purpose of the services provided by the Advocate pursuant to this section;

(g) In appropriate cases and pursuant to the direction of the Advocate, refer a complaint or the results of an investigation to the Attorney General for further action;

(h) Provide information to and applications for prescription drug programs for consumers without insurance coverage for prescription drugs or pharmaceutical services;

(i) Establish and maintain an Internet website which includes:

(1) Information concerning purchasing prescription drugs from Canadian pharmacies that have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328;

(2) Links to websites of Canadian pharmacies which have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328; and

(3) A link to the website established and maintained pursuant to NRS 439A.270 which provides information to the general public concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State; ~~and~~

(j) ~~Establish~~ **In accordance with section 21.3 of this act, establish by regulation a procedure for filing and processing complaints concerning the rate of payment prescribed by sections 17, 18 and 19 of this act and the mediation of those complaints to determine:**

(1) Whether the rates paid pursuant to sections 17, 18 and 19 of this act are sufficient in a particular circumstance; and

(2) If a determination is made that a rate is not sufficient, an acceptable rate that must be paid to the hospital, independent center for emergency medical care or physician that filed the complaint; and

(k) Assist consumers with filing complaints against health care facilities and health care professionals. As used in this paragraph, “health care facility” has the meaning ascribed to it in NRS 162A.740.

2. The Advocate may adopt regulations to carry out the provisions of NRS 223.560 to 223.575, inclusive.

Sec. 22.5. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031,

561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, and sections 17, 18 and 19 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. 23. NRS 687B.490 is hereby amended to read as follows:

687B.490 1. A carrier that offers coverage in the group or individual market must, before making any network plan available for sale in this State, demonstrate the capacity to deliver services adequately by applying to the Commissioner for the issuance of a network plan and submitting a description of the procedures and programs to be implemented to meet the requirements described in subsection 2.

2. The Commissioner shall determine, within 90 days after receipt of the application required pursuant to subsection 1, if the carrier, with respect to the network plan:

(a) Has demonstrated the willingness and ability to ensure that health care services will be provided in a manner to ensure both availability and accessibility of adequate personnel and facilities in a manner that enhances availability, accessibility and continuity of service;

(b) Has organizational arrangements established in accordance with regulations promulgated by the Commissioner; and

(c) Has a procedure established in accordance with regulations promulgated by the Commissioner to develop, compile, evaluate and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services and such other matters as may be reasonably required by the Commissioner.

3. The Commissioner may certify that the carrier and the network plan meet the requirements of subsection 2, or may determine that the carrier and the network plan do not meet such requirements. Upon a determination that the carrier and the network plan do not meet the requirements of subsection 2, the Commissioner shall specify in what respects the carrier and the network plan are deficient.

4. A carrier approved to issue a network plan pursuant to this section must file annually with the Commissioner a summary of information compiled pursuant to subsection 2 in a manner determined by the Commissioner.

5. The Commissioner shall, not less than once each year, or more often if deemed necessary by the Commissioner for the protection of the interests of the people of this State, make a determination concerning the availability and accessibility of the health care services of any network plan approved pursuant to this section.

6. The expense of any determination made by the Commissioner pursuant to this section must be assessed against the carrier and remitted to the Commissioner.

7. When making any determination concerning the availability and accessibility of the services of any network plan or proposed network plan pursuant to this section, the Commissioner shall consider ~~services~~ :

(a) **Services** that may be provided through telehealth, as defined in NRS 629.515, pursuant to the network plan or proposed network plan to be available services.

(b) ***The information contained in the most recent report submitted pursuant to section 20 of this act that pertains to the network plan, if such a report has been submitted.***

8. As used in this section, “network plan” has the meaning ascribed to it in NRS 689B.570.

Sec. 24. The Governor’s Consumer Health Advocate appointed pursuant to NRS 223.550 shall adopt the regulations required by NRS 223.560, as amended by section 22 of this act, on or before October 1, 2017.

Sec. 25. 1. On or before June 30, 2018, the Legislative Committee on Health Care shall review the provisions of this act, including, without limitation, the rate of payment set forth in sections 17, 18 and 19 of this act, to determine whether providers of health care are being adequately compensated for the provision of emergency services and care.

2. The Legislative Committee on Health Care shall forward to the Assembly Standing Committee on Health and Human Services and the Senate Standing Committee on Health and Human Services the results of the review conducted pursuant to subsection 1 and any proposed changes to the provisions of this act, including, without limitation, the rate of payment set forth in sections 17, 18 and 19 of this act.

Sec. 26. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 27. This act becomes effective:

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

2. On January 1, 2018, for all other purposes.

Assemblyman Sprinkle moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 391.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 358.

AN ACT relating to crimes; creating the crime of bestiality; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates various crimes against public decency and good morals and provides penalties to be imposed upon persons who commit such crimes. (Chapter 201 of NRS) This bill creates the crime of bestiality and sets forth the punishment for the crime.

Under this bill, a person who commits the crime of bestiality is guilty of a gross misdemeanor, except that the penalty is increased to a category ~~C~~ **D** felony if: (1) the animal dies or suffers serious bodily injury as the result of the crime; or (2) the person has a previous felony conviction for animal cruelty. This bill further ~~authorizes~~ **requires** the court to order a person convicted of the crime of bestiality: (1) ~~to undergo a psychological evaluation and any recommended counseling and to pay the expenses for such an evaluation and counseling;~~ **requires** (2) **to relinquish and permanently forfeit ownership or possession of** all animals which are ~~owned by the person and which reside~~ in the same household as the person; ~~(3)~~ **and (2) not to harbor, own, possess, keep or exercise control over** any animal ~~for~~ **not to** reside in any household where an animal is present **and not to work at or volunteer for a business, animal shelter or other place where the person may access an animal** for a period determined by the court. ~~(3) and (4)~~ **Finally, this bill also authorizes the court to order a person convicted of the crime of bestiality: (1) to undergo a psychological evaluation and any recommended counseling and to pay the expenses for such an evaluation and counseling; (2) to pay all reasonable costs incurred for the care and maintenance of the animal involved in the crime and any other animal that is relinquished by the person (1); and (3) if the person is not the owner of the animal involved in the crime, to reimburse the owner of the animal for all medical expenses incurred for treating the animal.**

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

Section 1. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person commits the crime of bestiality if the person knowingly and intentionally:

- (a) Engages in sexual conduct with an animal;**
- (b) Causes another person to engage in sexual conduct with an animal or aids or abets another person in engaging in sexual conduct with an animal;**
- (c) Permits any sexual conduct with an animal to be conducted on any premises under the control of the person;**
- (d) Engages in, organizes, promotes, conducts, advertises, aids, abets, participates in and is physically present as an observer, or performs any service in the furtherance of an act involving any sexual conduct with an animal; ~~for a commercial or recreational purpose;~~ or**

(e) Photographs or films, for purposes of his or her sexual gratification or the sexual gratification of another person, a person engaged in sexual conduct with an animal.

2. A person who commits the crime of bestiality is guilty of:

(a) If the crime does not cause the death of or serious bodily injury to an animal involved in the crime and the person has not previously been convicted of a violation of NRS 574.100 punishable as a felony, a gross misdemeanor.

(b) If the crime causes the death of or serious bodily injury to an animal involved in the crime or if the person has previously been convicted of a violation of NRS 574.100 punishable as a felony, a category ~~C~~ D felony and shall be punished as provided in NRS 193.130.

3. In addition to any other penalty imposed by the court, the court ~~may~~ shall order a person convicted of the crime of bestiality to comply with ~~any or all of~~ the following:

~~(a) Undergoing a psychological evaluation and any recommended counseling and to pay the expenses for the psychological evaluation and any recommended counseling.~~

~~(b) Relinquishing and permanently forfeiting ownership or possession of all animals which are ~~owned by the person and which reside~~ in the same household as the person to an animal shelter, an organization that takes into custody animals which have been abused or neglected, or a society for the prevention of cruelty to animals established pursuant to NRS 574.010.~~

~~(c) (b) Not harboring ~~for~~ , owning, possessing, keeping or exercising control over any animal ~~for~~ , not residing in any household where an animal is present and not working at or volunteering for a business, animal shelter or other place where the person may access an animal, for a period determined by the court.~~

~~(d) 4. In addition to any other penalty imposed by the court, the court may order a person convicted of the crime of bestiality to comply with any or all of the following:~~

~~(a) Undergoing a psychological evaluation and any recommended counseling, including, without limitation, any counseling for the treatment of substance abuse, and to pay the expenses for the psychological evaluation and any recommended counseling.~~

~~(b) Paying all reasonable costs incurred for the care and maintenance of the animal involved in the crime and any other animal relinquished by the person to an animal shelter, an organization that takes into custody animals which have been abused or neglected, or a society for the prevention of cruelty to animals established pursuant to NRS 574.010.~~

~~4. (c) If the person convicted of the crime of bestiality is not the owner of the animal involved in the crime, reimbursing the owner of the animal for all medical expenses incurred for treating the animal.~~

5. As used in this section:

- (a) "Animal" means every living creature other than a human being.
 (b) "Animal shelter" has the meaning ascribed to it in NRS 574.240.
 (c) "Licensed veterinarian" has the meaning ascribed to it in NRS 638.007.

(d) "Sexual conduct" ~~means~~ :

(1) Means any sexual act involving:

~~[(1)]~~ (I) The genitalia of a person and the genitalia, anus or mouth of an animal;

~~[(2)]~~ (II) The genitalia of an animal and the genitalia, anus or mouth of a person; ~~or~~

~~(3) A~~

(III) Any insertion, however slight, of any part of the body of a person or of a foreign object ~~and~~ into the genitalia or anus of an animal

~~or "Sexual conduct" does~~ ; or

(IV) Any touching or fondling by a person, directly or indirectly through clothing, of the genitalia or anus of an animal.

(2) Does not include ~~any~~ :

(I) Any accepted practice of animal husbandry ~~is any~~ which provides care for an animal;

(II) Any accepted method of insemination of an animal for the purpose of procreation;

(III) Any accepted practice relating to conformation judging ; ~~or~~ or ~~any~~

(IV) Any accepted medical procedure performed by a licensed veterinarian while engaging in the practice of veterinary medicine ~~or~~ or by his or her employee while acting under his or her supervision.

Assemblywoman Swank moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 411.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 413.

AN ACT relating to juvenile justice; revising provisions governing employment with a department of juvenile justice services; authorizing a department of juvenile justice services to terminate the employment of certain persons ~~based upon a showing of just cause;~~ **after providing the employee reasonable time to correct information or resolve certain pending charges;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the board of county commissioners of a county whose population is 700,000 or more (currently Clark County) to establish by ordinance a department of juvenile justice services to administer certain

provisions of existing law relating to juvenile delinquency and the abuse and neglect of children. (NRS 62G.200-62G.240) If the board of county commissioners of such a county has not established a department of juvenile justice services, the juvenile court must establish by court order a probation committee and must appoint a director of the department of juvenile justice services to administer certain functions of the juvenile court. (NRS 62G.300-62G.370)

Existing law requires a department of juvenile justice services to obtain a background investigation of applicants for employment with, and employees of, the department. Existing law also requires a department to obtain a background investigation of each employee of the department at least once every 5 years after the initial investigation. (NRS 62G.223, 62G.353) Existing law authorizes a department of juvenile justice services to deny employment to an applicant, or terminate the employment of an employee, against whom certain criminal charges are pending. Further, existing law requires a department of juvenile justice services to deny employment to an applicant or terminate the employment of an employee who has been convicted of certain crimes. (NRS 62G.225, 62G.355) This bill amends existing law by authorizing, rather than requiring, a department of juvenile justice services to terminate the employment of an employee ~~based upon a showing of just cause, rather than for cause,~~ if the employee: (1) has been convicted of certain crimes; or (2) certain criminal charges are pending against the employee. **Before terminating the employee, the department of juvenile justice services is required to allow the employee a reasonable amount of time to: (1) correct information obtained from the background investigation; or (2) resolve certain pending charges against the employee.**

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

Section 1. NRS 62G.225 is hereby amended to read as follows:

62G.225 1. If the report from the Federal Bureau of Investigation forwarded to the department of juvenile justice services pursuant to subsection 5 of NRS 62G.223, the information received by the department of juvenile justice services pursuant to subsection 2 of NRS 62G.223 or evidence from any other source indicates that an applicant for employment with the department of juvenile justice services, or an employee of the department of juvenile justice services:

(a) Has charges pending against him or her for a crime listed in paragraph (a) of subsection 1 of NRS 62G.223, the department of juvenile justice services ~~may~~ **may**:

(1) May deny employment to the applicant [or terminate the employment of the employee] after allowing the applicant [or employee] time to correct the information as required pursuant to subsection 2; [or 3, whichever is applicable];

~~[(1) Deny employment to the applicant; or
(2) Terminate the employment of the employee, based upon a showing of just cause;]~~ or

(2) May terminate the employee after allowing the employee time to correct the information as required pursuant to subsection 2 or 3, or resolve the pending charges pursuant to subsection 4, whichever is applicable; or

(b) Has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 62G.223, has had a substantiated report of child abuse or neglect made against him or her or has not been satisfactorily cleared by a central registry described in paragraph (b) of subsection 2 of NRS 62G.223, the department of juvenile justice services ~~it~~ shall deny employment to the applicant or terminate the employment of the employee after allowing the applicant or employee time to correct the information as required pursuant to subsection 2 or 3, whichever is applicable. ~~it~~

~~(1) Shall deny employment to the applicant; or
(2) May terminate the employment of the employee, based upon a showing of just cause;]~~

2. If an applicant for employment or an employee believes that the information in the report from the Federal Bureau of Investigation forwarded to the department of juvenile justice services pursuant to subsection 5 of NRS 62G.223 is incorrect, the applicant or employee must inform the department of juvenile justice services immediately. A department of juvenile justice services that is so informed shall give the applicant or employee a reasonable amount of time of not less than 30 days to correct the information.

3. If an ~~[applicant for employment or an]~~ employee believes that the information received by the department of juvenile justice services pursuant to subsection 2 of NRS 62G.223 is incorrect, the ~~[applicant or]~~ employee must inform the department of juvenile justice services immediately. A department of juvenile justice services that is so informed shall give the ~~[applicant or]~~ employee a reasonable amount of time of not less than 60 days to correct the information.

4. If an employee has pending charges against him or her for a crime listed in paragraph (a) of subsection 1 of NRS 62G.223, the department of juvenile justice services shall allow the employee a reasonable time of not more than 180 days to resolve the pending charges against the employee. Upon request and good cause shown, the department of juvenile justice services may allow the employee additional time to resolve the pending charges against the employee.

5. During the period in which an ~~[applicant or]~~ employee seeks to correct information pursuant to subsection 2 or 3, or resolve pending charges against the employee pursuant to subsection 4, the ~~[applicant or]~~ employee:

(a) Shall not have contact with a child or a relative or guardian of a child in the course of performing any duties as an employee of the department of juvenile justice services.

(b) May be placed on leave without pay.

~~5.~~ 6. The provisions of subsection ~~4~~ 5 ***are not disciplinary in nature*** ***and*** must not be construed as preventing the department of juvenile justice services from initiating departmental disciplinary procedures against an employee during the period in which an employee seeks to correct information pursuant to subsection 2 or 3.

~~6.~~ or resolve pending charges against the employee pursuant to subsection 4.

7. A termination of employment pursuant to this section constitutes dismissal for cause for the purposes of NRS 62G.220.

Sec. 2. NRS 62G.355 is hereby amended to read as follows:

62G.355 1. If the report from the Federal Bureau of Investigation forwarded to the department of juvenile justice services pursuant to subsection 5 of NRS 62G.353, the information received by the department of juvenile justice services pursuant to subsection 2 of NRS 62G.353 or evidence from any other source indicates that an applicant for employment with the department of juvenile justice services, or an employee of the department of juvenile justice services:

(a) Has charges pending against him or her for a crime listed in paragraph (a) of subsection 1 of NRS 62G.353, the department of juvenile justice services ~~may~~ shall:

~~(1) May deny employment to the applicant for terminate the employment of the employee~~ after allowing the applicant ~~for employee~~ time to correct the information as required pursuant to subsection 2 or 3; ~~for 3, whichever is applicable;~~

~~(1) Deny employment to the applicant; or~~

~~(2) Terminate the employment of the employee, based upon a showing of just cause;~~ or

(2) May terminate the employee after allowing the employee time to correct the information as required pursuant to subsection 2 or 3, or resolve pending charges against the employee pursuant to subsection 4, whichever is applicable; or

(b) Has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 62G.353, has had a substantiated report of child abuse or neglect made against him or her or has not been satisfactorily cleared by a central registry described in paragraph (b) of subsection 2 of NRS 62G.353, the department of juvenile justice services ~~it~~ shall deny employment to the applicant or terminate the employment of the employee after allowing the applicant or employee time to correct the information as required pursuant to subsection 2 or 3, whichever is applicable ; ~~;~~

~~(1) Shall deny employment to the applicant; or~~

~~(2) May terminate the employment of the employee, based upon a showing of just cause;~~

2. If an applicant for employment or an employee believes that the information in the report from the Federal Bureau of Investigation forwarded

to the department of juvenile justice services pursuant to subsection 5 of NRS 62G.353 is incorrect, the applicant or employee must inform the department of juvenile justice services immediately. A department of juvenile justice services that is so informed shall give the applicant or employee a reasonable amount of time of not less than 30 days to correct the information.

3. If an ~~applicant for employment or an~~ employee believes that the information received by the department of juvenile justice services pursuant to subsection 2 of NRS 62G.353 is incorrect, the ~~applicant or~~ employee must inform the department of juvenile justice services immediately. A department of juvenile justice services that is so informed shall give the ~~applicant or~~ employee a reasonable amount of time of not less than 60 days to correct the information.

4. ***If an employee has pending charges against him or her for a crime listed in paragraph (a) of subsection 1 of NRS 62G.223, the department of juvenile justice services shall allow the employee a reasonable amount of time of not more than 180 days to resolve the pending charges against the employee. Upon request from the employee and good cause shown, the department of juvenile justice services may allow the employee additional time to resolve the pending charges against the employee.***

5. During the period in which an ~~applicant or~~ employee seeks to correct information pursuant to subsection 2 or 3, ***or resolve pending charges against the employee pursuant to subsection 4,*** the applicant or employee:

(a) Shall not have contact with a child or a relative or guardian of the child in the course of performing any duties as an employee of the department of juvenile justice services.

(b) May be placed on leave without pay.

~~5. 6.~~ The provisions of subsection ~~4~~ ***5 are not disciplinary in nature and*** must not be construed as preventing a department of juvenile justice services from initiating departmental disciplinary procedures against an employee during the period in which an employee seeks to correct information pursuant to subsection 2 or 3. ~~6.~~

~~6.~~ ***or resolve pending charges against the employee pursuant to subsection 4.***

7. A termination of employment pursuant to this section constitutes dismissal for cause for the purposes of NRS 62G.360.

Sec. 3. ~~NRS 62G.360 is hereby amended to read as follows:~~

~~62G.360 1. Pursuant to the provisions of this section, the director of the department of juvenile justice services may demote or dismiss, only for cause, any probation officer, employee of the department of juvenile justice services or employee of a local facility for the detention of children.~~

~~2. Before the director of the department of juvenile justice services may demote a probation officer or employee, the director shall provide to the probation officer or employee:~~

~~(a) A written statement of the reasons for the demotion; and~~

~~(b) An opportunity to be heard before the director regarding the demotion.~~

~~2. Before the director of the department of juvenile justice services may dismiss a probation officer or employee with less than 12 months of service, the director shall provide to the probation officer or employee:~~

~~— (a) A written statement of the reasons for the dismissal; and~~

~~— (b) An opportunity to be heard before the director regarding the dismissal.~~

~~4. If a probation officer or employee with 12 months or more of service is dismissed pursuant to this section:~~

~~— (a) Not later than 15 days after the dismissal, the probation officer or employee may request a written statement from the director of the department of juvenile justice services specifically setting forth the reasons for the dismissal. The director shall provide the written statement to the probation officer or employee not later than 15 days after the date of the request.~~

~~— (b) Not later than 30 days after receipt of the written statement from the director, the probation officer or employee may make a written request for a public hearing before the probation committee. The probation committee shall adopt rules for the conduct of such public hearings.~~

~~— (c) The probation officer or employee may appeal the decision of the probation committee to the board or boards of county commissioners.~~

~~15. The provisions of this section do not apply to a dismissal required by NRS 62C.355.}~~ **(Deleted by amendment.)**

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 415.

Bill read second time and ordered to third reading.

Assembly Bill No. 416.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 233.

AN ACT relating to environmental protection; requiring the Division of Environmental Protection of the State Department of Conservation and Natural Resources to establish a program to use certain settlement money received from the Volkswagen Corporation and its subsidiaries; requiring the program to include priorities and other provisions for administering the program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The United States District Court for the Northern District of California recently approved two partial consent decrees in litigation between the United States Department of Justice and the Volkswagen Corporation and its subsidiaries regarding the installation and use of emissions testing devices in many vehicles sold and operated in the United States. One provision of the

partial consent decrees requires the Volkswagen Corporation to fund a Mitigation Trust, the money from which will be disbursed to each state based on the number of affected vehicles which were sold in each of those states. The money must be used to defray the cost of projects intended to offset the excess emissions of nitrogen oxides caused by the vehicles. (Partial Consent Decree, *In re Volkswagen “Clean Diesel” Marketing, Sales Practices and Products Liability Litigation*, No. MDL No. 2672 CRB, (N.D. Cal. Sept. 30, 2016) and Second Partial Consent Decree, *In re Volkswagen “Clean Diesel” Marketing, Sales Practices and Products Liability Litigation*, No. MDL No. 2672 CRB, (N.D. Cal. Dec. 20, 2016))

This bill requires the Division of Environmental Protection of the State Department of Conservation and Natural Resources, in consultation with the Department of Motor Vehicles and the Department of Transportation, to develop a program for distributing money from the Mitigation Trust to assist residents of this State and local governmental entities in this State in repowering the engines of certain vehicles with new diesel, alternate fueled or all-electric engines, or replacing certain vehicles with new diesel, alternate fueled or all-electric vehicles, to the extent that such repowering or replacing is authorized by the terms of the consent decrees. The program developed by the Division must include a preference for repowering or replacing vehicles: (1) which are equipped with engines that were manufactured not later than ~~2005;~~ 2006; (2) with over 200,000 miles registered on the odometer; (3) operated by and for a small business ~~or a school district;~~ or a school district; and (4) which have been operated in this State for not less than one half of the time the vehicle has been owned by the current owner. Distributions of money to a local governmental entity for repower or replacement of an eligible vehicle must be limited to not more than 80 percent of the cost of such repowering or replacing.

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

Section 1. 1. The Division of Environmental Protection of the State Department of Conservation and Natural Resources, in its role as lead agency on behalf of this State designated as required in section 4.2.1 of Appendix D to the Partial Consent Decree, shall, upon a determination of Beneficiary status pursuant to section 4.0 of Appendix D to the Partial Consent Decree, prepare and submit a Beneficiary Mitigation Plan as required by section 4.1 of Appendix D to the Partial Consent Decree, which includes, without limitation, the provisions of subsections 2 and 3 to the extent that such provisions are permissible under the requirements of the Partial Consent Decree and the Second Partial Consent Decree.

2. The Division of Environmental Protection of the State Department of Conservation and Natural Resources, in consultation with the Department of Motor Vehicles and the Department of Transportation, shall develop a program for distributing money received from the Mitigation Trust to

residents of this State and local governmental entities in this State to assist residents of this State and local governmental entities in this State to:

- (a) Replace with a new diesel, alternate fueled or all-electric vehicle; or
 - (b) Repower with a new diesel, alternate fueled or all-electric engine,
- ↪ any vehicles that are eligible for replacement or repowering under the terms of the Partial Consent Decree. **The Division of Environmental Protection of the State Department of Conservation and Natural Resources may award grants or subgrants of money to any resident of this State, a local governmental entity or other person or entity to carry out the provisions of the program.**

3. The program developed pursuant to subsection 2 must include, without limitation:

- (a) Priorities for the distribution of available money which incorporate a preference for replacing or repowering a vehicle:

- (1) ~~Manufactured~~ **Which is equipped with an engine that was manufactured** not later than ~~2005~~ **2006**.

- (2) With over 200,000 miles registered on the odometer.

- (3) Operated by and for a small business, ~~or~~ **or a school district**.

- (4) Which has been operated in this State for not less than one half of the time the vehicle has been owned by the current owner.

- (b) A limitation on the amount of money a local governmental entity may receive to repower or replace a vehicle owned by the local governmental entity, which must not exceed 80 percent of the cost to repower or replace the vehicle.

- (c) A procedure by which the owner of an eligible vehicle may apply to participate in the program.

- (d) Any documents or other evidence which the owner of an eligible vehicle must provide, if applicable, to prove to the satisfaction of the Division or its designee that the vehicle meets one or more of the criteria in paragraph (a).

4. As used in this section:

- (a) “Beneficiary” has the meaning ascribed to it in section 1.1 of Appendix D to the Partial Consent Decree.

- (b) “Beneficiary Mitigation Plan” means the submittal required of a Beneficiary pursuant to section 4.1 of Appendix D to the Partial Consent Decree.

- (c) “Mitigation Trust” means the trust established by section 2.0.1 of Appendix D to the Partial Consent Decree and funded pursuant to paragraph 14 of the Partial Consent Decree, paragraph 17 of the Second Partial Consent Decree and any subsequent amendments to the Partial Consent Decree.

- (d) “Partial Consent Decree” means Partial Consent Decree, *In re Volkswagen “Clean Diesel” Marketing, Sales Practices and Products Liability Litigation*, No. MDL No. 2672 CRB, (N.D. Cal. Sept. 30, 2016).

- (e) “Second Partial Consent Decree” means Second Partial Consent Decree, *In re Volkswagen “Clean Diesel” Marketing, Sales Practices and*

Products Liability Litigation, No. MDL No. 2672 CRB, (N.D. Cal. Dec. 20, 2016).

(f) “Small business” means a business conducted for profit in this State which employs not more than 50 employees.

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

Assemblywoman Swank moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 423.

Bill read second time.

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

Amendment No. 460.

AN ACT relating to gender equality; requiring the Nevada Commission for Women to conduct ~~an annual~~ a survey of certain employers to collect data and information related to issues of gender equality in the workplace; requiring the Commission ~~on an annual basis~~ to create and maintain a database that provides information about employers that have best practices and policies on issues of gender equality ~~index~~ and submit a report to the Governor and the Director of the Legislative Counsel Bureau; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law creates the Nevada Commission for Women which is: (1) required to study the roles of women in society; and (2) authorized to collect and disseminate information on activities, programs and essential services available to women in Nevada. (NRS 233I.020, 233I.060) **Section 2** of this bill requires the Commission, with the assistance of the Director of the Department of Administration, to design and conduct ~~an annual~~ a survey of employers in this State with 100 or more employees to collect data and information related to issues of gender equality in the workplace. The Commission must use the data and information to create and maintain a ~~gender equality index that scores or rates each employer~~ database that provides information about employers that have best practices and policies on issues of gender equality in the workplace. The ~~index~~ database must be made available on the Internet website of the Department of Administration and the Commission must submit ~~an annual~~ a report to the Governor and the Director of the Legislative Counsel Bureau on issues of gender equality in the workplace.

Section 3 of this bill provides that ~~if~~ an employer ~~does~~ is not required to respond to the Commission’s survey. ~~the~~ Section 3 also provides that the Commission may ~~rate the~~ include an employer in the database if the Commission is otherwise able to obtain sufficient information about the employer on issues of gender equality ~~if the Commission is otherwise able~~

~~to obtain sufficient information about the employer.] in the workplace from the public records of state agencies.~~

Sections 4-6 of this bill make conforming changes.

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

Section 1. Chapter 233I of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *With the assistance of the Director of the Department of Administration, the Commission shall:*

1. Design and conduct ~~an annual~~ a survey of employers in this State for the purpose of collecting data and information from ~~each employer~~ employers related to issues of gender equality in the workplace. The survey:

(a) Must be considered and approved by the Commission at a public hearing; and

(b) May be conducted using a web-based system.

2. ~~On or before July 1 of each year, use~~ Use the data and information collected pursuant to subsection 1:

(a) To create and maintain a ~~gender equality index~~ database that ~~scores or rates each employer~~ provides information about employers that have best practices and policies on issues of gender equality in the workplace. The ~~index~~ database must be made available to the public on the Internet website of the Department of Administration.

(b) To create and submit a report to the Governor and the Director of the Legislative Counsel Bureau on issues of gender equality in the workplace.

Sec. 3. ~~If an employer does~~

1. An employer:

(a) Is not required to respond to a survey conducted pursuant to section 2 of this act. ~~It~~

(b) Is not subject to any penalty if the employer does not respond to a survey conducted pursuant to section 2 of this act.

2. If an employer does not respond to such a survey, the Commission may ~~rate~~ include the employer ~~on issues of gender equality in the workplace~~ in the database created pursuant to section 2 of this act if the Commission is otherwise able to obtain sufficient information about the employer on ~~such~~ issues ~~It~~ of gender equality in the workplace from the public records of state agencies.

Sec. 4. NRS 233I.010 is hereby amended to read as follows:

233I.010 As used in this chapter, unless the context otherwise requires ~~It~~:

1. "Commission" means the Nevada Commission for Women.

2. "Employer" means any entity that performs a service or engages in a trade for profit and has 100 or more employees.

Sec. 5. NRS 233I.080 is hereby amended to read as follows:

233I.080 1. The Director of the Department of Administration shall provide staff assistance to the Commission *in carrying out:*

(a) *The provisions of sections 2 and 3 of this act; and*

(b) *Other duties and responsibilities of the Commission,* as the Governor deems appropriate.

2. The Commission may engage the services of volunteer workers and consultants without salary as is necessary from time to time.

Sec. 6. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 7. This act becomes effective on July 1, 2017.

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 434.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 470.

SUMMARY—Makes appropriations for incentives for ~~new teachers and~~ **employing** teachers at Title I and underperforming schools. (BDR S-1033)

AN ACT making appropriations to the Department of Education for incentives for hiring new teachers ~~and incentives for teachers employed to~~ **teach** at Title I schools and schools designated as underperforming ~~to~~ **and** **incentives for certain teachers who transfer to teach at those schools;** and providing other matters properly relating thereto.

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

Section 1. 1. There is hereby appropriated from the State General Fund to the Department of Education to provide incentives for the hiring of new teachers ~~to~~ **to teach at Title I schools or schools that are designated as underperforming pursuant to the statewide system of accountability for public schools,** the sum of \$2,500,000.

2. There is hereby appropriated from the State General Fund to the Department of Education to provide incentives for teachers who are **currently** employed to teach at a **public school in Nevada that is not a** Title I school or ~~at~~ a school ~~that is~~ designated as underperforming pursuant to the statewide system of accountability for public schools ~~to~~ **and who transfer to teach at a Title I school or a school with that designation,** the sum of \$2,500,000.

3. **The State Board of Education shall adopt regulations as necessary to carry out the provisions of this section.**

4. As used in this section, “Title I school” has the meaning ascribed to it in NRS 385A.040.

Sec. 2. Any remaining balance of the appropriations made by section 1 of this act must not be committed for expenditure after June 30, 2019, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 20, 2019, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 20, 2019.

Sec. 3. This act becomes effective on July 1, 2017.

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 447.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 574.

AN ACT relating to education; extending the duration of the Victory schools program; ~~requiring a Victory school to use for certain services at least a specified percentage of the money distributed to the school;~~ **requiring the Department of Education to consult with the board of trustees of a school district when designating Victory schools;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

During the 78th Session of the Nevada Legislature (2015), the Legislature passed the Victory Schools Act, which provided for the distribution of money during the 2015-2017 biennium to certain underperforming public schools designated as Victory schools. (Chapter 389, Statutes of Nevada 2015, p. 2197) This bill continues the program in effect for the 2017-2019 biennium. **This bill also requires the Department to consult with the board of trustees of a school district when designating Victory schools.** ~~[The Act authorized a Victory school to use for wrap around services a portion of the money distributed to the school. These are supplemental services provided to a pupil with special needs or the family of such a pupil that are not otherwise covered by any federal or state program of assistance. (Section 2 of chapter 389, Statutes of Nevada 2015, p. 2199) This bill requires that not less than 25 percent of the money received by a Victory school be used for this purpose.]~~

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

Section 1. Section 2 of the Victory Schools Act, being chapter 389, Statutes of Nevada 2015, at page 2199, is hereby amended to read as follows:

Sec. 2. 1. The Department of Education shall **, in consultation with the board of trustees of a school district,** designate a public school as a Victory school if, relative to other public schools, including charter schools, that are located in the school district in which the school is also located:

(a) A high percentage of pupils enrolled in the school live in households that have household incomes that are less than the federally designated level signifying poverty, based on the most recent data compiled

by the Bureau of the Census of the United States Department of Commerce; and

(b) The school received one of the two lowest possible ratings indicating underperformance of a public school, as determined by the Department pursuant to the statewide system of accountability for public schools, for the immediately preceding school year.

↪ The designation of a public school as a Victory school pursuant to this subsection must be made in consultation with the board of trustees of the school district in which the prospective Victory school is located.

2. The Department shall designate each Victory school for the ~~{2015-2016}~~ **2017-2018** Fiscal Year on or before June 1, ~~{2015-}~~ **2017**.

3. The Department shall transfer money from the Account for Programs for Innovation and the Prevention of Remediation created by NRS 387.1247 to each school district in which a Victory school is designated and each sponsor of a charter school that is designated as a Victory school on a per pupil basis. The amount distributed per pupil must be determined by dividing the amount of money appropriated to the Account by the ~~{2015-}~~ **2017** Legislature for Victory schools by the total number of pupils who are enrolled in Victory schools statewide. After receiving money from the Account pursuant to this subsection:

(a) A school district shall distribute the money to each Victory school in the school district on a per pupil basis.

(b) A sponsor of a charter school shall distribute the money to each Victory school that it sponsors on a per pupil basis.

4. The board of trustees of each school district in which a Victory school is located and the governing body of each charter school that is designated as a Victory school shall, as soon as practicable after the school is designated as a Victory school, conduct an assessment of the needs of pupils that attend the school. The assessment must include soliciting input from the community served by the Victory school and

identify any barriers to improving pupil achievement and school performance and strategies to meet the needs of pupils at the school.

5. Except as otherwise provided in subsection 7, on or before August 15, ~~{2015,}~~ **2017**, the board of trustees of each school district in which a Victory school is designated for the ~~{2015-2016}~~ **2017-2018** Fiscal Year and the governing body of each charter school that is designated as a Victory school for the ~~{2015-2016}~~ **2017-2018** Fiscal Year shall submit to the Department a comprehensive plan for meeting the educational needs of pupils enrolled in each Victory school. The board of trustees of each school district in which a Victory school is designated and the governing body of each charter school that is designated as a Victory school shall select at least one person who is familiar with the public schools in the school district or with the charter school, respectively, to assist with the development of the plan. The plan must:

(a) Include appropriate means to determine the effectiveness of the plan;

(b) Be based on the assessment of the needs of the pupils who attend the school conducted pursuant to subsection 4;

(c) Analyze available data concerning pupil achievement and school performance, including, without limitation, data collected and maintained in the statewide system of accountability for public schools and other pupil achievement data collected and maintained by the school district or charter school;

(d) Include a description of the criteria used to select entities to provide programs and services to pupils enrolled in the Victory school;

(e) Include a description of the manner in which the school district or governing body will collaborate with selected entities so that academic programs and services and nonacademic programs and services, including, without limitation, transportation services, may be offered without charge to support pupils and their families within the region in which the school is located;

(f) Take into account the number and types of pupils who attend the school and the locations where such pupils reside;

(g) Provide for the coordination of the existing or planned engagement of other persons who provide services in the region in which the school is located;

(h) Coordinate all funding available to each school that is subject to the plan;

(i) Provide for the coordination of all available resources to each school that is subject to the plan, including, without limitation, instructional materials and textbooks;

(j) Identify, for each school or group of schools subject to the plan, which of the measures described in subsection 8 will be implemented; and

(k) Identify the person or persons selected pursuant to this subsection who assisted with the development of the plan.

6. The Department shall review each plan submitted pursuant to subsection 5 to determine whether, or the extent to which, the plan complies with the requirements of this section and either approve or request revisions to the plan.

7. If the board of trustees of a school district in which a Victory school is designated or the governing body of a charter school that is designated as a Victory school does not submit a comprehensive plan for meeting the educational needs of pupils enrolled in each Victory school on or before August 15, ~~{2015,}~~ **2017**, as required pursuant to subsection 5, the board of trustees of the school district or the governing body of the charter school, as applicable, may submit to the Department a letter of intent to meet the educational needs of pupils enrolled in each Victory school. The letter must include, without limitation:

(a) An initial assessment of the needs of the pupils who attend the school which is conducted pursuant to subsection 4;

(b) An analysis of available data concerning pupil achievement and school performance, including, without limitation, data collected and maintained in the statewide system of accountability for public schools and data collected and maintained by the school district or charter school; and

(c) A summary of activities that the board of trustees or governing body, as applicable, will take to ensure completion of the comprehensive plan required pursuant to subsection 5 by not later than September 15, ~~{2015,}~~ **2017**.

8. A Victory school shall use ~~{not less than 25 percent of the money distributed pursuant to subsection 3 to provide wrap-around services. The school shall use}~~ the majority of the ~~{remaining}~~ money ~~{so}~~ distributed pursuant to subsection 3 to provide one or more of the following:

(a) A prekindergarten program free of charge, if such a program is not paid for by another grant.

(b) ~~{An expansion of full day kindergarten classes, if such classes have not otherwise been paid for through legislative appropriation.~~

~~{(c)}~~ **(c)** A summer academy or other instruction for pupils free of charge at times during the year when school is not in session.

~~{(d)}~~ **(c)** Additional instruction or other learning opportunities free of charge at times of day when school is not in session.

~~{(e)}~~ **(d)** Professional development for teachers and other educational personnel concerning instructional practices and strategies that have proven to be an effective means to increase pupil achievement in populations of pupils similar to those served by the school.

~~{(f)}~~ **(e)** Incentives for hiring and retaining teachers and other licensed educational personnel who provide any of the programs or

services set forth in this subsection from the list prescribed by the State Board of Education pursuant to subsection 14.

~~[(g)]~~ **(f)** Employment of paraprofessionals, other educational personnel and other persons who provide any of the programs or services set forth in this subsection.

~~[(h)]~~ **(q)** Reading skills centers.

(h) Evidence-based programs, integrated student supports and wrap-around services designed to meet the needs of pupils who attend the school, as determined using the assessment conducted pursuant to subsection 4.

9. A Victory school may use any money distributed pursuant to subsection 3 that is not used for the purposes described in subsection 8 to:

(a) Provide evidence-based social, psychological or health care services to pupils and their families ; ~~including, without limitation, wrap-around services;~~

(b) Provide programs and services designed to engage parents and families;

(c) Provide programs to improve school climate and culture; **or**

~~(d) Provide evidence-based programs and services specifically designed to meet the needs of pupils who attend the school, as determined using the assessment conducted pursuant to subsection 4; or~~

~~—(e)—~~ Any combination thereof.

10. A Victory school shall not use any money distributed pursuant to subsection 3 for a purpose not described in subsection 8 or 9.

11. Any programs offered at a Victory school pursuant to subsection 8 or 9 must:

(a) Be designed to meet the needs of pupils at the school, as determined using the assessment conducted pursuant to subsection 4 and to improve pupil achievement and school performance, as determined using the measures prescribed by the State Board of Education; and

(b) Be based on scientific research concerning effective practices to increase the achievement of pupils who live in poverty.

12. Each plan to improve the achievement of pupils enrolled in a Victory school that is prepared by the principal of the school pursuant to NRS 385A.650 must describe how the school will use the money distributed pursuant to subsection 3 to meet the needs of pupils who attend the school, as determined using the assessment described in subsection 4 and the requirements of this section.

13. The Department shall contract with an independent evaluator to evaluate the effectiveness of programs and services provided pursuant to this section. The evaluation must include, without limitation, consideration of the achievement of pupils who have participated in such programs and received such services. When complete, the evaluation

must be provided contemporaneously to the Department and the Legislative Committee on Education.

14. The State Board of Education shall prescribe a list of recruitment and retention incentives that are available to the school districts and sponsors of charter schools that receive a distribution of money pursuant to this section to offer to teachers and other licensed educational personnel.

15. The State Board shall require a Victory school to take corrective action if pupil achievement and school performance at the school are unsatisfactory, as determined by the State Board. If unsatisfactory pupil achievement and school performance continue, the State Board may direct the Department to withhold any additional money that would otherwise be distributed pursuant to this section.

16. On or before November 30, 2016, and November 30, 2017, ***or, in the case of a Victory school designated for the 2017-2018 Fiscal Year, on or before November 30, 2018, and November 30, 2019,*** the board of trustees of each school district in which a Victory school is designated and the governing body of each charter school that is designated as a Victory school shall submit to the Department and to the Legislative Committee on Education a report, which must include, without limitation:

(a) An identification of schools to which money was distributed pursuant to subsection 3 for the previous fiscal year;

(b) The amount of money distributed to each such school;

(c) A description of the programs or services for which the money was used;

(d) The number of pupils who participated in such programs or received such services;

(e) The average expenditure per pupil for each program or service that was funded; and

(f) Recommendations concerning the manner in which the average expenditure per pupil reported pursuant to paragraph (e) may be used to determine formulas for allocating money from the State Distributive School Account in the State General Fund.

17. The Legislative Committee on Education shall consider the evaluations of the independent evaluator received pursuant to subsection 13 and the reports received pursuant to subsection 16 and advise the State Board regarding any action the Committee determines appropriate for the State Board to take based upon that information. The Committee shall also make any recommendations it deems appropriate concerning Victory schools to the next regular session of the Legislature which may include, without limitation, recommendations for legislation.

18. The money distributed pursuant to subsection 3:

(a) Must be accounted for separately from any other money received by Victory schools and used only for the purposes specified in this section;

(b) May not be used to settle or arbitrate disputes between a recognized organization representing employees of a school district or the governing body of a charter school and the school district or governing body or to settle any negotiations; and

(c) May not be used to adjust the district-wide schedules of salaries and benefits of the employees of a school district.

19. Upon request of the Legislative Commission, a Victory school to which money is distributed pursuant to subsection 3 shall make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of such money.

20. As used in this section:

(a) “Community” includes any person or governmental entity who resides or has a significant presence in the geographic area in which a school is located or who interacts with pupils and personnel at a school, and may include, without limitation, parents, businesses, nonprofit organizations, faith-based organizations, community groups, teachers, administrators and governmental entities.

(b) ~~“Evidence-based programs and services” means practices, interventions and services that have been proven, through scientifically based research, as defined in 20 U.S.C. § 7801(37), 7801(21), to be effective in improving outcomes for pupils when implemented with fidelity.~~ **integrated student supports” means supports developed, secured or coordinated by a school to promote the academic success of pupils enrolled in the school by targeting academic and nonacademic barriers to pupil achievement.**

(c) “Victory school” means a school that is so designated by the Department pursuant to subsection 1.

(d) “Wrap-around services” means supplemental services provided to a pupil with special needs or the family of such a pupil that are not otherwise covered by any federal or state program of assistance.

Sec. 2. This act becomes effective:

1. Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of the act; and

2. On July 1, 2017, for all other purposes.

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 12.

Bill read second time.

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

Amendment No. 530.

AN ACT relating to adjusters; requiring ~~independent~~ adjusters to complete certain continuing education; establishing standards of conduct for ~~independent~~ adjusters; providing for the licensing of nonresident ~~independent~~ adjusters; revising provisions relating to the licensing of adjusters; authorizing the issuance of temporary emergency licenses for ~~independent~~ adjusters in a catastrophe; exempting certain persons from the requirement to pass an examination before issuance of a license as an adjuster; authorizing the Commissioner of Insurance to enter into certain contracts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from acting as or holding himself or herself out to be an adjuster without a license. (NRS 684A.040) **Section 7** of this bill requires certain natural persons who hold a license as an ~~independent~~ adjuster to complete certain courses of continuing education before the license may be renewed. **Section 8** of this bill requires an ~~independent~~ adjuster to adhere to certain standards of conduct. **Section 9** of this bill provides for the issuance of nonresident licenses as an ~~independent~~ adjuster. **Section 10** of this bill authorizes the Commissioner of Insurance to promulgate reasonable regulations relating to adjusters. **Section 15.5 of this bill authorizes the Commissioner to license an individual as a company adjuster or a staff adjuster, in addition to the current types of licensure. (NRS 684A.050)**

Section 17 of this bill provides for the temporary emergency licensure of natural persons as ~~independent~~ adjusters in the event of a declared catastrophe. **Section 17** also imposes upon an applicant for a temporary emergency license the requirement to pay all fees that apply to an ~~independent~~ adjuster. **Section 21** of this bill exempts a person who is licensed as an ~~independent~~ adjuster in another state from the requirement to pass an examination before being issued a license in this State in certain circumstances. **Section 22** of this bill authorizes the Commissioner to enter into a contract with a nongovernmental entity to perform ministerial duties relating to licensing. **Sections 12, 14, 15-20 and 23-25** of this bill make various revisions relating to the licensing of adjusters.

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

Section 1. NRS 683A.085 is hereby amended to read as follows:

683A.085 No person may act as, offer to act as or hold himself or herself out to the public as an administrator, unless ~~the~~ :

1. The person has obtained a certificate of registration as an administrator from the Commissioner pursuant to NRS 683A.08524 ~~1~~;

2. If the person is an individual and adjusts workers' compensation claims in this State, the person is licensed pursuant to chapter 684A of NRS; and

3. If any employee of the person adjusts workers' compensation claims in this State, each such employee who adjusts workers' compensation claims in this State is licensed pursuant to chapter 684A of NRS.

~~{Section 1}~~ Sec. 1.5. Chapter 684A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *"Business entity" means a corporation, association, partnership, limited-liability company, limited-liability partnership or other legal entity.*

Sec. 3. *"Catastrophe" means an event that:*

1. *Results in large numbers of deaths or injuries, causes extensive damage or destruction of facilities that provide and sustain human needs, produces an overwhelming demand on state and local response resources and mechanisms, causes a severe, long-term effect on general economic activity or severely affects state, local and private sector capabilities to begin and sustain response activities; and*

2. *Is declared by the Governor.*

Sec. 4. *"Person" means an individual or business entity.*

Sec. 5. *"Uniform Business Entity Application" means the current version of the Uniform Application for Business Entity License/Registration for resident and nonresident business entities published by the National Association of Insurance Commissioners.*

Sec. 6. *"Uniform Individual Application" means the current version of the Uniform Application for Individual Producer License/Registration for resident and nonresident individuals published by the National Association of Insurance Commissioners.*

Sec. 7. 1. *Except as otherwise provided in subsection 2, an individual who holds a license as an ~~independent~~ adjuster must satisfactorily complete a minimum of 24 hours of courses of continuing education, of which 3 hours must be in ethics, which are reported to the Commissioner as a condition for the renewal of his or her license.*

2. *This section does not apply to an individual who:*

(a) *Holds a nonresident license as an ~~independent~~ adjuster; and*

(b) *Has met the continuing education requirements of his or her home state.*

Sec. 8. 1. *An ~~independent~~ adjuster shall be honest and fair in all communications with the insured, the insurer and the public.*

2. *An ~~independent~~ adjuster shall give policyholders and claimants prompt, knowledgeable service and courteous, fair and objective treatment at all times.*

3. An ~~independent~~ adjuster shall not give legal advice and shall not deal directly with any policyholder or claimant who is represented by legal counsel without the consent of the legal counsel involved.

4. An ~~independent~~ adjuster shall comply with all local, state and federal privacy and information security laws, if applicable.

5. An ~~independent~~ adjuster shall identify himself or herself as an ~~independent~~ adjuster and, if applicable, identify his or her employer when dealing with any policyholder or claimant.

6. An ~~independent~~ adjuster shall not have any financial interest in any adjustment or acquire for himself or herself or any person any interest or title in salvage without first receiving written authority from the principal.

Sec. 9. 1. The Commissioner shall issue a nonresident license as an ~~independent~~ adjuster to a nonresident person if:

(a) The person is currently licensed in good standing as an ~~independent~~ adjuster in the resident or home state of the person;

(b) The person has submitted the proper request for licensure and has paid the fees required pursuant to NRS 680B.010 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110;

(c) The person has submitted or transmitted to the Commissioner the appropriate completed application for licensure; and

(d) The home state of the person awards nonresident licenses as an ~~independent~~ adjuster to persons of this State on the same basis.

2. The Commissioner may verify the licensing status of the nonresident person through any appropriate database, including, without limitation, the Producer Database maintained by the National Insurance Producer Registry, its affiliates or subsidiaries, or may request that the nonresident person submit proof that the nonresident person is licensed and in good standing in the person's home state as an adjuster.

3. As a condition to the continuation of a nonresident license as an ~~independent~~ adjuster, the nonresident ~~independent~~ adjuster shall maintain a resident license as an ~~independent~~ adjuster in the home state of the ~~independent~~ adjuster. A nonresident license as an ~~independent~~ adjuster issued under this section shall be terminated and must be surrendered immediately to the Commissioner if the resident license as an ~~independent~~ adjuster in the home state is terminated for any reason, unless:

(a) The termination is due to the nonresident ~~independent~~ adjuster being issued a new resident license as an ~~independent~~ adjuster in a new home state; and

(b) The new resident license as an ~~independent~~ adjuster is from a state that has reciprocity with this State.

4. The Commissioner shall give notice of the termination of a resident license as an ~~independent~~ adjuster within 30 days after the date of the

termination to any states that issued a nonresident license as an ~~independent~~ adjuster to the holder of the resident license. If the resident license as an ~~independent~~ adjuster was terminated due to a change in the home state of the ~~independent~~ adjuster, the notice must include both the previous and current address of the ~~independent~~ adjuster.

5. The Commissioner shall terminate a nonresident license as an ~~independent~~ adjuster issued pursuant to this section if the ~~independent~~ adjuster establishes legal residency in this State and fails to apply for a resident license as an ~~independent~~ adjuster within 90 days after establishing legal residency.

Sec. 10. The Commissioner may promulgate reasonable regulations as are necessary or proper to carry out the purposes of this chapter.

Sec. 11. NRS 684A.015 is hereby amended to read as follows:

684A.015 As used in this Code, unless the context otherwise requires, the words and terms defined in NRS 684A.020 to 684A.030, inclusive, **and sections 2 to 6, inclusive, of this act** have the meanings ascribed to them in those sections.

Sec. 12. NRS 684A.020 is hereby amended to read as follows:

684A.020 1. Except as otherwise provided in subsection 2, “adjuster” means any person who, for compensation ~~as an independent contractor or for~~, **including, without limitation,** a fee or commission, investigates and settles, and reports to his or her principal relative to, claims:

(a) Arising under insurance contracts for property, casualty or surety coverage, **including, without limitation, workers’ compensation coverage,** on behalf solely of the insurer or the insured; or

(b) Against a self-insurer who is providing similar coverage ~~unless the coverage provided relates to a claim for industrial insurance.~~

2. For the purposes of this chapter:

(a) An associate adjuster, as defined in NRS 684A.030;

(b) An attorney at law who adjusts insurance losses from time to time incidental to the practice of his or her profession;

(c) An adjuster of ocean marine losses;

(d) A salaried employee of an insurer ~~is~~, **unless the employee:**

(1) Investigates, negotiates or settles workers’ compensation claims; and

(2) Obtains a license pursuant to this chapter;

(e) A salaried employee of a managing general agent maintaining an underwriting office in this state;

(f) An employee of an independent adjuster or an employee of an affiliate of an independent adjuster who is one of not more than 25 such employees under the supervision of an independent adjuster or licensed agent and who:

(1) Collects information relating to a claim for coverage arising under an insurance contract from or furnishes such information to an insured or a claimant; and

(2) Conducts data entry, including, without limitation, entering data into an automated claims adjudication system;

(g) A licensed agent who supervises not more than 25 employees described in paragraph (f);

(h) A person who is employed only to collect factual information concerning a claim for coverage arising under an insurance contract;

(i) A person who is employed ~~only~~ **solely** to ~~provide~~ **obtain facts surrounding a claim or to furnish** technical assistance to ~~an~~ **a licensed independent adjuster**;

(j) A person who is employed to investigate suspected fraudulent **insurance** claims ~~for coverage arising under an insurance contract~~ but who does not adjust losses or determine the payment of claims;

(k) A person who performs only executive, administrative, managerial or clerical duties, or any combination thereof, but does not investigate, **negotiate** or settle claims ~~for coverage arising under an insurance contract~~; **with a policyholder or claimant or the legal representative of a policyholder or claimant**;

(l) A licensed health care provider or any employee thereof who provides managed care services if those services do not include the determination of compensability;

(m) A managed care organization or any employee thereof or an organization that provides managed care services or any employee thereof if the services provided do not include the determination of compensability;

(n) A person who settles only reinsurance or subrogation claims;

(o) A broker, agent or representative of a risk retention group;

(p) An attorney-in-fact of a reciprocal insurer; ~~or~~

(q) A manager of a branch office of an alien insurer that is located in the United States ~~or~~; **or**

(r) A person authorized to adjust ~~workers' compensation or disability~~ claims under the authority of a third-party administrator who holds a certificate of registration issued by the Commissioner pursuant to NRS 683A.08524, unless the person investigates, negotiates or settles workers' compensation claims.

↪ is not considered an adjuster.

Sec. 13. NRS 684A.027 is hereby amended to read as follows:

684A.027 "Home state" means:

1. The District of Columbia or any state or territory of the United States in which an **independent, company, staff or public** adjuster maintains his, ~~or~~ her **or its** principal place of residence or principal place of business and is licensed to act as ~~an~~ **a resident independent, company, staff or public** adjuster; or

2. If neither the state in which the adjuster maintains his or her principal place of residence nor the state in which the adjuster maintains his, ~~or~~ her **or its** principal place of business ~~has a licensing or examination~~

~~requirement,}~~ **licenses independent, company, staff or public adjusters for the line of authority sought by the adjuster,** a state:

- (a) Which has an examination requirement;
- (b) In which the adjuster is licensed; and
- (c) Which the adjuster declares to be the home state.

Sec. 14. NRS 684A.030 is hereby amended to read as follows:

684A.030 1. “Independent adjuster” means an adjuster **who is** representing the interests of an insurer or a self-insurer ~~{}~~ **and who:**

- (a) Contracts for compensation with the insurer or self-insurer as an independent contractor or an employee of an independent contractor;**
- (b) Is treated for tax purposes by the insurer or self-insurer in a manner consistent with an independent contractor rather than an employee; and**
- (c) Investigates, negotiates or settles property, casualty or ~~industrial insurance~~ surety claims, including, without limitation, workers’ compensation claims, for the insurer or self-insurer.**

2. “Public adjuster” means an adjuster employed by and representing solely the financial interests of the insured named in the policy. **The term does not include an adjuster who investigates, negotiates or settles workers’ compensation claims.**

3. **“Company adjuster” means a salaried employee of an insurer who:**

- (a) Investigates, negotiates or settles workers’ compensation claims; and**
- (b) Obtains a license pursuant to this chapter.**

4. **“Staff adjuster” means a person who investigates, negotiates or settles workers’ compensation claims under the authority of a third-party administrator who holds a certificate of registration issued by the Commissioner pursuant to NRS 683A.08524.**

5. “Associate adjuster” means an employee of an adjuster who, under the direct supervision of the adjuster, assists in the investigation and settlement of insurance losses on behalf of his or her employer.

Sec. 15. NRS 684A.040 is hereby amended to read as follows:

684A.040 1. ~~{No}~~ **Except as otherwise provided in NRS 684A.060, no** person may act as, or hold himself or herself out to be, an adjuster or associate adjuster in this State unless then licensed as such under the applicable ~~{independent adjuster’s license, public}~~ adjuster’s license or associate adjuster’s license, as the case may be, issued under the provisions of this chapter.

2. Any person violating the provisions of this section is guilty of a gross misdemeanor.

3. ~~{A}~~ **Except as otherwise provided in NRS 684A.060, a** person who acts as an adjuster in this State without a license is subject to an administrative fine of not more than \$1,000 for each violation.

4. **A salaried employee of an insurer who investigates, negotiates or settles workers’ compensation claims may, but is not required to, obtain a license as a company adjuster pursuant to this chapter. The provisions of subsections 1, 2 and 3 do not apply to a salaried employee of an insurer.**

Sec. 15.5. NRS 684A.050 is hereby amended to read as follows:

684A.050 **1.** ~~The Commissioner may license an individual as ~~either~~~~
~~an independent adjuster, ~~for as~~ a public adjuster ~~or~~~~, **a company adjuster or**
a staff adjuster. No individual shall be licensed concurrently under the same
 license or separate licenses as ~~an independent adjuster and as a public~~ **more**
than one such type of adjuster.

2. A company adjuster and a staff adjuster shall pay the same fees as
provided for an independent adjuster in NRS 680B.010 and 680C.110.

Sec. 16. NRS 684A.055 is hereby amended to read as follows:

684A.055 No person who is engaged in the business of repairing the
 bodies of automobiles may:

1. Be licensed pursuant to this chapter.
2. Own a controlling interest in a ~~firm or corporation~~ **business entity**
 licensed pursuant to NRS 684A.080.

Sec. 17. NRS 684A.060 is hereby amended to read as follows:

684A.060 **1.** On behalf of, as authorized by, an insurer as to which he
 or she is licensed as an agent under chapter 683A of NRS, an agent may from
 time to time act as an adjuster without a license as an adjuster; but no such
 agent shall act as an adjuster for an insurer with which the agent has a
 contract providing for compensation retrospectively contingent upon losses
 incurred under insurance sold or serviced by the agent.

2. No license shall be required of a nonresident salaried adjuster ~~for~~
~~independent adjuster~~ for the adjustment in this state of one or more losses
 arising out of a catastrophe common to all such losses where such losses are
 designated to be a catastrophe by responsible insurance associations or the
 Commissioner.

3. *In the event of a catastrophe, an insurer shall notify the*
Commissioner by an application for the issuance of a temporary
emergency license for each individual who is not already licensed in this
State and who will act as an emergency ~~independent~~ adjuster on behalf of
the insurer. The Commissioner, by regulation, shall establish standards
and procedures to allow for the temporary emergency licensure of an
emergency ~~independent~~ adjuster in this State.

4. *An individual who is not already licensed in this State but who is*
otherwise qualified to adjust claims may act as an emergency
~~independent~~ adjuster and adjust claims if, within 5 days after deploying
the individual to adjust claims arising from the catastrophe, the insurer
notifies the Commissioner by providing the following information in a
format prescribed by the Commissioner:

- (a) *The name of the individual;*
- (b) *The social security number of the individual;*
- (c) *The name of the insurer the individual will represent;*
- (d) *The effective date of the contract between the insurer and the*
individual;
- (e) *The catastrophe or loss control number;*

(f) *The name of the catastrophe; and*

(g) *Any other information the Commissioner deems necessary.*

5. *The temporary emergency license of an individual as an emergency ~~independent~~ adjuster is valid for not more than 90 days unless extended by the Commissioner.*

6. *For the protection of the people of this State, the Commissioner may not issue a temporary emergency license except in compliance with the provisions of this chapter. Any individual for whom a temporary emergency license is issued must:*

(a) *Be at least 18 years of age;*

(b) *Be competent, trustworthy, financially responsible and of good reputation, as determined by the Commissioner;*

(c) *Never have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion or conspiracy to defraud and never have committed any act that is a ground for refusal to issue, suspension or revocation of a license pursuant to NRS 683A.451.*

7. *An application for a temporary emergency license must be accompanied by the license fee specified for an ~~independent~~ adjuster in NRS 680B.010 and, in addition to any other fee or charge, all fees required for an ~~independent~~ adjuster pursuant to NRS 680C.110.*

Sec. 18. NRS 684A.070 is hereby amended to read as follows:

684A.070 1. For the protection of the people of this State, the Commissioner may not issue or continue any license as an adjuster except in compliance with the provisions of this chapter. Any person for whom a license is issued or continued must:

(a) Be at least 18 years of age;

(b) *Be eligible to declare this State as his or her home state;*

(c) Be competent, trustworthy, financially responsible and of good reputation ~~;~~

~~—(c)—, as determined by the Commissioner;~~

(d) Never have been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion ~~;~~ or conspiracy to defraud ~~for any crime involving moral turpitude;~~

~~—(d)—;~~

(e) *Except as otherwise provided in subsection 4, never have committed any act that is a ground for refusal to issue, suspension or revocation of a license pursuant to NRS 683A.451;*

(f) Unless exempted pursuant to NRS 684A.100 or 684A.105, *successfully complete a prelicensing course of study prescribed by the Commissioner by regulation and pass all examinations required under this chapter; and*

~~—(e)—~~ (g) Not be concurrently licensed as a producer of insurance for property, casualty or surety or a surplus lines broker, except as a bail agent.

2. 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.

3. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 2, 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.

4. ~~4. [A conviction of, or plea of guilty, guilty but mentally ill or nolo contendere by, an applicant or licensee for any crime listed in paragraph (c) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend, revoke or limit the license of an adjuster pursuant to NRS 684A.210.]~~ ***The Commissioner may waive the requirements of paragraph (d) or (e) of subsection 1 for good cause shown.***

5. ***For the purposes of paragraph (f) of subsection 1, the Commissioner shall adopt regulations establishing a prelicensing course of study for an ~~independent~~ adjuster.***

Sec. 19. NRS 684A.080 is hereby amended to read as follows:

684A.080 1. ~~[A firm or corporation may be licensed either as an independent adjuster or public adjuster. Each general partner and each other natural person to act for the firm, or each natural person to act for the corporation, must be named in the license and must qualify as an individual licensee. A natural person who is authorized to act for a firm or corporation~~

and who also wishes to be licensed in an individual capacity must obtain a separate license in the natural person's own name. The Commissioner shall charge a full additional fee for each natural person named in the license. ~~Any business entity to whom a license is issued or renewed must:~~

- ~~(a) Be eligible to declare this State as its home state;~~
- ~~(b) Designate a licensed ~~independent~~ adjuster to be responsible for the compliance of the business entity with the insurance laws, rules and regulations of this State; and~~
- ~~(c) Never have committed any act that is a ground for refusal to issue, suspension or revocation of a license pursuant to NRS 683A.451.~~

2. ~~Transaction~~ **If the business entity is a firm or a corporation, transaction** of business under the license must be within the purposes stated in the firm's partnership agreement or the corporation's charter ~~to~~ , **as applicable.**

3. The licensee shall promptly notify the Commissioner in writing of all changes among its members, directors, officers and other natural persons designated ~~in the license.~~ **pursuant to subsection 1 or NRS 684A.090.**

Sec. 20. NRS 684A.090 is hereby amended to read as follows:

684A.090 1. The applicant for a license as an adjuster shall file a written application therefor with the Commissioner on forms prescribed and furnished by the Commissioner. As part of, or in connection with, the application, the applicant shall furnish information as to his or her identity, personal history, experience, financial responsibility, business record and other pertinent matters as reasonably required by the Commissioner to determine the applicant's eligibility and qualifications for the license.

2. If the applicant is a natural person, the application must include the social security number of the applicant ~~to~~ **and include a completed copy of the Uniform Individual Application.**

3. If the applicant is a ~~firm or corporation,~~ **business entity,** the application must designate each individual who is to exercise the license powers and must include:

- ~~(a) A completed copy of the Uniform Business Entity Application;~~
- ~~(b) The name of each member , of the firm or each officer and director of the corporation;~~ **business entity, as applicable;**
- ~~(c) The name of each executive officer and director who owns more than 10 percent of the outstanding voting securities of the applicant; and~~
- ~~(d) The name of any other individual who owns more than 10 percent of the outstanding voting securities of the applicant.~~

↪ Each such member, officer, director and individual shall furnish information to the Commissioner as though applying for an individual license.

4. If the applicant is a nonresident of this state, the application must be accompanied by an appointment of the Commissioner as process agent and agreement to appear pursuant to NRS 684A.200.

5. The application must be accompanied by the applicable license fee as specified in NRS 680B.010 **and subsection 2 of 684A.050** and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110 ~~and subsection 2 of 684A.050.~~

6. No applicant for such a license may willfully misrepresent or withhold any fact or information called for in the application form or in connection therewith. A violation of this subsection is a gross misdemeanor.

7. *If the Commissioner determines that the information contained in a Uniform Individual Application or Uniform Business Entity Application submitted with an application pursuant to this section is not true, correct and complete to the best of the applicant's knowledge and belief, the Commissioner may refuse to issue a license to the applicant or suspend or revoke the applicant's license.*

Sec. 21. NRS 684A.105 is hereby amended to read as follows:

684A.105 1. An adjuster whose license expires is exempt from retaking the examination required by NRS 684A.100 if:

~~1. (a)~~ The adjuster:

~~(a)~~ (1) Is not a resident of this State;

~~(b)~~ (2) Has passed an examination to become licensed as an adjuster in the person's home state; and

~~(c)~~ (3) Is currently licensed and in good standing in the person's home state as an adjuster; or

~~2. (b)~~ The adjuster was licensed in this State as the same type of adjuster within the 24-month period immediately preceding the date of the application, unless the previous license was revoked or suspended or its continuation was refused by the Commissioner.

2. *A person who applies for a license as an adjuster pursuant to NRS 684A.090 is exempt from taking the examination required by NRS 684A.100 if the person:*

(a) *Is licensed as an ~~independent~~ adjuster in another state;*

(b) *Establishes legal residency in this State; and*

(c) *Submits an application for a license pursuant to NRS 684A.090 within 90 days after establishing legal residency in this State.*

Sec. 22. NRS 684A.120 is hereby amended to read as follows:

684A.120 1. The Commissioner shall prescribe the form of the adjuster license, which shall state:

(a) The licensee's name, ~~and~~ business address ~~and~~ **a personal identification number;**

(b) The classification of the license, whether as an independent adjuster, ~~or as a public adjuster~~, **a company adjuster or a staff adjuster;**

(c) Date of issuance and general conditions as to expiration and termination; and

(d) Such other conditions as the Commissioner deems proper.

2. The Commissioner may not issue a license in a trade name unless the name has been registered as provided by law.

3. In order to assist in the performance of the Commissioner's duties, the Commissioner may contract with any nongovernmental entity, including, without limitation, the National Association of Insurance Commissioners or its affiliates or subsidiaries, to perform any ministerial function, including, without limitation, the collection of fees and data, relating to licensing, that the Commissioner deems appropriate.

Sec. 23. NRS 684A.130 is hereby amended to read as follows:

684A.130 1. Each license issued under this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. A license may be renewed upon payment of all applicable fees for renewal to the Commissioner, **completion of any other requirement for renewal of the license specified in this chapter** and submission of the statement required pursuant to NRS 684A.143 if the licensee is a natural person. The statement, if required, must be submitted, **all requirements must be completed** and all applicable fees must be paid on or before the last day of the month in which the license is renewable.

2. Any license not so renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by the Commissioner within 30 days after the expiration of the license if the request is accompanied by:

(a) A fee for renewal of 150 percent of all applicable fees otherwise required, except for any fee required pursuant to NRS 680C.110 ~~and~~ **subsection 2 of NRS 684A.050;**

(b) If the person requesting renewal is a natural person, the statement required pursuant to NRS 684A.143;

(c) Proof of successful completion of any requirement for an examination unless exempt pursuant to NRS 684A.105; and

(d) If applicable, a request for a waiver of the time limit for renewal and of any fine or sanction otherwise required or imposed because of the failure of the licensee to renew his or her license because of military service, extended medical disability or other extenuating circumstance.

3. This section does not apply to temporary licenses issued under NRS 684A.150.

Sec. 24. NRS 684A.180 is hereby amended to read as follows:

684A.180 1. Each adjuster shall keep at his or her business address shown on the adjuster's license a record of all transactions under the license.

2. The record shall include:

(a) **A copy of each contract between an independent adjuster and an insurer or self-insurer.**

(b) A copy of all investigations or adjustments undertaken.

~~[(b)]~~ (c) A statement of any fee, commission or other compensation received or to be received by the adjuster on account of such investigation or adjustment.

3. The adjuster shall make such records available for examination by the Commissioner at all times, and shall retain the records for at least 3 years.

4. An independent adjuster shall comply with any record retention policy agreed to in a contract between the independent adjuster and an insurer or self-insurer to the extent that such a policy imposes a requirement to retain records for a longer period than the period required by this section.

Sec. 25. NRS 684A.210 is hereby amended to read as follows:

684A.210 1. The Commissioner may suspend, revoke, limit or refuse to continue any adjuster's license or associate adjuster's license:

- (a) For any cause specified in any other provision of this chapter;
- (b) For any applicable cause for revocation of the license of a producer of insurance under NRS 683A.451; or
- (c) If the licensee has for compensation represented or attempted to represent both the insurer and the insured in the same transaction.

2. The license of a ~~firm or corporation~~ **business entity** may be suspended, revoked, limited or continuation refused for any cause which relates to any individual designated ~~in or~~ with respect to the license to exercise its powers.

3. The holder of any license which has been suspended or revoked shall forthwith surrender the license to the Commissioner.

Sec. 26. 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~~ **July** 1, 2018, for all other purposes.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 32.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 333.

AN ACT relating to pest control; requiring certain persons who engage in pest control, including governmental agencies and their employees, to obtain a certificate or license from the Director of the State Department of Agriculture; establishing procedures relating to such certification and licensure; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally prohibits any person from using pesticides or otherwise engaging in the business of pest control without a license from the Director of the State Department of Agriculture. (NRS 555.280, 555.285) For the purposes of these provisions, "person" is defined to include a

government, governmental agency and political subdivision of a government. (NRS 555.266) **Sections 9-13, 19 and 21** of this bill provide explicitly for the ~~licensure~~ **certification** of any governmental agency and **licensure of** any employee of such an agency who engages in pest control.

Existing law provides exemptions from licensing requirements for certain farmers and landscape-maintenance businesses. Currently, to be exempt, a farmer must not be regularly engaged in the business of applying pesticides or performing pest control “for hire.” (NRS 555.277) **Section 22** of this bill removes the “for hire” limitation, with the result that a farmer who is paid for his or her services is still exempt if the other statutory conditions are satisfied. **Section 22** also revises the “landscaping” exemption by making it applicable only to a “gardener” who uses certain pesticides.

Under existing law, a person may not engage “for hire” in certain pest control activities relating to termites and other wood-destroying pests or organisms without a license issued by the Director. (NRS 555.285) **Section 24** of this bill extends the licensure requirement to any person who provides or offers to provide such services without charge.

This bill otherwise provides for the licensure of businesses who engage in pest control and certain natural persons who are owners, officers, partners, members or technicians of such a business. **Section 30 of this bill expands the circumstances under which the Director may investigate a licensee to include certain licensed applicators and government applicators. Section 31 of this bill provides that any application for a license submitted by a natural person must be accompanied by a ~~work card issued to the person by the sheriff of the county in which the person resides.~~ fee in a certain amount. Section 31 also authorizes the applicant, in lieu of submitting his or her fingerprints and written permission to conduct a background check of the applicant, to submit any document or other information required by the Department to perform the background check. The document or other information must be accompanied by any fees required by the Department.** If disciplinary action is initiated against a licensee who is a natural person, **section 32** of this bill ~~generally~~ requires the ~~person~~ **licensee** to ~~obtain and~~ submit ~~a work card~~ within 30 days after receiving notice of disciplinary action ~~[. Section 14 of this bill governs the issuance of the required work card.]~~ **and in accordance with any regulations adopted by the Department, any document or other information required to perform a background check of the licensee. The document or other information must be accompanied by any fees required by the Department. Sections 31 and 32 also revise the types of crimes for which the Director may refuse to issue or revoke, suspend or modify a license to engage in pest control.**

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

Section 1. Chapter 555 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. *“Applicator” means a natural person who engages in pest control. The term does not include a government applicator.*

Sec. 3. *“Business license” means a license to engage in pest control from a place of business identified on the license, issued by the Department to a natural person or business entity to operate as a pest control business.*

Sec. 4. *“General-use pesticide” means a pesticide that has not been determined to be or classified as a restricted-use pesticide:*

1. *By the Director; or*
2. *In accordance with the Federal Environmental Pesticide Control Act of 1972, 7 U.S.C. §§ 136 et seq.*

Sec. 5. *“Government applicator” means a natural person who:*

1. *Is employed by a city, county, state or other governmental agency ~~for~~, including, without limitation, a conservation district or a weed control district; and*

2. *Engages in pest control in the course and scope of his or her employment and only within the jurisdiction of the governmental agency.*

Sec. 6. *“Governmental agency ~~license~~ certificate” means a ~~license~~ certificate to engage in pest control issued by the Director to a city, county, state or other governmental agency.*

Sec. 7. *“Location principal” means the primary principal of a pest control business who has been designated by the business as the person responsible for the daily supervision of each category of pest control conducted from a location of the business.*

Sec. 8. *“Unlicensed employee” means an employee of a city, county, state or other governmental agency who ~~is~~:*

1. *Is not so employed for more than 1,039 hours in any 12-month period ~~for~~; and*
2. *Has complied with any requirements for training specified in regulations adopted by the Department.*

Sec. 9. *A city, county, state or other governmental agency shall not engage in pest control without a governmental agency ~~license~~ certificate issued by the Director.*

Sec. 10. 1. *A government applicator shall not engage in pest control within the course and scope of his or her employment without a license issued by the Director. The provisions of this subsection do not prohibit the use of a general-use pesticide by an unlicensed employee under the supervision of a government applicator.*

2. *As used in this section, “supervision” means ~~daily, on-site contact between~~:*

(a) The exercise of responsibility and provision of guidance for an unlicensed employee ~~and~~ by a government applicator ~~who is able to be physically present with the unlicensed employee within 60 minutes.~~ ; and

(b) The physical presence of the government applicator at the location where the unlicensed employee applies the general-use pesticide, if required by the label placed on the container for the general-use pesticide.

Sec. 11. 1. An application for a governmental agency ~~license~~ certificate or license as a government applicator must be made to the Director and contain such information regarding the applicant's qualifications and proposed operations and other relevant matters as required by regulation of the Director.

2. An application for a license as a government applicator must include the social security number of the applicant.

3. A city, county, state or other governmental agency is not required to obtain more than one governmental agency ~~license~~ certificate to engage in pest control within its jurisdiction.

Sec. 12. 1. The Director ~~may~~ shall require an applicant for a license as a government applicator to show, upon examination, that the applicant possesses adequate knowledge concerning the proper use and application of ~~general-use~~ pesticides and the dangers involved and precautions to be taken in connection with their application, including, without limitation, the comprehension of pesticide labels and:

(a) The environmental consequences of pesticide use and misuse.

(b) Pests.

(c) Pesticides.

(d) Equipment.

(e) Application techniques.

(f) Applicable laws and regulations.

(g) Safety.

2. The Director may require an applicant to demonstrate that he or she is competent to meet the specific needs of a locality relating to the use or application of a ~~general-use~~ pesticide.

3. The Director shall collect from each applicant for examination or reexamination a testing fee established by regulation of the Director.

Sec. 13. 1. If the Director finds that an applicant for a license as a government applicator is qualified, Director shall issue the license and collect the fee for the license established by regulation of the Director.

2. A governmental agency ~~license~~ certificate or license as a government applicator is valid for the period established by regulation of the Director and may be renewed as provided by regulation.

3. A license as a government applicator:

(a) ~~Does not authorize~~ In addition to authorizing the licensee to engage in pest control, authorizes the licensee to use a restricted-use pesticide ~~_. To use such a pesticide, the licensee must be the holder of without obtaining a certificate issued by the Director pursuant to NRS~~

555.357 ~~11~~, if the licensee otherwise complies with the provisions of this chapter and any regulations adopted pursuant to this chapter governing the use of restricted-use pesticides.

(b) May limit the licensee to the use of a certain type of equipment or material if the Director finds that the licensee is qualified to use only that type of equipment or material.

4. If the Director denies an application for a governmental agency ~~license~~ certificate or license as a government applicator pursuant to this section, the Director shall inform the applicant in writing of the reasons for the denial.

Sec. 14. ~~1. Except as otherwise provided in this section, the sheriff of a county shall issue a work card to any natural person who is required by NRS 555.345 or 555.350 to obtain a work card and complies with the requirements of this section.~~

~~2. An applicant for a work card must submit with his or her application a complete set of his or her fingerprints and written permission authorizing the sheriff 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. The sheriff shall submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation to determine the criminal history of the applicant.~~

~~3. The sheriff shall not issue a work card to any person who:~~

~~(a) Has been convicted of a category A, B or C felony or of a crime in another state which would be a category A, B or C felony if committed in this State;~~

~~(b) Has been convicted of a sexual offense;~~

~~(c) Has been convicted of a crime against any person who is 60 years of age or older or against a vulnerable person for which an additional term of imprisonment may be imposed pursuant to NRS 193.167 or the laws of any other jurisdiction;~~

~~(d) Has been convicted of a battery punishable as a gross misdemeanor;~~

~~or~~

~~(e) Within the immediately preceding 5 years:~~

~~(1) Has been convicted of a theft; or~~

~~(2) Has been convicted of a violation of any state or federal law regulating the possession, distribution or use of a controlled substance.~~

~~4. If the sheriff does not issue a work card to a person because the information received from the Central Repository for Nevada Records of Criminal History indicates that the person has been convicted of a crime listed in subsection 3 and the person believes that the information provided by the Central Repository is incorrect, the person may immediately inform the sheriff. If the sheriff is so informed, the sheriff shall give the person at least 30 days in which to correct the information.~~

~~5. As used in this section, unless the context otherwise requires:~~

~~(a) "Sexual offense" has the meaning ascribed to it in NRS 179D.097.~~

~~(b) “Vulnerable person” has the meaning ascribed to it in NRS 200.5092.~~ **(Deleted by amendment.)**

Sec. 15. NRS 555.2605 is hereby amended to read as follows:

555.2605 As used in NRS 555.2605 to 555.460, inclusive, **and sections 2 to 14, inclusive, of this act**, unless the context otherwise requires, the words and terms defined in NRS 555.261 to 555.2695, inclusive, **and sections 2 to 8, inclusive, of this act** have the meanings ascribed to them in those sections.

Sec. 16. NRS 555.261 is hereby amended to read as follows:

555.261 “Agent” means any person who solicits business ~~for~~ **on behalf of [a custom pest control licensee.] the holder of a business license.**

Sec. 17. NRS 555.2617 is hereby amended to read as follows:

555.2617 “Certificate” means a certificate of competency issued by the Director to a commercial applicator or private applicator authorizing ~~that person~~ **the applicator** to make application of or to supervise the application of a restricted-use pesticide.

Sec. 18. NRS 555.2618 is hereby amended to read as follows:

555.2618 “Certified applicator” means any ~~person~~ **applicator** who is certified by the Director as qualified to use or to supervise the use of any restricted-use pesticide.

Sec. 19. NRS 555.2667 is hereby amended to read as follows:

555.2667 “Pest control” means **conducting as a function of the agency, in the case of a city, county, state or other governmental agency, or** publicly holding oneself out as being in the business of detecting, preventing, controlling or exterminating pests or otherwise engaging in, advertising or soliciting for:

1. The use ~~for hire~~ of pesticides or mechanical devices for the extermination, control or prevention of infestations of pests.

2. The inspection ~~for hire~~ of households or other structures and the submission of reports of inspection, estimates or bids, written or oral, for the inspection, extermination, control or prevention of wood-destroying pests.

Sec. 20. NRS 555.270 is hereby amended to read as follows:

555.270 It is the policy of this State and the purpose of NRS 555.2605 to 555.460, inclusive, **and sections 2 to 14, inclusive, of this act** to regulate, in the public interest, the application of pesticides which, although valuable for the control of pests, may seriously injure humans, animals and crops over wide areas if not properly applied.

Sec. 21. NRS 555.273 is hereby amended to read as follows:

555.273 All state agencies, municipal corporations and public utilities or any other governmental agency ~~shall be~~ **and any government applicator is** subject to the provisions of NRS 555.2605 to 555.460, inclusive, **and sections 2 to 14, inclusive, and** rules adopted thereunder concerning the application of restricted-use pesticides by any person.

Sec. 22. NRS 555.277 is hereby amended to read as follows:

555.277 1. The provisions of NRS 555.2605 to 555.460, inclusive, **and sections 2 to 14, inclusive, of this act** relating to licenses and requirements

for their issuance, except **those provisions relating to** a certificate or permit to use a restricted-use pesticide, do not apply to any farmer-owner of ground equipment applying pesticides for himself, herself or his or her neighbors, if:

(a) The farmer-owner operates farm property and operates and maintains equipment for applying pesticides primarily for his or her own use ; ~~†~~

(b) The farmer-owner is not regularly engaged in the business of applying pesticides or performing pest control ~~for hire~~ as an operator, primary principal or principal or as a regular occupation, and the farmer-owner does not advertise or solicit pest control or publicly hold himself or herself out as being in the business of pest control or as ~~a pesticide~~ **an** applicator ~~†~~ ; **and**

(c) The farmer-owner operates his or her equipment for applying pesticides only in the vicinity of the farmer-owner's own property and for the accommodation of the farmer-owner's neighbors for agricultural purposes only.

2. The provisions of NRS 555.2605 to 555.460, inclusive, **and sections 2 to 14, inclusive, of this act**, except those provisions relating to a certificate or permit to use a restricted-use pesticide, do not apply to ~~any person~~ **a gardener** using hand-powered equipment, devices or contrivances to apply **any** pesticides **of toxicity class III or IV, as classified by the United States Environmental Protection Agency**, to any ~~landscaped area~~ **lawn or garden** as an incidental part of ~~the person's~~ **his or her** business of taking care of a ~~landscaped area~~ **lawn or garden** for remuneration, if ~~that person~~ **he or she** does not advertise or solicit pest control or publicly hold himself or herself out as being in the business of pest control or applying pesticides. ~~and the cost of applying the pesticides does not exceed 20 percent of the total remuneration received.~~ **As used in this subsection, "gardener" means a person who owns, operates or is employed by a business that provides routine care of a lawn or garden for a homeowner.**

Sec. 23. NRS 555.280 is hereby amended to read as follows:

555.280 A **natural** person , **including, without limitation, any consultant, demonstrator, researcher or specialist**, shall not engage in pest control or serve as an agent, operator, pilot, primary principal , **location principal** or principal for that purpose within this State at any time without a license **as an applicator** issued by the Director.

Sec. 24. NRS 555.285 is hereby amended to read as follows:

555.285 A **natural** person shall not ~~†, for hire,~~ engage in, offer to engage in, advertise or solicit to perform any of the following pest control activities concerning wood-destroying pests or organisms without a license **as an applicator** issued by the Director:

1. Making an inspection to identify or to attempt to identify infestations or infections of households or other structures by those pests or organisms.

2. Making or altering inspection reports concerning the infestations or infections.

3. Making estimates or bids, whether written or oral, concerning the infestations or infections.

4. Submitting bids to perform any work involving the application of pesticides for the elimination, extermination, control or prevention of infestations or infections of those pests.

Sec. 25. NRS 555.290 is hereby amended to read as follows:

555.290 1. An application for a **business license or** license **as an applicator** must be submitted to the Director and must set forth such information regarding the applicant's qualifications and proposed operations and other relevant matters as required ~~[pursuant to regulations adopted]~~ by **regulation of** the Director. If the applicant is a natural person, the application must include the social security number of the applicant.

2. ***The Director may require an applicant for a business license to establish to the satisfaction of the Director that a primary principal who is licensed as an applicator is associated with the business of the applicant.***

3. If an applicant fails to complete the licensing requirements within 30 days after the date on which the applicant submits his or her application, the applicant forfeits all fees he or she has tendered. Thereafter the applicant may reinitiate the application process upon payment of the appropriate fees.

Sec. 26. NRS 555.300 is hereby amended to read as follows:

555.300 1. ~~[The]~~ ***If an applicant for a license as an applicator is a primary principal or principal of a pest control business, the*** Director may require the applicant to show, upon examination, that the applicant possesses adequate knowledge concerning the proper use and application of pesticides and the dangers involved and precautions to be taken in connection with their application.

2. ~~[The]~~ ***an applicant for a business license*** is not a natural person, the applicant shall designate an officer, member or technician of the ~~[organization]~~ ***business entity*** to take the examination. The person so designated is subject to the approval of the Director. If the extent of the applicant's operations require it, the Director may require more than one officer, member or technician to take the examination.

3. ~~[The]~~ ***An applicant described in subsection 1*** or the person designated by ~~[the]~~ ***an applicant for a business license*** in accordance with the provisions of subsection 2 must have attained the age of majority and have:

(a) Not less than 2 years' practical experience in pest control; or
(b) Possess university credits of not less than 16 credit hours in biological sciences of which not less than 8 credit hours must be in subjects directly related to the categories of pest control in which the applicant wishes to be licensed and have 6 or more months of practical experience in pesticide application or related pest control.

4. The requirements of subsection 3 do not apply to persons holding a license issued by the Director before July 1, 1973, or to the renewal of the license of any such person.

Sec. 27. NRS 555.310 is hereby amended to read as follows:

555.310 1. The Director shall collect from each person applying for ~~the~~ examination or reexamination a testing fee established by regulation of the Director.

2. The Director shall, before the license *or certificate* is issued, collect from each person applying for a *business* license ~~for pest control an annual~~ , *governmental agency license* *certificate or license as an applicator or government applicator* a fee established by regulation of the Director. Any person employing primary principals, *location principals*, principals, operators or agents shall pay to the Director a fee established by regulation of the Director for each primary principal, *location principal*, principal, operator or agent licensed.

Sec. 28. NRS 555.320 is hereby amended to read as follows:

555.320 1. If the Director finds ~~the~~ *an* applicant *for a business license or a license as an applicator to be* qualified, and upon the applicant's appointing the Director agent for service of process and finding that the applicant has satisfied the requirements of NRS 555.325 and 555.330, *as applicable*, the Director shall issue ~~to the~~ license ~~to perform pest control within this State.~~ *as applied for.*

2. The license ~~period is the calendar year. All licenses expire on December 31 of each year.~~ *is valid for the period specified by regulation of the Director.* The license may be renewed ~~annually~~ upon application to the Director and payment of the *applicable* license fee . ~~on or before December 31 of each year. If the holder of the license is a natural person, the holder must submit with his or her application for renewal the statement required pursuant to NRS 555.325.~~

3. The license may restrict the licensee to the use of a certain type or types of equipment or materials if the Director finds that the applicant is qualified to use only a certain type or types.

4. If a license is not issued as applied for, the Director shall inform the applicant in writing of the reasons therefor.

Sec. 29. NRS 555.325 is hereby amended to read as follows:

555.325 1. A natural person who applies for the issuance or renewal of a license ~~to perform pest control~~ *pursuant to NRS 555.2605 to 555.460, inclusive, and sections 2 to 14, inclusive, of this act* shall submit to the Director 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 Director shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Director.

3. A license ~~to perform pest control~~ may not be issued or renewed by the Director if the applicant is a natural person who:

- (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 Director 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. 30. NRS 555.330 is hereby amended to read as follows:

555.330 1. The Director shall require from each applicant for a ~~pest control~~ **business** license proof of public liability and property damage insurance in an amount of:

- (a) Except as otherwise provided in paragraph (b), not less than \$50,000.
 - (b) If the **business** license would authorize the application of pesticides by aircraft:
 - (1) Not less than \$100,000 for bodily injury to or death of one person in any one accident;
 - (2) Subject to the limit for one person, not less than \$300,000 for bodily injury to or death of two or more persons in any one accident; and
 - (3) Not less than \$100,000 for each occurrence of damage to property in any one accident.
- ↪ The Director may accept a liability insurance policy or surety bond in the proper amount.

2. The Director may require drift insurance for the use of pesticides or other materials declared hazardous or dangerous to humans, livestock, wildlife, crops or plantlife.

3. Any person injured by the breach of any such obligation is entitled to sue in his or her own name in any court of competent jurisdiction to recover the damages the person sustained by that breach, if each claim is made within 6 months after the alleged injury.

4. The Director on his or her own motion may, or upon receipt of a verified complaint of an interested person shall, investigate, as he or she deems necessary, any loss or damage resulting from the application of any pesticide by a licensed applicator, licensed government applicator, licensed pest control operator, primary principal, **location principal** or principal. A verified complaint of loss or damage must be filed within 60 days after the time that the occurrence of the loss or damage becomes known except that, if a growing crop is alleged to have been damaged, the verified complaint must be filed before 50 percent of the crop has been harvested. A report of

investigations resulting from a verified complaint must be furnished to the person who filed the complaint.

Sec. 31. NRS 555.345 is hereby amended to read as follows:

555.345 1. The Director may refuse to issue a license ~~{to perform pest control}~~ **as an applicator** to any person who:

(a) Is a primary principal, **location principal** or **principal** or intends to act as a primary principal, **location principal** or **principal** for a pest control business; ~~{pursuant to NRS 555.3507;}~~ and

(b) Has been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, a **category A or B** felony or ~~{any crime involving moral turpitude,}~~ **a category C, D or E felony if the conviction occurred or the plea was entered for the category C, D or E felony during the immediately preceding 10 years** in any court of competent jurisdiction in the United States or any other country.

2. In addition to any other requirements set forth in this chapter ~~{,}~~ **and except as otherwise provided in subsection 3,** each applicant for a license ~~{to perform pest control}~~ **as an applicator** specified in paragraph (a) of subsection 1 shall submit with his or her application a complete set of the applicant's fingerprints and written permission authorizing the Director 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. ~~{work card issued to the applicant in accordance with section 14 of this act by the sheriff of the county in which the applicant resides.}~~ The application must be accompanied by a fee in an amount that is equal to any fee charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints of the applicant.

3. In lieu of submitting a complete set of his or her fingerprints and written permission pursuant to subsection 2, an applicant may, in accordance with regulations adopted by the Department and upon the payment of any fee required by the Department pursuant to those regulations, submit any document or other information required by the Department to perform a background check of the applicant.

4. A suspension or revocation of a license ~~{to perform pest control}~~ **as an applicator** pursuant to NRS 555.350 or any previous revocation or current suspension of such a license **or an equivalent license** in this or any other state, district or territory of the United States or any foreign country is grounds for refusal to issue ~~{the}~~ a license ~~{,}~~ **as an applicator.**

Sec. 32. NRS 555.350 is hereby amended to read as follows:

555.350 1. The Director may suspend, pending inquiry, for not longer than 10 days, and, after opportunity for a hearing, may revoke, suspend or modify any **business license** or license issued **to an applicator or government applicator** under NRS 555.2605 to 555.460, inclusive, **and sections 2 to 14, inclusive, of this act** if the Director finds that:

(a) The licensee is no longer qualified;

(b) The licensee has engaged in fraudulent business practices in pest control;

(c) The licensee has made false or fraudulent claims through any media by misrepresenting the effect of materials or methods to be used;

(d) The licensee has applied known ineffective or improper materials;

(e) The licensee **has** operated faulty or unsafe equipment;

(f) The licensee has made any application **of materials** in a **manner inconsistent with labeling or any restriction imposed by regulation of the Director, or otherwise in a** faulty, careless or negligent manner;

(g) The licensee has violated any of the provisions of NRS 555.2605 to 555.460, inclusive, **and sections 2 to 14, inclusive, of this act** or regulations adopted pursuant thereto;

(h) The licensee **has** engaged in the business of pest control without having a licensed agent, operator, primary principal or principal in direct on-the-job supervision;

(i) The licensee **has** aided or abetted a licensed or an unlicensed person to evade the provisions of NRS 555.2605 to 555.460, inclusive, **and sections 2 to 14, inclusive, of this act**, combined or conspired with such a licensee or an unlicensed person to evade the provisions, or allowed ~~one's~~ **the** license to be used by an unlicensed person;

(j) The licensee was intentionally guilty of fraud or deception in the procurement of ~~this or her~~ **the** license;

(k) The licensee was intentionally guilty of fraud, falsification or deception in the issuance of an inspection report on wood-destroying pests or other report or record required by regulation; ~~for~~

(l) The licensee has been convicted of, or entered a plea of nolo contendere to, a **category A or B** felony or ~~any crime involving moral turpitude~~ **a category C, D or E felony if the conviction occurred or the plea was entered for the category C, D or E felony during the immediately preceding 10 years** in any court of competent jurisdiction in the United States or any other country ~~it~~ **; or**

(m) The licensee has failed to provide adequate instruction or supervision to any unlicensed employee working under the supervision of the licensee.

2. A **business** license **and any license issued to a principal of the business as an applicator** is suspended automatically, without action of the Director, if the proof of public liability and property damage or drift insurance filed pursuant to NRS 555.330 is cancelled, and the ~~license remains~~ **licenses remain** suspended until the insurance is re-established.

3. ~~[A-Except as otherwise provided in this subsection, if]~~ **If the licensee is a natural person, any** licensee against whom the Director initiates disciplinary action ~~[to revoke, suspend or modify the license of the licensee]~~ pursuant to this section shall, within 30 days after receiving written notice of the disciplinary action from the Director ~~it~~ **and in accordance with any regulations adopted by the Department,** submit to the Director ~~to complete~~

set of the licensee's fingerprints and written permission authorizing the Director 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.

~~4. work card issued to the licensee in accordance with section 14 of this act by the sheriff of the county in which the licensee resides. If the sheriff does not issue a work card to the licensee because the information received from the Central Repository for Nevada Records of Criminal History indicates that the licensee has been convicted of a crime listed in subsection 3 of section 14 of this act and the licensee believes that the information provided by the Central Repository is incorrect, the time otherwise provided by this subsection is extended to 90 days if the licensee so informs the sheriff as provided in subsection 4 of section 14 of this act.~~
any document or other information required by the Department to perform a background check of the licensee. Any document or other information submitted pursuant to this subsection must be accompanied by the appropriate fees, if any, specified in regulations adopted by the Department for performing the background check. A willful failure of a licensee to comply with the requirements of *this* subsection ~~{3}~~ constitutes an additional ground for the revocation, suspension or modification of the license ~~{of the licensee}~~ pursuant to this section.

~~{5. The Director has additional grounds to revoke, suspend or modify a license pursuant to this section if the report from the Federal Bureau of Investigation indicates that the licensee has been convicted of a felony or crime specified in paragraph (1) of subsection 1.}~~

Sec. 33. NRS 555.3505 is hereby amended to read as follows:

555.3505 1. If the Director 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 **natural** person who is the holder of a license ~~{to perform pest control,}~~ **issued pursuant to NRS 555.2605 to 555.460, inclusive, and sections 2 to 14, inclusive, of this act,** the Director shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Director receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Director shall reinstate a license ~~{to perform pest control}~~ that has been suspended by a district court pursuant to NRS 425.540 if the Director receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 34. NRS 555.3507 is hereby amended to read as follows:

555.3507 ~~[A person licensed to engage in pest control]~~ **The holder of a business license** shall ensure that the licensee's business has a primary principal who is licensed **as an applicator** in the appropriate category or categories of pest control.

Sec. 34.5. NRS 555.351 is hereby amended to read as follows:

555.351 **Except as otherwise provided in section 13 of this act:**

1. A person shall not use any restricted-use pesticide within this State at any time without a certificate issued by the Director except a person using any restricted-use pesticide under the supervision of a certified applicator.

2. If the Director has adopted regulations requiring:

(a) A permit pursuant to NRS 586.403; or

(b) A special use permit pursuant to NRS 586.405,

↪ for a restricted-use pesticide, a person shall not use that pesticide without obtaining the required permit.

Sec. 35. NRS 555.357 is hereby amended to read as follows:

555.357 1. If the Director finds that the applicant is qualified, the Director shall issue a certificate to make application of or to supervise the application of restricted-use pesticides within this State.

2. A certificate is valid for ~~[4 years after the date it is issued.]~~ **the period established by regulation of the Director.** The certificate may be renewed upon completion of the requirements established by the regulations of the Director.

3. The Director shall adopt regulations concerning the requirements for renewal of a certificate.

4. The certificate may limit the applicant to the use of a certain type or types of equipment or material if the Director finds that the applicant is qualified to use only that type or types.

5. If a certificate is not issued as applied for, the Director shall inform the applicant in writing of the reasons therefor.

Sec. 36. NRS 555.400 is hereby amended to read as follows:

555.400 1. The Director may adopt regulations to carry out the provisions of NRS 555.2605 to 555.460, inclusive ~~[, and sections 2 to 14, inclusive, of this act]~~ **, and sections 2 to 14, inclusive, of this act.** The regulations must not be inconsistent with any regulations issued by this State or by the Federal Government relating to safety in air navigation or the operation of aircraft.

2. Before adopting regulations directly relating to any matter within the jurisdiction of any other officer of this State, the Director shall consult with that officer concerning those regulations.

Sec. 37. NRS 555.420 is hereby amended to read as follows:

555.420 To carry out the provisions of NRS 555.2605 to 555.460, inclusive, **and sections 2 to 14, inclusive, of this act,** the Director and the Director's appointed inspectors may enter upon any public or private premises at reasonable times to inspect, audit, sample or monitor any aircraft, ground equipment, records, storage, pesticides, pesticide sprays, disposal

operations or other operations which are subject to NRS 555.2605 to 555.460, inclusive, **and sections 2 to 14, inclusive, of this act** or regulations adopted pursuant thereto.

Sec. 38. NRS 555.460 is hereby amended to read as follows:

555.460 Any person violating the provisions of NRS 555.2605 to 555.420, inclusive, **and sections 2 to 14, inclusive, of this act** or the regulations adopted pursuant thereto, is guilty of a misdemeanor and, in addition to any criminal penalty, shall pay to the Department an administrative fine of not more than \$5,000 per violation. If an administrative fine is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Department.

Sec. 39. NRS 555.470 is hereby amended to read as follows:

555.470 1. The Director shall adopt regulations specifying a schedule of fines which may be imposed, upon notice and a hearing, for each violation of the provisions of NRS 555.2605 to 555.460, inclusive ~~1-1~~, **and sections 2 to 14, inclusive, of this act**. The maximum fine that may be imposed by the Director for each violation must not exceed \$5,000 per day. All fines collected by the Director pursuant to this subsection must be remitted to the county treasurer of the county in which the violation occurred for credit to the county school district fund.

2. The Director may:

(a) In addition to imposing a fine pursuant to subsection 1, issue an order requiring a violator to take appropriate action to correct the violation; or

(b) Request the district attorney of the appropriate county to investigate or file a criminal complaint against any person that the State Board of Agriculture suspects may have violated any provision of NRS 555.2605 to 555.460, inclusive ~~1-1~~, **and sections 2 to 14, inclusive, of this act**.

Sec. 40. NRS 561.375 is hereby amended to read as follows:

561.375 1. The Program for the Control of Pests and Plant Diseases is hereby established.

2. Money accepted by the Department under the provisions of NRS 555.010 to 555.460, inclusive, **and sections 2 to 14, inclusive, of this act** from the Federal Government or any federal department or agency, a county, a city, a public district or any political subdivision of this State, a public or private corporation, or a natural person, may be used in the Program for the Control of Pests and Plant Diseases.

3. Expenditures for the Program for the Control of Pests and Plant Diseases may be made only to carry out the provisions of this chapter and chapters 552, 554, 555 and 587 of NRS.

Sec. 41. 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) Except as otherwise provided in NRS 586.270 and 586.940, fees collected pursuant to the provisions of chapter 586 of NRS.

(b) Fees collected pursuant to the provisions of chapter 588 of NRS.

(c) Fees collected pursuant to the provisions of NRS 590.340 to 590.450, inclusive.

(d) 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 sections 2 to 14, inclusive, of this act** and, except as otherwise provided in NRS 586.270 and 586.940, chapter 586 of NRS.

(e) 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) 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) 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, **and sections 2 to 14, inclusive, of this act** or chapters 586, 588 and 590 of NRS or for any other purpose authorized by the Legislature.

Sec. 42. Section 11 of this act is hereby amended to read as follows:

Sec. 11. 1. An application for a governmental agency certificate or license as a government applicator must be made to the Director and contain such information regarding the applicant's qualifications and proposed operations and other relevant matters as required by regulation of the Director.

2. ~~An application for a license as a government applicator must include the social security number of the applicant.~~

~~3.1~~ A city, county, state or other governmental agency is not required to obtain more than one governmental agency certificate to engage in pest control within its jurisdiction.

Sec. 43. 1. Notwithstanding the amendatory provisions of this act, a person who, on July 1, 2017, is the holder of a license to:

(a) Engage in pest control;

(b) Serve as an agent, operator, pilot, primary principal or principal for the purpose of engaging in pest control issued pursuant to NRS 555.280; or

(c) Engage in or perform pest control activities concerning wood-destroying pests or organisms issued pursuant to NRS 555.285,

➡ and who is otherwise qualified to hold the existing license on that date shall be deemed during the period for which the existing license was issued

to be licensed as an applicator pursuant to NRS 555.280 or 555.285, as amended by sections 23 and 24 of this act, respectively, as applicable.

2. Notwithstanding the amendatory provisions of this act, a certificate to make application of or to supervise the application of restricted-use pesticides which is issued pursuant to NRS 555.357 before July 1, 2017, remains valid for the period for which it is issued, if the holder of the certificate is otherwise qualified to hold the certificate on that date.

Sec. 44. 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. 45. 1. This section and sections 2 to 41, inclusive, and 43 and 44 of this act become effective on July 1, 2017.

2. Section 42 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with the subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
 ➔ are repealed by the Congress of the United States.

Assemblywoman Swank moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 41.

Bill read second time.

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

Amendment No. 487.

AN ACT relating to State Government; revising qualifications for certain members of the State Public Works Board; revising qualifications for administrators of ~~various~~ **certain** divisions of State Government; providing that the State Library, Archives and Public Records Administrator is in the unclassified service of the State; authorizing the Chief Medical Officer to maintain a clinical practice ~~if~~ **under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain members appointed to the State Public Works Board must be licensed in this State as a general building contractor or general engineering contractor. **Section 1** of this bill provides that such members may also be appointed if they were licensed in the past.

~~[Existing law provides that the Administrator of the State Public Works Division of the Department of Administration must have a master's degree or doctoral degree in certain subjects. Section 2 of this bill removes this~~

~~requirement and provides that the Administrator must instead be a licensed professional engineer or a registered architect.]~~

Existing law requires the Administrator of the Division of Internal Audits of the Office of Finance to be a certified public accountant licensed in this State or a public accountant qualified under existing law. The Administrator must also have at least 5 years of certain professional experience. (NRS 353A.041) **Section 3** of this bill provides that in order to qualify for the position, the Administrator may instead be a certified internal auditor or government auditing professional or have a master's degree in business administration, accounting, finance or a closely related field. **Section 3** also requires the Administrator to have at least 6 years of certain professional experience.

Section 4 of this bill provides that the State Library, Archives and Public Records Administrator is in the unclassified service rather than the classified service of the State.

Existing law ~~[establishes the qualifications for]~~ **requires** the ~~[Administrators]~~ **Administrator** of the Division of Health Care Financing and Policy ~~[, the Division of Welfare and Supportive Services, the Aging and Disability Services Division, the Division of Child and Family Services and the Division of Public and Behavioral Health]~~ of the Department of Health and Human Services ~~[,]~~ **to have a degree in public administration, business administration or a similar field of study.** (NRS 422.2354) ~~[, 422A.155, 427A.060, 432.012, 433.244) Sections]~~ **Section 5** ~~[, 9]~~ of this bill ~~[revise these provisions so that the Administrators of all of these Divisions have the same qualifications.]~~ **instead, requires the Director of the Department to give preference to a person who has a degree in these fields.**

Existing law prohibits the Chief Medical Officer from engaging in any other business or occupation. (NRS 439.110) **Section 10** of this bill removes this restriction and authorizes the Chief Medical Officer **, with the approval of the Director,** to maintain a clinical practice.

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

Section 1. NRS 341.020 is hereby amended to read as follows:

341.020 1. The State Public Works Board is hereby created.

2. The Board consists of the Director of the Department and six members appointed as follows:

(a) The Governor shall appoint:

(1) One member who has education or experience, or both, regarding the principles of engineering or architecture;

(2) One member who is licensed to practice law in this State and who has experience in the practice of construction law; and

(3) Two members who are **or have been** licensed in this State as a general building contractor or general engineering contractor pursuant to chapter 624 of NRS.

(b) The Majority Leader of the Senate shall appoint one member who is **or has been** licensed in this State as a general building contractor or general engineering contractor pursuant to chapter 624 of NRS.

(c) The Speaker of the Assembly shall appoint one member who is **or has been** licensed in this State as a general building contractor or general engineering contractor pursuant to chapter 624 of NRS.

3. Each member of the Board who is appointed serves at the pleasure of the appointing authority.

4. A vacancy on the Board in an appointed position must be filled by the appointing authority in the same manner as the original appointment.

Sec. 2. [NRS 341.100 is hereby amended to read as follows:]

~~341.100 1. The Administrator and the Deputy Administrator of the Public Works Compliance and Code Enforcement Section serve at the pleasure of the Director of the Department.~~

~~2. The Administrator shall appoint:~~

~~(a) A Deputy Administrator of the Public Works Professional Services Section; and~~

~~(b) A Deputy Administrator of the Buildings and Grounds Section.~~

~~* Each deputy administrator appointed pursuant to this subsection serves at the pleasure of the Administrator.~~

~~3. The Administrator shall recommend and the Director shall appoint a Deputy Administrator of the Public Works Compliance and Code Enforcement Section. The Deputy Administrator appointed pursuant to this subsection has the final authority in the interpretation and enforcement of any applicable building codes.~~

~~4. The Administrator may appoint such other technical and clerical assistants as may be necessary to carry into effect the provisions of this chapter.~~

~~5. The Administrator and each deputy administrator are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, the Administrator and each deputy administrator shall devote his or her entire time and attention to the business of the office and shall not pursue any other business or occupation or hold any other office of profit.~~

~~6. The Administrator [must have a master's degree or doctoral degree in civil or environmental engineering, architecture, public administration or a related field and must have experience in management, public administration or public policy. If the Administrator is not a licensed professional engineer pursuant to the provisions of chapter 625 of NRS or an architect registered pursuant to the provisions of chapter 623 of NRS,] and the Deputy Administrator of the Public Works Professional Services Section must each be a licensed professional engineer pursuant to the provisions of chapter 625~~

~~of NRS or an architect registered pursuant to the provisions of chapter 623 of NRS.~~

~~7. The Deputy Administrator of the Public Works Compliance and Code Enforcement Section must have a comprehensive knowledge of building codes and a working knowledge of the principles of engineering or architecture as determined by the Administrator.~~

~~8. The Administrator shall:~~

~~(a) Serve as the Secretary of the Board;~~

~~(b) Manage the daily affairs of the Division;~~

~~(c) Represent the Board and the Division before the Legislature;~~

~~(d) Prepare and submit to the Board, for its approval, the recommended priority for proposed capital improvement projects and provide the Board with an estimate of the cost of each project;~~

~~(e) Select architects, engineers and contractors;~~

~~(f) Accept completed projects;~~

~~(g) Submit in writing to the Director of the Department, the Governor and the Interim Finance Committee a monthly report regarding all public works projects which are a part of the approved capital improvement program. For each such project, the monthly report must include, without limitation, a detailed description of the progress of the project which highlights any specific events, circumstances or factors that may result in:~~

~~—— (1) Changes in the scope of the design or construction of the project or any substantial component of the project which increase or decrease the total square footage or cost of the project by 10 percent or more;~~

~~—— (2) Increased or unexpected costs in the design or construction of the project or any substantial component of the project which materially affect the project;~~

~~—— (3) Delays in the completion of the design or construction of the project or any substantial component of the project; or~~

~~—— (4) Any other problems which may adversely affect the design or construction of the project or any substantial component of the project.~~

~~(h) Have final authority to approve the architecture of all buildings, plans, designs, types of construction, major repairs and designs of landscaping.~~

~~9. The Deputy Administrator of the Public Works Compliance and Code Enforcement Section shall:~~

~~(a) Serve as the building official for all buildings and structures on property of the State or held in trust for any division of the State Government; and~~

~~(b) Consult with an agency or official that is considering adoption of a regulation described in NRS 446.942, 449.345, 455C.115, 461.173, 472.105 or 477.0325 and provide recommendations regarding how the regulation, as it applies to buildings and structures on property of this State or held in trust for any division of the State Government, may be made consistent with other regulations which apply to such buildings or structures.} **(Deleted by amendment.)**~~

Sec. 3. NRS 353A.041 is hereby amended to read as follows:

353A.041 1. The Administrator must:

(a) Be a certified public accountant licensed by this state or a public accountant qualified pursuant to chapter 628 of NRS to practice public accounting in this state; ~~and~~

(b) *Be a certified internal auditor or government auditing professional;*
or

(c) *Have a master's degree in business administration, accounting, finance or a closely related field.*

2. *The Administrator must have* at least ~~5~~ 6 years of progressively responsible experience in professional auditing and performing internal audits or postaudits. The experience must include, without limitation, the performance of audits of governmental entities or of private business organizations, whether or not organized for profit.

~~{2.}~~ 3. The Administrator may employ, within the limits of legislative appropriations, such staff as is necessary to the performance of his or her duties.

Sec. 4. NRS 378.010 is hereby amended to read as follows:

378.010 The State Library, Archives and Public Records Administrator:

1. Is appointed by, responsible to, and serves at the pleasure of the Director.

2. Must be appointed on the basis of merit.

3. Is in the ~~{classified}~~ *unclassified* service ~~[, except for the purposes of removal.]~~ *of the State.*

Sec. 5. NRS 422.2354 is hereby amended to read as follows:

422.2354 The Administrator must:

1. Be ~~appointed~~ *selected* on the basis of his or her ~~{education,}~~ training, education, experience and ~~[, demonstrated abilities and]~~ interest in the financing of programs for public health , including, without limitation, the financing of Medicaid.

~~{2. Be a graduate in public administration, business administration or a similar area of study from an accredited college or university.~~

~~— 3. and human services.}~~ *In appointing the Administrator, the Director shall, to the extent practicable, give preference to a person who has a degree in a field of public administration, business administration or a related field.*

2. Have not less than 3 years of demonstrated successful experience in the financing of health care or other ~~{administration of a}~~ public ~~agency,~~ ~~with responsibility for the general direction of~~ programs ~~[, of the public agency]~~ and not less than 1 year of experience relating to Medicaid, ~~{determination of policies for the implementation of programs of the public agency,}~~ or any equivalent combination of training and experience.

~~{4.}~~ 3. Possess qualities of leadership ~~{,}~~ in the fields of health care and the financing of health care.

Sec. 6. ~~{NRS 422A.155 is hereby amended to read as follows:~~

~~422A.155 {1.} The Administrator must~~

~~{(a)} 1. Be selected on the basis of his or her education, training, experience [, capacity and interest in public welfare], demonstrated abilities and interest in health and human services.~~

~~{(b)} 2. Have not less than 3 years of demonstrated successful experience in the administration of a public agency, with responsibility for the general direction of programs of the public agency and determination of policies for the implementation of programs of the public agency, or any equivalent combination of training and experience.~~

~~{(c)} 3. Possess qualities of leadership.~~

~~{2. In appointing the Administrator, the Director shall, to the extent practicable, give preference to a person who has a degree in a field of social science, public administration, business administration or a related field.}}~~

(Deleted by amendment.)

Sec. 7. ~~{NRS 427A.060 is hereby amended to read as follows:~~

~~427A.060 The Administrator {shall be appointed} must:~~

~~1. Be selected on the basis of his or her education, training, experience, [and] demonstrated abilities and [of his or her] interest in [the problems of the aged and aging and persons with disabilities.] health and human services.~~

~~2. Have not less than 3 years of demonstrated successful experience in the administration of a public agency, with responsibility for the general direction of programs of the public agency and determination of policies for the implementation of programs of the public agency, or any equivalent combination of training and experience.~~

~~3. Possess qualities of leadership.} (Deleted by amendment.)~~

Sec. 8. ~~{NRS 432.012 is hereby amended to read as follows:~~

~~432.012 The Administrator must [be appointed]:~~

~~1. Be selected on the basis of his or her education, training, experience, demonstrated abilities and interest in [the provision of services to children and families and related programs.] health and human services.~~

~~2. Have not less than 3 years of demonstrated successful experience in the administration of a public agency, with responsibility for the general direction of programs of the public agency and determination of policies for the implementation of programs of the public agency, or any equivalent combination of training and experience.~~

~~3. Possess qualities of leadership.} (Deleted by amendment.)~~

Sec. 9. ~~{NRS 433.244 is hereby amended to read as follows:~~

~~433.244 1. The Administrator must [be]:~~

~~1. Be selected on the basis of his or her education, training, experience, [leadership qualities,] demonstrated abilities and interest in [the field of behavioral health or public] health [.] and human services.~~

~~2. [The Administrator is in the unclassified service of the State.] Have not less than 3 years of demonstrated successful experience in the~~

~~administration of a public agency, with responsibility for the general direction of programs of the public agency and determination of policies for the implementation of programs of the public agency, or any equivalent combination of training and experience.~~

~~3. Possess qualities of leadership.~~ (Deleted by amendment.)

Sec. 10. NRS 439.110 is hereby amended to read as follows:

439.110 1. Except as otherwise provided in ~~subsection 2~~ **this section** and NRS 284.143, the Chief Medical Officer shall devote his or her full time to the official duties of the Chief Medical Officer ~~and shall not engage in any other business or occupation.~~

2. Notwithstanding the provisions of NRS 281.127, the Chief Medical Officer may cooperate with the Nevada System of Higher Education in the preparation and teaching of preservice professional workers in public health and in a program providing additional professional preparation for behavioral health workers and public health workers employed by the State of Nevada.

3. ~~The~~ **With the approval of the Director, the Chief Medical Officer may maintain a clinical practice that is not established through the University of Nevada in order to retain expertise and remain current in his or her specialized field.**

Sec. 11. This act becomes effective on July 1, 2017.

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 49.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 479.

AN ACT relating to education; revising the requirements for a charter school to be eligible to be rated using the alternative performance framework; prohibiting certain actions relating to written charters and charter contracts; creating a process for filing complaints regarding charter schools ~~which are sponsored by the State Public Charter School Authority;~~ **requiring a charter school to give notice to the parent or legal guardian of each pupil and take certain actions after the occurrence of certain events;** establishing a process for a charter school to have an expedited review to become a qualified provider of an alternative route to licensure; prohibiting a member of the State Public Charter School Authority from engaging in certain acts; revising provisions relating to the appointment ~~and powers~~ of the Executive Director of the Authority; ~~exempting the Authority from the requirements of the Nevada Administrative Procedure Act in certain circumstances;~~ revising various other provisions relating to charter schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the sponsor of a charter school to amend a written charter or charter contract upon the request of the governing body of a charter school. (NRS 388A.276) Existing law also requires the State Board of Education to adopt regulations which prescribe an alternative performance framework to evaluate certain schools which serve certain populations and prescribes eligibility requirements for a school to be rated using the alternative performance framework. (NRS 385A.730, 385A.740) **Sections 1 and 2** of this bill establish additional eligibility requirements for a charter school to be rated using the alternative performance framework. **Section 11** of this bill provides for the amendment of a written charter or charter contract or the execution of a charter contract of a charter school to comply with the requirements of **sections 1 and 2**. **Section 25** of this bill allows the formation of a charter school dedicated to providing educational services exclusively to pupils described in **section 1**.

Existing law provides for the formation and operation of charter schools in this State. (Chapter 388A of NRS) Existing law authorizes the State Public Charter School Authority or, with the approval of the Department of Education, the board of trustees of a school district or a college or university within the Nevada System of Higher Education to sponsor a charter school. (NRS 388A.220) For any charter school approved before June 11, 2013, existing law requires the sponsor of the charter school to grant a written charter to the governing body of the charter school. For any charter school approved on or after that date, existing law requires the sponsor to enter into a charter contract with the governing body of the charter school. (NRS 388A.270) **Section 4** of this bill: (1) provides that a written charter or charter contract is not assignable or transferable and ~~that the duties, responsibilities or obligations imposed by a written charter or charter contract~~ may not be delegated to a third party; and (2) prohibits the use of a written charter or charter contract as security for a loan. **Section 5** of this bill ~~makes certain financial information of an educational management organization or other person who provides educational or management services to~~ **requires** a charter school **to designate any information submitted to the sponsor of the charter school that is intended to remain confidential in certain circumstances.** **and requires the sponsor to determine whether such information should be declared confidential.** ~~Sections 4-10~~ **5.5-10** of this bill provide for the filing, investigation and resolution of complaints regarding charter schools. ~~It~~ **sponsored by the State Public Charter School Authority. Section 11.5 of this bill requires a charter school to give notice to the parent or legal guardian of each pupil and take certain actions upon the occurrence of certain events.** **Section 13** of this bill requires the Department of Education to satisfy certain requirements before submitting an application for a grant which may result in the distribution of money to a charter school or a sponsor of a charter school.

Existing law requires the Commission on Professional Standards in Education to adopt regulations providing for an alternative route to licensure for teachers and other educational personnel and establishing the requirements for approval as a qualified provider of such an alternate route. (NRS 391.019) **Section 12** of this bill authorizes a charter school or charter management organization that meets certain requirements to request its sponsor or proposed sponsor to submit a request for an expedited review from the Commission of the application of the charter school or charter management organization to become a qualified provider. **Section 12** also authorizes the sponsor or proposed sponsor of the charter school to include a request for a waiver by the Commission of any requirement not prescribed by existing law for the charter school or charter management organization.

Existing law creates the State Public Charter School Authority, requires the Authority to appoint an Executive Director and authorizes the Authority to sponsor charter schools. (NRS 388A.150, 388A.190, 388A.220) **Section 15** of this bill , with the exception of allowing not more than two members of the Authority to be teachers or administrators employed by certain charter schools or charter management organizations, prohibits a member of the Authority from actively engaging in business with or holding a direct pecuniary interest relating to charter schools. **Section 16** of this bill revises the process for appointing and the qualifications required of the Executive Director of the Authority. ~~[Section 17 of this bill authorizes the Executive Director, rather than the Authority, to employ such persons as he or she deems necessary. Section 17 also authorizes the Authority to delegate to the Executive Director or his or her staff the authority to carry out any responsibility assigned to it as a sponsor of a charter school or as a local educational agency.]~~

Existing law authorizes the proposed sponsor of a charter school to review an application to form a charter school and approve the application if it satisfies certain requirements. (NRS 388A.249) **Section 21** of this bill provides that the identity of each member of a team of reviewers assembled by the proposed sponsor of a charter school to review an application to form a charter school is confidential for a certain period of time after review of the application. ~~[Section 22 of this bill prohibits the appeal of a final determination of the Authority to deny an application to form a charter school if the Authority has approved an application to form a charter school or increased the total number of pupils enrolled in charter schools sponsored by the Authority in 3 of the immediately preceding 5 years.]~~ **Sections 14, 19, 20, 23, 24 and 26** of this bill make various other changes relating to charter schools.

~~[Existing law generally requires an agency that adopts a provision of general applicability which effectuates or interprets law or policy or describes the organization, procedure or practice requirements of the agency or holds a proceeding in which the legal rights, duties or privileges of a party are required by law to be determined by the agency to satisfy the~~

~~requirements of the Nevada Administrative Procedure Act. (Chapter 233B of NRS) Section 27 of this bill provides that certain actions of the sponsor of a charter school for the purpose of carrying out its duties or powers as a sponsor of a charter school are not regulations subject to the provisions of the Nevada Administrative Procedure Act. Section 28 of this bill exempts the Authority from the requirements of the Nevada Administrative Procedure Act for any contested case of the Authority.]~~

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

Section 1. NRS 385A.740 is hereby amended to read as follows:

385A.740 1. A public school, including, without limitation, a charter school, that wishes to be rated using the alternative performance framework prescribed by the State Board pursuant to NRS 385A.730 must request the board of trustees of the school district or sponsor of the charter school, as applicable, to apply to the State Board on behalf of the school for approval to be rated using the alternative performance framework.

2. The board of trustees of a school district or the sponsor of a charter school, as applicable, may apply to the State Board on behalf of a school for the school to be rated using the alternative performance framework by submitting a form prescribed by the Department.

3. A **public** school **other than a charter school** is eligible to be rated using the alternative performance framework if:

(a) The school specifies that the mission of the school is to serve pupils who:

(1) Have been expelled or suspended from a public school, including, without limitation, a charter school;

(2) Have been deemed to be a habitual disciplinary problem pursuant to NRS 392.4655;

(3) Are academically disadvantaged;

(4) Have been adjudicated delinquent;

(5) Have been adjudicated to be in need of supervision for a reason set forth in NRS 62B.320; or

(6) Have an individualized education program; and

(b) At least 75 percent of the pupils enrolled at the school fall within one or more of the categories listed in paragraph (a).

4. **A charter school is eligible to be rated using the alternative performance framework if the charter school specifies:**

(a) Specifies in its written charter or charter contract that:

~~[(a)]~~ **(1) The mission of the charter school is to serve only pupils who are described in subparagraphs (1) to (6), inclusive, of paragraph (a) of subsection 3; and**

~~[(b)]~~ **(2) The admissions policy of the charter school only allows the pupils identified in its mission statement to enroll in the charter school.**
and

(b) Completes any requirements to transition to the alternative performance framework required by the proposed sponsor of the charter school pursuant to section 11 of this act.

5. In addition to the requirements of subsection 4, if the charter school, at the time of its application to be rated using the alternative performance framework, has one or more enrolled pupils who are not identified in its mission statement, the charter school must have a plan approved by its sponsor for at least 75 percent of pupils enrolled in the charter school to be pupils identified in its mission statement by a certain date.

6. As used in this section, “academically disadvantaged” includes, without limitation, being retained in the same grade level two or more times or having a deficiency in the credits required to graduate on time.

Sec. 2. NRS 385A.740 is hereby amended to read as follows:

385A.740 1. A public school, including, without limitation, a charter school, that wishes to be rated using the alternative performance framework prescribed by the State Board pursuant to NRS 385A.730 must request the board of trustees of the school district or sponsor of the charter school, as applicable, to apply to the State Board on behalf of the school for approval to be rated using the alternative performance framework.

2. The board of trustees of a school district or the sponsor of a charter school, as applicable, may apply to the State Board on behalf of a school for the school to be rated using the alternative performance framework by submitting a form prescribed by the Department.

3. A public school other than a charter school is eligible to be rated using the alternative performance framework if:

(a) The school specifies that the mission of the school is to serve pupils who:

(1) Have been expelled or suspended from a public school, including, without limitation, a charter school;

(2) Have been deemed to be a habitual disciplinary problem pursuant to NRS 392.4655;

(3) Are academically disadvantaged;

(4) Have been adjudicated delinquent;

(5) Have been adjudicated to be in need of supervision for a reason set forth in NRS 62B.320; or

(6) Have an individualized education program; and

(b) At least 75 percent of the pupils enrolled at the school fall within one or more of the categories listed in paragraph (a).

4. A charter school is eligible to be rated using the alternative performance framework if the charter school:

(a) Specifies in its ~~written charter or~~ charter contract that:

(1) The mission of the charter school is to serve only pupils who are described in subparagraphs (1) to (6), inclusive, of paragraph (a) of subsection 3; and

(2) The admissions policy of the charter school only allows the pupils identified in its mission statement to enroll in the charter school; and

(b) Completes any requirements to transition to the alternative performance framework required by the proposed sponsor of the charter school pursuant to section 11 of this act.

5. In addition to the requirements of subsection 4, if the charter school, at the time of its application to be rated using the alternative performance framework, has one or more enrolled pupils who are not identified in its mission statement, the charter school must have a plan approved by its sponsor for at least 75 percent of pupils enrolled in the charter school to be pupils identified in its mission statement by a certain date.

6. As used in this section, “academically disadvantaged” includes, without limitation, being retained in the same grade level two or more times or having a deficiency in the credits required to graduate on time.

Sec. 3. Chapter 388A of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 13, inclusive, of this act.

Sec. 4. 1. *A written charter issued by the sponsor of a charter school to the governing body of the charter school is not assignable or transferable and ~~neither the sponsor of the charter school nor the governing body of the charter school may delegate any duty, responsibility or obligation under the written charter~~ may not be delegated to a third party.*

2. A charter contract entered into between the governing body of a charter school and the sponsor of the charter school is not assignable or transferable and ~~neither party to the contract may delegate any duty, responsibility or obligation under the charter contract~~ may not be delegated to a third party.

3. A written charter or charter contract may not be used as security for any loan and shall be deemed to have no monetary value.

4. For the purpose of this section, an amendment to a written charter or charter contract which consolidates two or more charter schools, the restart of a charter school pursuant to NRS 388A.300 and the reconstitution of the governing body of a charter school pursuant to NRS 388A.330 do not constitute the assignment, ~~for~~ transfer or delegation of a written charter or charter contract, ~~for the delegation of any duty, responsibility or obligation under a written charter or charter contract to a third party.~~

Sec. 5. 1. *Except as otherwise provided in subsection 2, any information relating to an educational management organization or other person who provides educational or management services to a charter school ~~or charter management organization that is contained in an application to form a charter school or a request to amend a written charter or charter contract of a charter school~~ provided to the sponsor of the charter school or a charter school operated by the charter management*

organization is not confidential and may be disclosed to any member of the general public upon request.

2. A charter school must designate any information contained in a submission by the charter school to the sponsor of the charter school that is intended to remain confidential and request for the sponsor to declare such information confidential. Upon receipt of such a request, the sponsor of the charter school shall determine whether the designated information should be declared confidential. If the sponsor of the charter school determines the information should not be declared confidential, the sponsor must give the charter school an opportunity to redact such information. Except as otherwise provided in NRS 239.0115, if ~~an educational management organization or other person who provides educational or management services to a charter school is not a publicly traded company or exempt from taxation pursuant to 26 U.S.C. § 501(c)(3), an audited financial statement and any other internal financial information of the educational management organization or other person contained in an application to form a charter school or a request to amend a written charter or charter contract of a charter school are~~ the sponsor of the charter school determines that the information should be declared confidential, the information is confidential and must not be disclosed.

Sec. 5.5. The provisions of sections 5.5 to 10, inclusive, of this act apply only to a charter school which is sponsored by the State Public Charter School Authority.

Sec. 6. 1. ~~{A person}~~ Except as otherwise provided by federal law, a parent or legal guardian of a pupil enrolled in a charter school, a pupil who is at least 18 years of age enrolled in a charter school, a member of the governing body of a charter school or an employee of a charter school may file a written complaint with the ~~{governing body of a charter school}~~ State Public Charter School Authority which alleges a violation of the provisions of this chapter, the written charter or charter contract of the charter school or any other provision of law or regulation relating to the management or operation of the charter school.

2. Upon receipt of a complaint filed pursuant to subsection 1, the ~~{governing body of the charter school}~~ State Public Charter School Authority shall investigate the allegations contained within the complaint, conduct a review to determine whether the charter school has complied with the provisions of this chapter, the written charter or charter contract and respond in writing to the complaining party within 30 days after receipt of the complaint. The staff of the charter school and any other person named in the complaint shall cooperate with the ~~{governing body of the charter school}~~ State Public Charter School Authority during such an investigation.

~~{3. If the complaining party does not believe the governing body of the charter school has adequately addressed a complaint filed pursuant to subsection 1, the complaining party may submit the complaint in writing to~~

~~the sponsor of the charter school. Upon receipt of such a complaint, the sponsor of the charter school shall investigate and respond to the complaint in writing within 30 days after receipt of the complaint.~~

Sec. 7. 1. A ~~person~~ parent or legal guardian of a pupil enrolled in a charter school, a pupil who is at least 18 years of age enrolled in a charter school, a member of the governing body of a charter school or an employee of a charter school who ~~believes~~ has evidence that a charter school has violated any state or federal law or regulation relating to special education or pupils who are limited English proficient may file a complaint directly with the Department and notify the ~~sponsor of the charter school~~ State Public Charter School Authority in writing. The Department shall investigate the complaint and notify the ~~sponsor of the charter school~~ State Public Charter School Authority of its findings.

2. A person who ~~believes~~ has evidence that a charter school or an employee or vendor of a charter school has committed a crime ~~may~~ shall file a complaint directly with a law enforcement agency and notify the ~~sponsor of the charter school~~ State Public Charter School Authority in writing. The law enforcement agency ~~shall~~ may investigate the complaint and notify the ~~sponsor of the charter school~~ State Public Charter School Authority of its findings.

3. A person who ~~believes~~ has evidence that a charter school has violated any law or regulation which is within the jurisdiction of an agency of this State other than the Department may file a complaint directly with the appropriate agency and notify the ~~sponsor of the charter school~~ State Public Charter School Authority in writing. If the agency determines that credible evidence exists to support the complaint, the agency shall investigate the complaint and notify the ~~sponsor of the charter school~~ State Public Charter School Authority of its findings.

4. The State Public Charter School Authority shall accept the findings of the Department, a law enforcement agency or an agency pursuant to subsection 1, 2 or 3, as applicable, as conclusive unless it is shown that the Department, law enforcement agency or agency acted with fraud or a gross abuse of discretion.

Sec. 8. 1. A ~~person~~ parent or legal guardian of a pupil enrolled in a charter school, a pupil who is at least 18 years of age enrolled in a charter school, a member of the governing body of a charter school or an employee of a charter school may file a complaint directly with the ~~sponsor of a charter school~~ State Public Charter School Authority if the person ~~believes~~ has evidence that the charter school has:

(a) Violated any law or regulation relating to the health and safety of pupils;

(b) Violated any law or regulation relating to the civil rights of pupils ~~++~~ , except for a law or regulation described in subsection 1 of section 7 of this act;

(c) Violated any law or regulation or policy of the sponsor of the charter school relating to the enrollment, suspension or expulsion of pupils;

(d) Committed fraud, financial mismanagement or financial malfeasance; or

(e) Committed academic dishonesty, including, without limitation, engaging in a policy or practice that has the intent or effect of inappropriately increasing the graduation rate or inappropriately increasing performance on assessments mandated by this State or the ~~{sponsor of the charter school}~~ State Public Charter School Authority.

2. If the ~~{sponsor of the charter school}~~ State Public Charter School Authority determines that credible evidence exists to support a complaint submitted pursuant to subsection 1, the ~~{sponsor of the charter school}~~ State Public Charter School Authority shall investigate the complaint and respond to the complaining party in writing.

Sec. 9. 1. If the ~~{sponsor of a charter school}~~ State Public Charter School Authority determines that external expertise is necessary to conduct an investigation of a complaint filed pursuant to sections ~~{6}~~ 5.5 to 10, inclusive, of this act, the ~~{sponsor of the charter school}~~ State Public Charter School Authority may select an investigator to conduct the investigation and make any appropriate determinations or recommendations to the ~~{sponsor of the charter school}~~ State Public Charter School Authority.

2. If the ~~{sponsor of a charter school}~~ State Public Charter School Authority determines that ~~{it}~~

~~— (a) Has money available to pay the costs of an investigator and the circumstances of the complaint do not require an expedited timeline, the sponsor of the charter school shall enter into a contract with an investigator and indemnify the investigator against any liability which may arise from the investigation.~~

~~— (b) Does not have money available to pay the costs of an investigator or the circumstances of the complaint require an expedited timeline, the sponsor of the charter school may require the charter school to enter into a contract with an investigator selected by the sponsor of the charter school and indemnify the investigator against any liability which may arise from the investigation.~~

~~— 3. If an investigator who enters into a contract with a charter school pursuant to paragraph (b) of subsection 1 determines that no violation has occurred, the sponsor of the charter school shall, to the extent possible as determined by the sponsor, reimburse the charter school for the cost of the investigator, including, without limitation, by reducing the sponsorship fees paid to the sponsor of the charter school.~~

~~— 4. If a violation has occurred, the State Public Charter School Authority may petition a court of competent jurisdiction for an order directing the charter school to reimburse the State Public Charter School Authority for the actual costs of its investigation. A charter school subject to such an~~

order must reimburse the State Public Charter School Authority within 30 days after issuance of the order. Any money received by the State Public Charter School Authority pursuant to this subsection must be used for investigations, audits and other proceedings of the State Public Charter School Authority and does not revert to the State General Fund.

3. If the ~~sponsor of a charter school~~ State Public Charter School Authority determines that ~~the governing body of the charter school~~, a current or former member of the governing body of the charter school ~~is a member of the governing body of the charter school who served on the date of a complaint~~, or a current or former employee of the charter school ~~for an employee of the charter school on the date of a complaint~~ failed to cooperate with any investigation conducted pursuant to this section, the ~~sponsor of the charter school~~ State Public Charter School Authority may begin a proceeding to revoke the written charter or terminate the charter contract of the charter school pursuant to NRS 388A.330.

~~4.~~ 4. If the ~~sponsor of a charter school~~ State Public Charter School Authority determines that the charter school or an employee of the charter school has violated any provision of this chapter or another statute or regulation applicable to charter schools or has materially breached the terms and conditions of the written charter or charter contract of the charter school, the ~~sponsor of the charter school~~ State Public Charter School Authority may:

(a) Begin a proceeding to revoke the written charter or terminate the charter contract of the charter school pursuant to NRS 388A.330; and

(b) Refer the matter to the district attorney of the county in which the charter school is located, the Attorney General or any other appropriate agency for further action.

~~5.~~ 5. If the ~~sponsor of a charter school~~ State Public Charter School Authority determines that the current operations of the charter school pose an imminent danger to the health and safety of the pupils or staff of the charter school, the ~~sponsor of the charter school may~~ State Public Charter School Authority shall order the charter school to suspend its operations at any or all of its facilities until appropriate corrective action has been taken.

Sec. 10. The governing body of a charter school shall develop a policy for accepting, investigating and responding to complaints and submit the policy to the ~~sponsor of the charter school~~ State Public Charter School Authority for review and approval. Such a policy may allow for a complaint ~~(not described in sections 6 to 10, inclusive, of this act)~~ to be delegated to the staff of the charter school or an educational management organization if the policy allows a complaining party who does not believe the staff of the charter school or educational management organization has adequately addressed a complaint to submit the complaint to the governing body of the charter school for its investigation and response.

Sec. 11. 1. *If a charter school wishes to be rated using the alternative performance framework prescribed by the State Board pursuant to NRS 385A.730, the governing body of the charter school may submit to the sponsor of the charter school a request to amend the written charter or charter contract, as applicable, of the charter school pursuant to NRS 388A.276 to include the mission statement and admissions policy required by subsection 4 of NRS 385A.740.*

2. *The sponsor of a charter school may require that ~~the~~ :*

(a) A request to amend a written charter or charter contract described in subsection 1 also include such changes to the academic program, organizational plan and financial model of the charter school as the sponsor of the charter school determines are necessary for a charter school rated using the alternative performance framework ~~the~~ ; and

(b) A charter school which submits a request to amend a written charter or charter contract described in subsection 1 perform such actions as the sponsor of the charter school determines to be necessary to successfully transition to being rated using the alternative performance framework.

3. *The sponsor of a charter school shall evaluate a request to amend a written charter or charter contract described in subsection 1 by reviewing the academic, organizational and financial performance of the charter school. If the sponsor of the charter school determines that the charter school is unlikely to achieve academic, organizational or financial success if the request to amend its written charter or charter contract is approved, the sponsor of the charter school must deny the request.*

4. *Unless invited to do so by the sponsor of the charter school, the governing body of a charter school whose request to amend its written charter or charter contract is denied pursuant to subsection 3 may not submit a materially similar request for 1 year after the denial of its request.*

5. *If a proposed sponsor of a charter school approves an application to form a charter school and the proposed sponsor of the charter school determines that the charter school has a mission statement and an admissions policy which satisfy the requirements of subsection 4 of NRS 385A.740, the proposed sponsor of the charter school shall include language in the charter contract entered into with the charter school which provides that:*

(a) ~~The~~ Except as otherwise provided in paragraph (b), the proposed sponsor of the charter school will submit an application to the State Board on behalf of the charter school for the charter school to be rated using the alternative performance framework within 2 years after the charter school commences operation; ~~and~~

(b) The proposed sponsor of the charter school will submit the application described in paragraph (a) only upon the successful completion by the charter school of such actions as the proposed sponsor of the charter school determines to be necessary to successfully transition to being rated using the alternative performance framework; and

(c) Upon approval of such an application by the State Board, the performance framework adopted by the proposed sponsor of the charter school will be replaced by the alternative performance framework.

Sec. 11.5. 1. A charter school shall provide notification to the parent or legal guardian of each pupil enrolled in the charter school, post a notice prominently on the Internet website of the charter school and revise the marketing materials of the charter school to include such a notice within 5 business days after:

(a) The Department reports that the graduation rate of the charter school for that school year was less than 67 percent;

(b) The Department reports that the charter school was rated in the lowest 5 percent of public schools in the State pursuant to the statewide system of accountability for public schools;

(c) The Department reports that the charter school received an annual rating established as one of the two lowest ratings possible indicating underperformance of a public school, as determined by the Department pursuant to the statewide system of accountability for public schools;

(d) The governing body of the charter school submits to the sponsor of the charter school a written request for an amendment of the written charter or charter contract of the charter school which would result in the:

(1) Relocation of the charter school to a location more than 1 mile from its current location;

(2) Closure of a campus of the charter school or the elimination of one or more grade levels; or

(3) Reduction of enrollment as a result of an academic, financial or organizational issue;

(e) The sponsor of the charter school issues a notice of intent to revoke the written charter or terminate the charter contract of the charter school; or

(f) The sponsor of the charter school revokes the written charter or terminates the charter contract of the charter school.

2. A notice provided to a parent or legal guardian pursuant to subsection 1 must include a list of other public schools to which a pupil may transfer if the charter school closes or adopts changes which a parent or legal guardian finds unacceptable.

3. Within 10 days after a charter school provides the notice required by subsection 1, the charter school shall hold a public hearing to discuss a plan to correct any issue which caused the issuance of such a notice and to solicit suggestions to improve the performance of the charter school.

Sec. 12. 1. A charter school that has received, within the immediately preceding 2 consecutive school years, one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools may request that its sponsor submit a request to the Commission on Professional Standards in Education for an expedited review of an application to become a qualified provider of an alternative route to

licensure pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 391.019.

2. A charter management organization which operates a charter school that has received, within the immediately preceding 2 consecutive school years, one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools, or equivalent ratings in another state, as determined by the Department, and which intends to form a new charter school in this State may request that its proposed sponsor submit a request to the Commission on Professional Standards in Education for an expedited review of an application to become a qualified provider of an alternative route to licensure pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 391.019.

3. If a sponsor or proposed sponsor receives a request pursuant to subsection 1 or 2 and determines that the charter school or charter management organization, as applicable, is eligible to become a qualified provider, the sponsor or proposed sponsor may submit a request for an expedited review of the appropriate application to the Commission on Professional Standards in Education.

4. A charter school or charter management organization may include in a request made pursuant to subsection 1 or 2 a request for the Commission on Professional Standards in Education to waive any requirement which may apply to a program for an alternative route to licensure that is not prescribed by NRS 391.019. If the sponsor or proposed sponsor, as applicable, approves the request made pursuant to this subsection, the sponsor or proposed sponsor may include the request for a waiver with the request for an expedited review submitted pursuant to subsection 3.

5. Upon receipt of the written request of a sponsor of a charter school or a proposed sponsor of a charter management organization for an expedited review submitted pursuant to subsection 3 and an application to become a qualified provider, the Commission on Professional Standards in Education shall review the application to become a qualified provider and approve or deny the application within 45 days after receipt of the application and the written request. If the request for an expedited review includes a request for a waiver pursuant to subsection 4, the Commission on Professional Standards in Education shall waive any requirement which may apply to a program for an alternative route to licensure that is not prescribed by NRS 391.019.

Sec. 13. Before submitting an application for any grant which may result in the distribution of money to a charter school or the sponsor of a charter school, the Department shall:

1. Consider the definitions and measures of school performance specified in the grant and make any necessary adjustments to the information submitted by the Department to conform to the definitions and measures of school performance specified in the grant;

2. Separately determine the academic performance for each campus of the charter school and the charter school as a whole; and

3. If the State Board has approved an application by a charter school to be rated using the alternative performance framework prescribed by the State Board pursuant to NRS 385A.730, apply the alternative performance framework to evaluate the performance of the charter school.

Sec. 14. NRS 388A.150 is hereby amended to read as follows:

388A.150 1. The State Public Charter School Authority is hereby created. The purpose of the State Public Charter School Authority is to:

~~{1-}~~ (a) Authorize charter schools of high-quality throughout this State with the goal of expanding the opportunities for pupils in this State, including, without limitation, pupils who are at risk.

~~{2-}~~ (b) Provide oversight to the charter schools that it sponsors to ensure that those charter schools maintain high educational and operational standards, preserve autonomy and safeguard the interests of pupils and the community.

~~{3-}~~ (c) Serve as a model of the best practices in sponsoring charter schools ~~and foster a climate in this State in which all~~ high-quality charter schools, regardless of sponsor, can flourish.

2. The provisions of this section shall not be construed to create a duty for the State Public Charter School Authority to provide any assistance, support or services to a charter school ~~(not sponsored by the Authority which is not otherwise required by law.)~~ other than to carry out its purpose as described in subsection 1.

Sec. 15. NRS 388A.153 is hereby amended to read as follows:

388A.153 1. The State Public Charter School Authority consists of seven members. The membership of the State Public Charter School Authority consists of:

(a) Two members appointed by the Governor in accordance with subsection 2;

(b) Two members, who must not be Legislators, appointed by the Majority Leader of the Senate in accordance with subsection 2;

(c) Two members, who must not be Legislators, appointed by the Speaker of the Assembly in accordance with subsection 2; and

(d) One member appointed by the Charter School Association of Nevada or its successor organization.

2. The Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall ensure that the membership of the State Public Charter School Authority:

(a) Includes persons with a demonstrated understanding of charter schools and a commitment to using charter schools as a way to strengthen public education in this State;

(b) Includes a parent or legal guardian of a pupil enrolled in a charter school in this State;

(c) Includes persons with specific knowledge of:

- (1) Issues relating to elementary and secondary education;
 - (2) School finance or accounting, or both;
 - (3) Management practices;
 - (4) Assessments required in elementary and secondary education;
 - (5) Educational technology;
 - (6) The laws and regulations applicable to charter schools;
 - (d) Insofar as practicable, reflects the ethnic and geographical diversity of this State; and
 - (e) Insofar as practicable, consists of persons who are experts on best practices for authorizing charter schools and developing and operating high-quality charter schools and charter management organizations.
3. Each member of the State Public Charter School Authority must be a resident of this State.

4. ~~4.~~ ***Except as otherwise provided in subsection 5, a member of the State Public Charter School Authority must not be actively engaged in business with or hold a direct pecuniary interest relating to charter schools, including, without limitation, serving as a vendor, contractor, employee, officer, director or member of the governing body of a charter school, educational management organization or charter management organization.***

5. ***Not more than two members of the State Public Charter School Authority may be teachers or administrators who are employed by a charter school or charter management organization in this State. For a teacher or administrator employed by a charter school or charter management organization to be eligible to serve as a member of the State Public Charter School Authority, the charter school or charter management organization which employs the teacher or administrator must not have ever received an annual rating established as one of the three lowest ratings of performance pursuant to the statewide system of accountability for public schools.***

6. After the initial terms, the term of each member of the State Public Charter School Authority is 3 years, commencing on July 1 of the year in which he or she is appointed. A vacancy in the membership of the State Public Charter School Authority must be filled for the remainder of the unexpired term in the same manner as the original appointment. A member shall continue to serve on the State Public Charter School Authority until his or her successor is appointed.

~~5.-6.~~ 7. The members of the State Public Charter School Authority shall select a Chair and Vice Chair from among its members. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

~~6.-7.~~ 8. Each member of the State Public Charter School Authority is entitled to receive:

(a) For each day or portion of a day during which he or she attends a meeting of the State Public Charter School Authority a salary of not more than \$80, as fixed by the State Public Charter School Authority; and

(b) For each day or portion of a day during which he or she attends a meeting of the State Public Charter School Authority or is otherwise engaged in the business of the State Public Charter School Authority the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 16. NRS 388A.190 is hereby amended to read as follows:

388A.190 1. The ~~[State Public Charter School Authority shall appoint an]~~ Executive Director of the State Public Charter School Authority ~~[for a term of 3 years. The State Public Charter School Authority shall ensure that the Executive Director has a demonstrated understanding of charter schools and a commitment to using charter schools as a way to strengthen public education in this State.~~

~~—2. A vacancy in the position of Executive Director must be filled by the State Public Charter School Authority for the remainder of the unexpired term.~~

~~—3. The Executive Director is] :~~

(a) Must be appointed by the Governor from a list of three candidates submitted by the State Public Charter School Authority and serves at the pleasure of the Governor.

(b) Is in the unclassified service of the State.

2. To be eligible for appointment to the office of Executive Director of the State Public Charter School Authority, a person must:

(a) Be at least 21 years of age at the time of appointment; and

(b) Possess a demonstrated understanding of charter schools and a commitment to using charter schools to strengthen public education in this State.

Sec. 17. ~~[NRS 388A.199 is hereby amended to read as follows:~~

~~388A.199 1. The [State Public Charter School Authority] Executive Director may employ such persons as [it] he or she deems necessary to carry out the provisions of this chapter. The staff employed by the [State Public Charter School Authority] Executive Director must be qualified to carry out the daily responsibilities of sponsoring charter schools, including, without limitation, oversight of written charters and charter contracts, in accordance with the provisions of this chapter.~~

~~—2. The staff must include:~~

~~—(a) Attorneys with experience with laws concerning education, special education and nonprofit organizations;~~

~~—(b) Persons with experience overseeing the annual audits and financial operations of school districts, nonprofit organizations or corporations;~~

~~—(c) Persons with experience conducting assessments and evaluations for a school district;~~

~~— (d) Administrators with significant experience overseeing special education programs and programs while employed by a school district, charter management organization, educational management organization or other operator of charter schools;~~

~~— (e) Policy analysts with significant experience in the areas of charter schools and education policy; and~~

~~— (f) Any other persons that the [State Public Charter School Authority] **Executive Director** determines are necessary.~~

~~— 3. The [State Public Charter School Authority] **Executive Director** shall periodically evaluate and make decisions concerning the number of persons employed by the [State Public Charter School Authority] **Executive Director** and the qualifications and compensation of such persons based on guidance from the National Association of Charter School Authorizers, or its successor organization, an assessment of the strategic plan for recruiting operators of charter schools prepared pursuant to NRS 388A.223 and the needs of the charter schools sponsored by the State Public Charter School Authority.~~

~~— 4. Except as otherwise provided in this subsection, the State Public Charter School Authority may delegate to the Executive Director or the staff employed by the Executive Director authority to carry out any responsibility assigned to it as a sponsor of a charter school or as a local educational agency pursuant to NRS 388A.159. The State Public Charter School Authority shall not delegate its authority to:~~

~~— (a) Perform any duty which requires a public hearing;~~

~~— (b) Approve or deny an application to form a charter school;~~

~~— (c) Approve or deny an application for renewal of a charter contract;~~

~~— (d) Approve or deny an amendment to a written charter or charter contract to expand the enrollment of a charter school, serve additional grade levels at a charter school, consolidate with another charter school or add an additional facility to a charter school; or~~

~~— (e) Revoke a written charter or terminate a charter contract.} (Deleted by amendment.)~~

Sec. 18. ~~[NRS 388A.199 is hereby amended to read as follows:~~

~~— 388A.199 1. The [State Public Charter School Authority] **Executive Director** may employ such persons as [it] **he or she** deems necessary to carry out the provisions of this chapter. The staff employed by the [State Public Charter School Authority] **Executive Director** must be qualified to carry out the daily responsibilities of sponsoring charter schools, including, without limitation, oversight of charter contracts, in accordance with the provisions of this chapter.~~

~~— 2. The staff must include:~~

~~— (a) Attorneys with experience with laws concerning education, special education and nonprofit organizations;~~

~~— (b) Persons with experience overseeing the annual audits and financial operations of school districts, nonprofit organizations or corporations;~~

~~— (c) Persons with experience conducting assessments and evaluations for a school district;~~

~~— (d) Administrators with significant experience overseeing special education programs and programs while employed by a school district, charter management organization, educational management organization or other operator of charter schools;~~

~~— (e) Policy analysts with significant experience in the areas of charter schools and education policy; and~~

~~— (f) Any other persons that the [State Public Charter School Authority] **Executive Director** determines are necessary.~~

~~— 3. The [State Public Charter School Authority] **Executive Director** shall periodically evaluate and make decisions concerning the number of persons employed by the [State Public Charter School Authority] **Executive Director** and the qualifications and compensation of such persons based on guidance from the National Association of Charter School Authorizers, or its successor organization, an assessment of the strategic plan for recruiting operators of charter schools prepared pursuant to NRS 388A.223 and the needs of the charter schools sponsored by the State Public Charter School Authority.~~

~~— 4. *Except as otherwise provided in this subsection, the State Public Charter School Authority may delegate to the Executive Director or the staff employed by the Executive Director authority to carry out any responsibility assigned to it as a sponsor of a charter school or as a local educational agency pursuant to NRS 388A.159. The State Public Charter School Authority shall not delegate its authority to:*~~

~~— (a) Perform any duty which requires a public hearing;~~

~~— (b) Approve or deny an application to form a charter school;~~

~~— (c) Approve or deny an application for renewal of a charter contract;~~

~~— (d) Approve or deny an amendment to a charter contract to expand the enrollment of a charter school, serve additional grade levels at a charter school, consolidate with another charter school or add an additional facility to a charter school; or~~

~~— (e) Terminate a charter contract.} (Deleted by amendment.)~~

Sec. 19. NRS 388A.223 is hereby amended to read as follows:

388A.223 1. Each sponsor of a charter school shall carry out the following duties and powers:

(a) Evaluating applications to form charter schools as prescribed by NRS 388A.249;

(b) Approving applications to form charter schools that the sponsor determines are high quality, meet the identified educational needs of pupils and will serve to promote the diversity of public educational choices in this State;

(c) Declining to approve applications to form charter schools that do not satisfy the requirements of NRS 388A.249;

(d) Negotiating ~~Developing~~, developing and executing charter contracts pursuant to NRS 388A.270;

(e) Monitoring, in accordance with this chapter and in accordance with the terms and conditions of the applicable charter contract, the performance and compliance of each charter school sponsored by the entity;

(f) Determining whether the charter contract of a charter school that the entity sponsors merits renewal or whether the renewal of the charter contract should be denied or whether the written charter should be revoked or the charter contract terminated or restarted, as applicable, in accordance with NRS 388A.285, 388A.300 or 388A.330, as applicable;

(g) Determining whether the governing body of a charter school should be reconstituted in accordance with NRS 388A.330; and

(h) Adopting a policy for appointing a new governing body of a charter school for which the governing body is reconstituted in accordance with NRS 388A.330.

2. Each sponsor of a charter school shall develop policies and practices that are consistent with state laws and regulations governing charter schools. In developing the policies and practices, the sponsor shall review and evaluate nationally recognized policies and practices for sponsoring organizations of charter schools. The policies and practices must include, without limitation:

(a) The organizational capacity and infrastructure of the sponsor for sponsorship of charter schools, which must not be described as a limit on the number of charter schools the sponsor will approve;

(b) The procedure and criteria for soliciting and evaluating charter school applications in accordance with NRS 388A.249, which must include, without limitation:

(1) Specific application procedures and timelines for committees to form a charter school that plan to enter into a contract with an educational management organization to operate the charter school, committees to form a charter school that do not plan to enter into such a contract and charter management organizations; and

(2) A description of the manner in which the sponsor will evaluate the previous performance of an educational management organization or other person with whom a committee to form a charter school plans to enter into a contract to operate a charter school or a charter management organization that submits an application to form a charter school;

(c) The procedure and criteria for evaluating applications for the renewal of charter contracts pursuant to NRS 388A.285;

(d) The procedure for amending a written charter or charter contract and the criteria for determining whether a request for such an amendment will be approved which must include, without limitation, any manner in which such procedures and criteria will differ if the sponsor determines that the amendment is material or strategically important;

(e) If deemed appropriate by the sponsor, a strategic plan for recruiting charter management organizations, educational management organizations or other persons to operate charter schools based on the priorities of the sponsor

and the needs of the pupils that will be served by the charter schools that will be sponsored by the sponsor;

(f) A description of how the sponsor will maintain oversight of the charter schools it sponsors, which must include, without limitation:

(1) An assessment of the needs of the charter schools that are sponsored by the sponsor that is prepared with the input of the governing bodies of such charter schools; and

(2) A strategic plan for the oversight and provision of technical support to charter schools that are sponsored by the sponsor in the areas of academic, fiscal and organizational performance; and

(g) A description of the process of evaluation for the charter schools it sponsors in accordance with NRS 388A.351.

3. Evidence of material or persistent failure to carry out the powers and duties of a sponsor prescribed by this section constitutes grounds for revocation of the entity's authority to sponsor charter schools.

4. The provisions of this section do not establish a private right of action against the sponsor of a charter school.

Sec. 20. NRS 388A.246 is hereby amended to read as follows:

388A.246 An application to form a charter school must include all information prescribed by the Department by regulation and:

1. A summary of the plan for the proposed charter school.

2. A clear written description of the mission of the charter school and the goals for the charter school. A charter school must have as its stated purpose at least one of the following goals:

(a) Improving the academic achievement of pupils;

(b) Encouraging the use of effective and innovative methods of teaching;

(c) Providing an accurate measurement of the educational achievement of pupils;

(d) Establishing accountability and transparency of public schools;

(e) Providing a method for public schools to measure achievement based upon the performance of the schools; or

(f) Creating new professional opportunities for teachers.

3. A clear description of the indicators, measures and metrics for the categories of academics, finances and organization that the charter school proposes to use, the external assessments that will be used to assess performance in those categories and the objectives that the committee to form a charter school plans to achieve in those categories, which must be expressed in terms of the objectives, measures and metrics. The objectives and the indicators, measures and metrics used by the charter school must be consistent with the performance framework adopted by the sponsor pursuant to NRS 388A.270.

4. A resume and background information for each person who serves on the board of the charter management organization or the committee to form a charter school, as applicable, which must include the name, telephone number, electronic mail address, background, qualifications, any past or

current affiliation with any charter school in this State or any other state, any potential conflicts of interest and any other information required by the sponsor.

5. The proposed location of, or the geographic area to be served by, the charter school and evidence of a need and community support for the charter school in that area.

6. The minimum, planned and maximum projected enrollment of pupils in each grade in the charter school for each year that the charter school would operate under the proposed charter contract.

7. The procedure for applying for enrollment in the proposed charter school, which must include, without limitation, the proposed dates for accepting applications for enrollment in each year of operation under the proposed charter contract and a statement of whether the charter school will enroll pupils who are in a particular category of at-risk pupils before enrolling other children who are eligible to attend the charter school pursuant to NRS 388A.456 and the method for determining eligibility for enrollment in each such category of at-risk pupils served by the charter school.

8. The academic program that the charter school proposes to use, a description of how the academic program complies with the requirements of NRS 388A.366, the proposed academic calendar for the first year of operation and a sample daily schedule for a pupil in each grade served by the charter school.

9. A description of the proposed instructional design of the charter school and the type of learning environment the charter school will provide, including, without limitation, whether the charter school will provide a program of distance education, the planned class size and structure, the proposed curriculum for the charter school and the teaching methods that will be used at the charter school.

10. The manner in which the charter school plans to identify and serve the needs of pupils with disabilities, pupils who are English language learners, pupils who are academically behind their peers and gifted pupils.

11. A description of any co-curricular or extracurricular activities that the charter school plans to offer and the manner in which these programs will be funded.

12. Any uniform or dress code policy that the charter school plans to use.

13. Plans and timelines for recruiting and enrolling students, including procedures for any lottery for admission that the charter school plans to conduct.

14. The rules of behavior and punishments that the charter school plans to adopt pursuant to NRS 388A.495, including, without limitation, any unique discipline policies for pupils enrolled in a program of special education.

15. A chart that clearly presents the proposed organizational structure of the charter school and a clear description of the roles and responsibilities of the governing body, administrators and any other persons included on the

chart and a table summarizing the decision-making responsibilities of the staff and governing body of the charter school and, if applicable, the charter management organization that operates the charter school. The table must also identify the person responsible for each activity conducted by the charter school, including, without limitation, the person responsible for establishing curriculum and culture, providing professional development to employees of the charter school and making determinations concerning the staff of the charter school.

16. The names of any external organizations that will play a role in operating the charter school and the role each such organization will play.

17. The manner in which the governing body of the charter school will be chosen.

18. A staffing chart for the first year in which the charter school plans to operate and a projected staffing plan for the term of the charter contract.

19. Plans for recruiting administrators, teachers and other staff, providing professional development to such staff.

20. Proposed bylaws for the governing body, a description of the manner in which the charter school will be governed, including, without limitation, any governance training that will be provided to the governing body, and a code of ethics for members and employees of the governing body. The code of ethics must be prepared with guidance from the Nevada Commission on Ethics and must not conflict with any policy adopted by the sponsor.

21. Explanations of any partnerships or contracts central to the operations or mission of the charter school.

22. A statement of whether the charter school will provide for the transportation of pupils to and from the charter school. If the charter school will provide transportation, the application must include the proposed plan for the transportation of pupils. If the charter school will not provide transportation, the application must include a statement that the charter school will work with the parents and guardians of pupils enrolled in the charter school to develop a plan for transportation to ensure that pupils have access to transportation to and from the charter school.

23. The procedure for the evaluation of teachers of the charter school, if different from the procedure prescribed in NRS 391.680 and 391.725. If the procedure is different from the procedure prescribed in NRS 391.680 and 391.725, the procedure for the evaluation of teachers of the charter school must provide the same level of protection and otherwise comply with the standards for evaluation set forth in NRS 391.680 and 391.725.

24. A statement of the charter school's plans for food service and other significant operational services, including a statement of whether the charter school will provide food service or participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. If the charter school will not provide food service or participate in the National School Lunch Program, the application must include an explanation of the manner in which the charter

school will ensure that the lack of such food service or participation does not prevent pupils from attending the charter school.

25. Opportunities and expectations for involving the parents of pupils enrolled in the charter school in instruction at the charter school and the operation of the charter school, including, without limitation, the manner in which the charter school will solicit input concerning the governance of the charter school from such parents.

26. A detailed plan for starting operation of the charter school that identifies necessary tasks, the persons responsible for performing them and the dates by which such tasks will be accomplished.

27. A description of the financial plan and policies to be used by the charter school.

28. A description of the insurance coverage the charter school will obtain.

29. Budgets for starting operation at the charter school, the first year of operation of the charter school and the first 5 years of operation of the charter school, with any assumptions inherent in the budgets clearly stated.

30. Evidence of any money pledged or contributed to the budget of the charter school.

31. A statement of the facilities that will be used to operate the charter school and a plan for operating such facilities, including, without limitation, any backup plan to be used if the charter school cannot be operated out of the planned facilities.

32. If the charter school ~~is~~ **operates** a vocational school, a description of the career and technical education program that will be used by the charter school.

33. If the charter school will provide a program of distance education, a description of the system of course credits that the charter school will use and the manner in which the charter school will:

(a) Monitor and verify the participation in and completion of courses by pupils;

(b) Require pupils to participate in assessments and submit coursework;

(c) Conduct parent-teacher conferences; and

(d) Administer any test, examination or assessment required by state or federal law in a proctored setting.

34. If the charter school will provide a program where a student may earn college credit for courses taken in high school, a draft memorandum of understanding between the charter school and the college or university through which the credits will be earned and a term sheet, which must set forth:

(a) The proposed duration of the relationship between the charter school and the college or university and the conditions for renewal and termination of the relationship;

(b) The roles and responsibilities of the governing body of the charter school, the employees of the charter school and the college or university;

(c) The scope of the services and resources that will be provided by the college or university;

(d) The manner and amount that the college or university will be compensated for providing such services and resources, including, without limitation, any tuition and fees that pupils at the charter school will pay to the college or university;

(e) The manner in which the college or university will ensure that the charter school effectively monitors pupil enrollment and attendance and the acquisition of college credits; and

(f) Any employees of the college or university who will serve on the governing body of the charter school.

35. If the applicant currently operates a charter school in another state, evidence of the performance of such charter schools and the capacity of the applicant to operate the proposed charter school.

36. If the applicant proposes to contract with an educational management organization or any other person to provide educational or management services:

(a) Evidence of the performance of the educational management organization or other person when providing such services to a population of pupils similar to the population that will be served by the proposed charter school;

(b) A term sheet that sets forth:

(1) The proposed duration of the proposed contract between the governing body of the charter school and the educational management organization;

(2) A description of the responsibilities of the governing body of the charter school, employees of the charter school and the educational management organization or other person;

(3) All fees that will be paid to the educational management organization or other person;

(4) The manner in which the governing body of the charter school will oversee the services provided by the educational management organization or other person and enforce the terms of the contract;

(5) A disclosure of the investments made by the educational management organization or other person in the proposed charter school; and

(6) The conditions for renewal and termination of the contract; and

(c) A disclosure of any conflicts of interest concerning the applicant and the educational management organization or other person, including, without limitation, any past or current employment, business or familial relationship between any prospective employee of the charter school and a member of the committee to form a charter school or the board of directors of the charter management organization, as applicable.

37. Any additional information that the sponsor determines is necessary to evaluate the ability of the proposed charter school to serve pupils in the school district in which the proposed charter school will be located.

Sec. 21. NRS 388A.249 is hereby amended to read as follows:

388A.249 1. A committee to form a charter school or charter management organization may submit the application to the proposed sponsor of the charter school. Except as otherwise provided in NRS 388B.290, if an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the proposed sponsor shall deny the application.

2. The proposed sponsor of a charter school shall, in reviewing an application to form a charter school:

(a) Assemble a team of reviewers, which may include, without limitation, natural persons from different geographic areas of the United States who possess the appropriate knowledge and expertise with regard to the academic, financial and organizational experience of charter schools, to review and evaluate the application;

(b) Conduct a thorough evaluation of the application, which includes an in-person interview with the applicant designed to elicit any necessary clarifications or additional information about the proposed charter school and determine the ability of the applicants to establish a high-quality charter school;

(c) Base its determination on documented evidence collected through the process of reviewing the application; and

(d) Adhere to the policies and practices developed by the proposed sponsor pursuant to subsection 2 of NRS 388A.223.

3. The proposed sponsor of a charter school may approve an application to form a charter school only if the proposed sponsor determines that:

(a) The application:

(1) Complies with this chapter and the regulations applicable to charter schools; and

(2) Is complete in accordance with the regulations of the Department and the policies and practices of the sponsor; and

(b) The applicant has demonstrated competence in accordance with the criteria for approval prescribed by the sponsor pursuant to subsection 2 of NRS 388A.223 that will likely result in a successful opening and operation of the charter school.

4. ***The identity of each member of the team of reviewers assembled by a proposed sponsor of a charter school is confidential for 5 years after the review of an application to form a charter school is complete and must not be disclosed unless ordered by a district court in an action brought pursuant to subsection 3 of NRS 388A.255.***

5. On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

(a) A list of each application to form a charter school that was submitted to the board of trustees of a school district, the State Public Charter School

Authority, a college or a university during the immediately preceding biennium;

(b) The educational focus of each charter school for which an application was submitted;

(c) The current status of the application; and

(d) If the application was denied, the reasons for the denial.

Sec. 22. ~~[NRS 388A.255 is hereby amended to read as follows:~~

~~388A.255 1. If the State Public Charter School Authority receives an application pursuant to subsection 1 of NRS 388A.249 or subsection 4 of NRS 388A.252, it shall consider the application at a meeting which must be held not later than 60 days after receipt of the application or a later period mutually agreed upon by the committee to form the charter school and the State Public Charter School Authority. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Public Charter School Authority shall review the application in accordance with the requirements for review set forth in subsections 2 and 3 of NRS 388A.249. The State Public Charter School Authority may approve an application only if it satisfies the requirements of subsection 3 of NRS 388A.249. Not more than 30 days after the meeting, the State Public Charter School Authority shall provide written notice of its determination to the applicant.~~

~~2. If the State Public Charter School Authority denies or fails to act upon an application, the denial or failure to act must be based upon a finding that the applicant failed to satisfy the requirements of subsection 3 of NRS 388A.249. The State Public Charter School Authority shall include in the written notice the reasons for the denial or the failure to act and the deficiencies in the application. The staff designated by the State Public Charter School Authority shall meet with the applicant to confer on the method to correct the identified deficiencies. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.~~

~~3. **[If] Except as otherwise provided in subsection 4, if** the State Public Charter School Authority denies an application after it has been resubmitted pursuant to subsection 2, the applicant may, not more than 30 days after the receipt of the written notice from the State Public Charter School Authority, appeal the final determination to the district court of the county in which the proposed charter school will be located.~~

~~4. **If the State Public Charter School Authority has approved an application or has increased the total number of pupils enrolled in the charter schools sponsored by the State Public Charter School Authority in any 3 of the immediately preceding 5 years, the applicant may not appeal the final determination of the State Public Charter School Authority.]**~~
(Deleted by amendment.)

Sec. 23. NRS 388A.270 is hereby amended to read as follows:

388A.270 1. If the proposed sponsor of a charter school approves an application to form a charter school, it shall, before June 11, 2013, grant a

written charter to the governing body of the charter school or, on or after June 11, 2013, negotiate **develop** and execute a charter contract with the governing body of the charter school. A charter contract must be executed not later than 60 days before the charter school commences operation. The charter contract must be in writing and incorporate, without limitation:

- (a) The performance framework for the charter school;
- (b) A description of the administrative relationship between the sponsor of the charter school and the governing body of the charter school, including, without limitation, the rights and duties of the sponsor and the governing body; and
- (c) Any pre-opening conditions which the sponsor has determined are necessary for the charter school to satisfy before the commencement of operation to ensure that the charter school meets all building, health, safety, insurance and other legal requirements.

2. The charter contract must be signed by a member of the governing body of the charter school and:

- (a) If the board of trustees of a school district is the sponsor of the charter school, the superintendent of schools of the school district;
- (b) If the State Public Charter School Authority is the sponsor of the charter school, the Chair of the State Public Charter School Authority; or
- (c) If a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the president of the college or university.

3. Before the charter contract is executed, the sponsor of the charter school must approve the charter contract at a meeting of the sponsor held in accordance with chapter 241 of NRS.

4. The sponsor of the charter school shall, not later than 10 days after the execution of the charter contract, provide to the Department:

- (a) Written notice of the charter contract and the date of execution; and
- (b) A copy of the charter contract and any other documentation relevant to the charter contract.

5. If the board of trustees approves the application, the board of trustees shall be deemed the sponsor of the charter school.

6. If the State Public Charter School Authority approves the application:

- (a) The State Public Charter School Authority shall be deemed the sponsor of the charter school.
- (b) Neither the State of Nevada, the State Board, the State Public Charter School Authority nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

7. If a college or university within the Nevada System of Higher Education approves the application:

- (a) That institution shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

8. A written charter or a charter contract, as applicable, must be for a term of 6 years. The term of the charter contract begins on the first day of operation of the charter school after the charter contract has been executed. The sponsor of the charter school may require, or the governing body of the charter school may request that the sponsor authorize, the charter school to delay commencement of operation for 1 school year.

Sec. 24. NRS 388A.330 is hereby amended to read as follows:

388A.330 Except as otherwise provided in NRS 388A.300:

1. Except as otherwise provided in subsection 6, the sponsor of a charter school may reconstitute the governing body of a charter school, revoke a written charter or terminate a charter contract before the expiration of the charter if the sponsor determines that:

(a) The charter school, its officers or its employees:

(1) Committed a material breach of the terms and conditions of the written charter or charter contract;

(2) Failed to comply with generally accepted standards of fiscal management;

(3) Failed to comply with the provisions of this chapter or any other statute or regulation applicable to charter schools; or

(4) If the charter school holds a charter contract, has persistently underperformed, as measured by the performance indicators, measures and metrics set forth in the performance framework for the charter school;

(b) The charter school has filed for a voluntary petition of bankruptcy, is adjudicated bankrupt or insolvent, or is otherwise financially impaired such that the charter school cannot continue to operate;

(c) There is reasonable cause to believe that reconstitution, revocation or termination is necessary to protect the health and safety of the pupils who are enrolled in the charter school or persons who are employed by the charter school from jeopardy, or to prevent damage to or loss of the property of the school district or the community in which the charter school is located;

(d) The committee to form the charter school or charter management organization, as applicable, or any member of the committee to form the charter school or charter management organization, as applicable, or the governing body of the charter school has at any time made a material misrepresentation or omission concerning any information disclosed to the sponsor;

(e) The charter school ~~is~~ **operates** a high school that has a graduation rate for the immediately preceding school year that is less than 60 percent;

(f) The charter school ~~is~~ **operates** an elementary or middle school or junior high school that is rated in the lowest 5 percent of elementary schools, middle schools or junior high schools in the State in pupil achievement and

school performance, as determined by the Department pursuant to the statewide system of accountability for public schools; or

(g) Pupil achievement and school performance at the charter school is unsatisfactory as determined by the Department pursuant to criteria prescribed by regulation by the Department to measure the performance of any public school ~~or pursuant to the statewide system of accountability for public schools.~~

2. Before the sponsor reconstitutes a governing body, revokes a written charter or terminates a charter contract, the sponsor shall provide written notice of its intention to the governing body of the charter school. The written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based;

(b) Except as otherwise provided in subsection 4, prescribe a period, not less than 30 days, during which the charter school may correct the deficiencies, including, without limitation, the date on which the period to correct the deficiencies begins and the date on which that period ends;

(c) Prescribe the date on which the sponsor will make a determination regarding whether the charter school has corrected the deficiencies, which determination may be made during the public hearing held pursuant to subsection 3; and

(d) Prescribe the date on which the sponsor will hold a public hearing to consider whether to reconstitute the governing body, revoke the written charter or terminate the charter contract.

3. Except as otherwise provided in subsection 4, not more than 90 days after the notice is provided pursuant to subsection 2, the sponsor shall hold a public hearing to make a determination regarding whether to reconstitute the governing body, revoke the written charter or terminate the charter contract. If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b) of subsection 2, the sponsor shall not reconstitute the governing body, revoke the written charter or terminate the charter contract of the charter school. The sponsor may not include in a written notice pursuant to subsection 2 any deficiency which was included in a previous written notice and which was corrected by the charter school, unless the deficiency recurred after being corrected or the sponsor determines that the deficiency is evidence of an ongoing pattern of deficiencies in a particular area.

4. The sponsor of a charter school and the governing body of the charter school may enter into a written agreement that prescribes different time periods than those set forth in subsections 2 and 3.

5. If the governing body of a charter school is reconstituted, the written charter is revoked or the charter contract is terminated, the sponsor of the charter school shall submit a written report to the Department and the governing body of the charter school setting forth the reasons for the reconstitution, revocation or termination, as applicable, not later than 10 days

after reconstituting the governing body, revoking the written charter or terminating the charter contract.

6. The governing body of a charter school may not be reconstituted if it has been previously reconstituted.

Sec. 25. NRS 388A.453 is hereby amended to read as follows:

388A.453 1. An application for enrollment in a charter school may be submitted annually to the governing body of the charter school by the parent or legal guardian of any child who resides in this State.

2. Except as otherwise provided in subsections 1 to 5, inclusive, NRS 388A.336 and subsections 1 and 2 of NRS 388A.456, a charter school shall enroll pupils who are eligible for enrollment in the order in which the applications are received.

3. If the board of trustees of the school district in which the charter school is located has established zones of attendance pursuant to NRS 388.040, the charter school shall, if practicable, ensure that the racial composition of pupils enrolled in the charter school does not differ by more than 10 percent from the racial composition of pupils who attend public schools in the zone in which the charter school is located.

4. If a charter school is sponsored by the board of trustees of a school district located in a county whose population is 100,000 or more, except for a program of distance education provided by the charter school, the charter school shall enroll pupils who are eligible for enrollment who reside in the school district in which the charter school is located before enrolling pupils who reside outside the school district.

5. Except as otherwise provided in subsections 1 and 2 of NRS 388A.456, if more pupils who are eligible for enrollment apply for enrollment in the charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to subsections 1 to 4, inclusive, on the basis of a lottery system.

6. Except as otherwise provided in subsection 9, a charter school shall not accept applications for enrollment in the charter school or otherwise discriminate based on the:

- (a) Race;
- (b) Gender;
- (c) Religion;
- (d) Ethnicity; or
- (e) Disability,

↪ of a pupil.

7. A lottery held pursuant to subsection 5 must be held not sooner than 45 days after the date on which a charter school begins accepting applications for enrollment unless the sponsor of the charter school determines there is good cause to hold it sooner.

8. If the governing body of a charter school determines that the charter school is unable to provide an appropriate special education program and related services for a particular disability of a pupil who is enrolled in the

charter school, the governing body may request that the board of trustees of the school district of the county in which the pupil resides transfer that pupil to an appropriate school.

9. This section does not preclude the formation of a charter school that is dedicated to provide educational services exclusively to pupils:

(a) With disabilities;

(b) Who pose such severe disciplinary problems that they warrant a specific educational program, including, without limitation, a charter school specifically designed to serve a single gender that emphasizes personal responsibility and rehabilitation; or

(c) Who are at risk ~~and~~ **or, for a charter school that is eligible to be rated using the alternative performance framework pursuant to subsection 4 of NRS 385A.740, who are described in subparagraphs (1) to (6), inclusive, of paragraph (a) of subsection 3 of NRS 385A.740.**

↪ If more eligible pupils apply for enrollment in such a charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

Sec. 26. NRS 388A.518 is hereby amended to read as follows:

388A.518 1. Except as otherwise provided in this subsection, at least 70 percent of the teachers who provide instruction at a charter school must be highly qualified. If a charter school ~~is~~ **operates** a vocational school, the charter school shall, to the extent practicable, ensure that at least 70 percent of the teachers who provide instruction at the school are highly qualified, but in no event may less than 50 percent of the teachers who provide instruction at the school be highly qualified.

2. If a charter school specializes in:

(a) Arts and humanities, physical education or health education, a teacher must be highly qualified to teach those courses of study.

(b) The construction industry or other building industry, teachers **at the school who are employed full-time** must ~~be highly qualified~~ **hold a license issued by the Superintendent of Public Instruction which contains an endorsement** to teach courses of study relating to ~~the~~ **business and** industry ~~if those teachers are employed full-time.~~

~~(c) The construction industry or other building industry and the school offers courses of study in computer education, technology or business, teachers must be highly qualified to teach those courses of study if those teachers are employed full-time.~~

3. A person who is initially hired by the governing body of a charter school on or after January 8, 2002, to teach in a program supported with money from Title I must be highly qualified. For the purposes of this subsection, a person is not "initially hired" if the person has been employed as a teacher by another school district or charter school in this State without an interruption in employment before the date of hire by his or her current employer.

4. A teacher who is employed by a charter school, regardless of the date of hire, must, on or before July 1, 2006, be highly qualified if the teacher teaches one or more of the following subjects:

- (a) English language arts;
- (b) Mathematics;
- (c) Science;
- (d) A foreign or world language;
- (e) Civics or government;
- (f) Economics;
- (g) Geography;
- (h) History; or
- (i) The arts.

5. Except as otherwise provided in NRS 388A.515, a charter school may employ a person who is not highly qualified to teach a course of study for which a teacher is not required to be highly qualified if the person has:

- (a) A degree, a license or a certificate in the field for which the person is employed to teach at the charter school; and
- (b) At least 2 years of experience in that field.

6. A teacher who is employed by a charter school to teach special education or English as a second language must be licensed to teach special education or English as a second language, as applicable.

7. For purposes of this section, a teacher is highly qualified:

- (a) If employed by a charter school that has not received, within the immediately preceding 2 consecutive school years, one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools, or equivalent ratings in another state, as determined by the Department, if the teacher ~~is~~

~~—(1) Meets the qualifications prescribed in 20 U.S.C. § 7801(23)(B) or (C), as applicable; and~~

~~—(2) Is~~ **is** licensed to teach pursuant to chapter 391 of NRS.

(b) If employed by a charter school that has received, within the immediately preceding 2 consecutive school years, one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools, or equivalent ratings in another state, as determined by the Department, if the teacher ~~meets the qualifications prescribed in 20 U.S.C. § 7801(23)(B) or (C), as applicable,~~ **holds a bachelor's degree or a graduate degree from an accredited college or university and has demonstrated expertise in the subject area for which the teacher provides instruction on an assessment approved by the Department, in consultation with sponsors of charter schools described in this paragraph,** regardless of whether the teacher is licensed to teach pursuant to chapter 391 of NRS.

8. If a charter school that has received within the immediately preceding 2 consecutive school years, one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools, or equivalent ratings in another state, as determined by the Department, intends

to employ persons to teach who are not licensed, the charter school shall within 3 years:

(a) Obtain approval for and offer an alternative route to licensure pursuant to NRS 391.019; or

(b) Enter into an agreement with a qualified provider of an alternative route to licensure to provide the required education and training to unlicensed teachers who are employed by the school to teach such a course of study.

~~Sec. 27. [NRS 233B.038 is hereby amended to read as follows:
233B.038 1. "Regulation" means:~~

~~(a) An agency rule, standard, directive or statement of general applicability which effectuates or interprets law or policy, or describes the organization, procedure or practice requirements of any agency;~~

~~(b) A proposed regulation;~~

~~(c) The amendment or repeal of a prior regulation; and~~

~~(d) The general application by an agency of a written policy, interpretation, process or procedure to determine whether a person is in compliance with a federal or state statute or regulation in order to assess a fine, monetary penalty or monetary interest.~~

~~2. The term does not include:~~

~~(a) A statement concerning only the internal management of an agency and not affecting private rights or procedures available to the public;~~

~~(b) A declaratory ruling;~~

~~(c) An intraagency memorandum;~~

~~(d) A manual of internal policies and procedures or audit procedures of an agency which is used solely to train or provide guidance to employees of the agency and which is not used as authority in a contested case to determine whether a person is in compliance with a federal or state statute or regulation;~~

~~(e) An agency decision or finding in a contested case;~~

~~(f) An advisory opinion issued by an agency that is not of general applicability;~~

~~(g) A published opinion of the Attorney General;~~

~~(h) An interpretation of an agency that has statutory authority to issue interpretations;~~

~~(i) Letters of approval, concurrence or disapproval issued in relation to a permit for a specific project or activity;~~

~~(j) A contract or agreement into which an agency has entered;~~

~~(k) The provisions of a federal law, regulation or guideline;~~

~~(l) An emergency action taken by an agency that is necessary to protect public health and safety;~~

~~(m) The application by an agency of a policy, interpretation, process or procedure to a person who has sufficient prior actual notice of the policy, interpretation, process or procedure to determine whether the person is in compliance with a federal or state statute or regulation in order to assess a fine, monetary penalty or monetary interest;~~

~~—(n) A regulation concerning the use of public roads or facilities which is indicated to the public by means of signs, signals and other traffic control devices that conform with the manual and specifications for a uniform system of official traffic control devices adopted pursuant to NRS 484A.430;~~
~~—(o) The classification of wildlife or the designation of seasons for hunting, fishing or trapping by regulation of the Board of Wildlife Commissioners pursuant to the provisions of title 45 of NRS; [or]~~
~~—(p) A technical bulletin prepared pursuant to NRS 360.133 [.] ; or~~
~~—(q) A policy, practice, procedure, plan, standard, criterion, directive, performance framework, form or any standard provisions or form of a charter contract adopted by a sponsor of a charter school for the purpose of carrying out the duties and powers of the sponsor of a charter school pursuant to NRS 389A.223 for any charter school sponsored by the sponsor of a charter school.] (Deleted by amendment.)~~

Sec. 28. [NRS 233B.039 is hereby amended to read as follows:

~~233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:~~

- ~~—(a) The Governor;~~
- ~~—(b) Except as otherwise provided in NRS 209.221, the Department of Corrections;~~
- ~~—(c) The Nevada System of Higher Education;~~
- ~~—(d) The Office of the Military;~~
- ~~—(e) The Nevada Gaming Control Board;~~
- ~~—(f) Except as otherwise provided in NRS 368A.140 and 463.765, the Nevada Gaming Commission;~~
- ~~—(g) The Division of Welfare and Supportive Services of the Department of Health and Human Services;~~
- ~~—(h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services;~~
- ~~—(i) The State Board of Examiners acting pursuant to chapter 217 of NRS;~~
- ~~—(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer;~~
- ~~—(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375;~~
- ~~—(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260;~~
- ~~—(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 445C.310;~~

~~—(n) The Silver State Health Insurance Exchange;~~

~~2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the State Public Charter School Authority, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this~~

~~chapter for the purpose of adopting regulations but not with respect to any contested case;~~

~~3. The special provisions of:~~

~~(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;~~

~~(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;~~

~~(c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and~~

~~(d) NRS 90.800 for the use of summary orders in contested cases,~~

~~and prevail over the general provisions of this chapter.~~

~~4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.~~

~~5. The provisions of this chapter do not apply to:~~

~~(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;~~

~~(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;~~

~~(c) A regulation adopted by the State Board of Education pursuant to NRS 388.255 or 394.1694; or~~

~~(d) The judicial review of decisions of the Public Utilities Commission of Nevada.~~

~~6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.~~ **(Deleted by amendment.)**

Sec. 29. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, **388A.249**, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **and section 5 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. 30. Section 4 of this act is hereby amended to read as follows:

Sec. 4. 1. ~~{A written charter issued by the sponsor of a charter school to the governing body of the charter school is not assignable or transferable and may not be delegated to a third party.~~

~~—2.}~~ A charter contract entered into between the governing body of a charter school and the sponsor of the charter school is not assignable or transferable and may not be delegated to a third party.

~~{3.}~~ 2. A ~~{written charter or}~~ charter contract may not be used as security for any loan and shall be deemed to have no monetary value.

~~{4.}~~ 3. For the purpose of this section, an amendment to a ~~{written charter or}~~ charter contract which consolidates two or more charter

schools, the restart of a charter school pursuant to NRS 388A.300 and the reconstitution of the governing body of a charter school pursuant to NRS 388A.330 do not constitute the assignment, transfer or delegation of a ~~{written charter or}~~ charter contract.

Sec. 31. ~~{Section 5 of this act is hereby amended to read as follows:~~

~~Sec. 5. 1. Except as otherwise provided in subsection 2, any information relating to an educational management organization or other person who provides educational or management services to a charter school that is contained in an application to form a charter school or a request to amend a {written charter or} charter contract of a charter school is not confidential and may be disclosed to any member of the general public upon request.~~

~~2. Except as otherwise provided in NRS 239.0115, if an educational management organization or other person who provides educational or management services to a charter school is not a publicly traded company or exempt from taxation pursuant to 26 U.S.C. § 501(c)(3), an audited financial statement and any other internal financial information of the educational management organization or other person contained in an application to form a charter school or a request to amend a {written charter or} charter contract of a charter school are confidential and must not be disclosed. **(Deleted by amendment.)**~~

Sec. 32. Section 6 of this act is hereby amended to read as follows:

Sec. 6. 1. Except as otherwise provided by federal law, a parent or legal guardian of a pupil enrolled in a charter school, a pupil who is at least 18 years of age enrolled in a charter school, a member of the governing body of a charter school or an employee of a charter school may file a written complaint with the State Public Charter School Authority which alleges a violation of the provisions of this chapter, the ~~{written charter or}~~ charter contract of the charter school or any other provision of law or regulation relating to the management or operation of the charter school.

2. Upon receipt of a complaint filed pursuant to subsection 1, the State Public Charter School Authority shall investigate the allegations contained within the complaint, conduct a review to determine whether the charter school has complied with the provisions of this chapter, the ~~{written charter or}~~ charter contract and respond in writing to the complaining party within 30 days after receipt of the complaint. The staff of the charter school and any other person named in the complaint shall cooperate with the State Public Charter School Authority during such an investigation.

Sec. 33. Section 9 of this act is hereby amended to read as follows:

Sec. 9. 1. If the State Public Charter School Authority determines that external expertise is necessary to conduct an investigation of a complaint filed pursuant to sections 5.5 to 10, inclusive, of this act, the State Public Charter School Authority may select an investigator to

conduct the investigation and make any appropriate determinations or recommendations to the State Public Charter School Authority.

2. If the State Public Charter School Authority determines that a violation has occurred, the State Public Charter School Authority may petition a court of competent jurisdiction for an order directing the charter school to reimburse the State Public Charter School Authority for the actual costs of its investigation. A charter school subject to such an order must reimburse the State Public Charter School Authority within 30 days after issuance of the order. Any money received by the State Public Charter School Authority pursuant to this subsection must be used for investigations, audits and other proceedings of the State Public Charter School Authority and does not revert to the State General Fund.

3. If the State Public Charter School Authority determines that a current or former member of the governing body of the charter school or a current or former employee of the charter school failed to cooperate with any investigation conducted pursuant to this section, the State Public Charter School Authority may begin a proceeding to ~~revoke the written charter or~~ terminate the charter contract of the charter school pursuant to NRS 388A.330.

4. If the State Public Charter School Authority determines that the charter school or an employee of the charter school has violated any provision of this chapter or another statute or regulation applicable to charter schools or has materially breached the terms and conditions of the ~~written charter or~~ charter contract of the charter school, the State Public Charter School Authority may:

(a) Begin a proceeding to ~~revoke the written charter or~~ terminate the charter contract of the charter school pursuant to NRS 388A.330; and

(b) Refer the matter to the district attorney of the county in which the charter school is located, the Attorney General or any other appropriate agency for further action.

5. If the State Public Charter School Authority determines that the current operations of the charter school pose an imminent danger to the health and safety of the pupils or staff of the charter school, the State Public Charter School Authority shall order the charter school to suspend its operations at any or all of its facilities until appropriate corrective action has been taken.

Sec. 34. Section 11 of this act is hereby amended to read as follows:

Sec. 11. 1. If a charter school wishes to be rated using the alternative performance framework prescribed by the State Board pursuant to NRS 385A.730, the governing body of the charter school may submit to the sponsor of the charter school a request to amend the ~~written charter or~~ charter contract ~~[- as applicable,]~~ of the charter school pursuant to NRS 388A.276 to include the mission statement and admissions policy required by subsection 4 of NRS 385A.740.

2. The sponsor of a charter school may require that:

(a) A request to amend a ~~{written charter or}~~ charter contract described in subsection 1 also include such changes to the academic program, organizational plan and financial model of the charter school as the sponsor of the charter school determines are necessary for a charter school rated using the alternative performance framework; and

(b) A charter school which submits a request to amend a ~~{written charter or}~~ charter contract described in subsection 1 perform such actions as the sponsor of the charter school determines to be necessary to successfully transition to being rated using the alternative performance framework.

3. The sponsor of a charter school shall evaluate a request to amend a ~~{written charter or}~~ charter contract described in subsection 1 by reviewing the academic, organizational and financial performance of the charter school. If the sponsor of the charter school determines that the charter school is unlikely to achieve academic, organizational or financial success if the request to amend its ~~{written charter or}~~ charter contract is approved, the sponsor of the charter school must deny the request.

4. Unless invited to do so by the sponsor of the charter school, the governing body of a charter school whose request to amend its ~~{written charter or}~~ charter contract is denied pursuant to subsection 3 may not submit a materially similar request for 1 year after the denial of its request.

5. If a proposed sponsor of a charter school approves an application to form a charter school and the proposed sponsor of the charter school determines that the charter school has a mission statement and an admissions policy which satisfy the requirements of subsection 4 of NRS 385A.740, the proposed sponsor of the charter school shall include language in the charter contract entered into with the charter school which provides that:

(a) Except as otherwise provided in paragraph (b), the proposed sponsor of the charter school will submit an application to the State Board on behalf of the charter school for the charter school to be rated using the alternative performance framework within 2 years after the charter school commences operation;

(b) The proposed sponsor of the charter school will submit the application described in paragraph (a) only upon the successful completion by the charter school of such actions as the proposed sponsor of the charter school determines to be necessary to successfully transition to being rated using the alternative performance framework; and

(c) Upon approval of such an application by the State Board, the performance framework adopted by the proposed sponsor of the charter school will be replaced by the alternative performance framework.

Sec. 34.5. Section 11.5 of this act is hereby amended to read as follows:

Sec. 11.5. 1. A charter school shall provide notification to the parent or legal guardian of each pupil enrolled in the charter school, post a notice prominently on the Internet website of the charter school and revise the marketing materials of the charter school to include such a notice within 5 business days after:

(a) The Department reports that the graduation rate of the charter school for that school year was less than 67 percent;

(b) The Department reports that the charter school was rated in the lowest 5 percent of public schools in the State pursuant to the statewide system of accountability for public schools;

(c) The Department reports that the charter school received an annual rating established as one of the two lowest ratings possible indicating underperformance of a public school, as determined by the Department pursuant to the statewide system of accountability for public schools;

(d) The governing body of the charter school submits to the sponsor of the charter school a written request for an amendment of the ~~written charter or~~ charter contract of the charter school which would result in the:

(1) Relocation of the charter school to a location more than 1 mile from its current location;

(2) Closure of a campus of the charter school or the elimination of one or more grade levels; or

(3) Reduction of enrollment as a result of an academic, financial or organizational issue;

(e) The sponsor of the charter school issues a notice of intent to ~~revoke the written charter or~~ terminate the charter contract of the charter school; or

(f) The sponsor of the charter school ~~revokes the written charter or~~ terminates the charter contract of the charter school.

2. A notice provided to a parent or legal guardian pursuant to subsection 1 must include a list of other public schools to which a pupil may transfer if the charter school closes or adopts changes which a parent or legal guardian finds unacceptable.

3. Within 10 days after a charter school provides the notice required by subsection 1, the charter school shall hold a public hearing to discuss a plan to correct any issue which caused the issuance of such a notice and to solicit suggestions to improve the performance of the charter school.

Sec. 35. The governing body of each charter school formed on or before June 30, 2017, shall submit a request to its sponsor to amend its written charter or charter contract pursuant to NRS 388A.276 to include the policy for accepting, investigating and responding to complaints required by section 10 of this act on or before September 1, 2017.

Sec. 36. 1. This section and sections 1, 3 to 17, inclusive, 19, 20, 22 to 29, inclusive, and 35 of this act become effective on July 1, 2017.

2. Sections 2, 18, 21 and 30 to 34, 34.5, inclusive, of this act become effective on January 1, 2020.

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 52.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 346.

SUMMARY—~~[Revises]~~ Establishes provisions relating to dissolved mineral resources. (BDR 48-258)

AN ACT relating to water; defining ~~[the term “dissolved”]~~ certain terms relating to dissolved mineral [resource”] resources; setting forth certain provisions relating to drilling and operation of a dissolved mineral resource exploration well and the operation of a dissolved mineral resource exploration project; establishing certain requirements for an application to drill or operate a dissolved mineral resource exploration well or wells; providing that certain losses of water by a dissolved mineral exploration well or wells are not subject to certain appropriation procedures; requiring the Commission on Mineral Resources to ~~impose~~ establish a fee for the issuance of a permit to drill or operate a dissolved mineral resource exploration well; requiring the Commission ~~[and]~~ , in coordination with the Division of Water Resources of the State Department of Conservation and Natural Resources, to adopt certain regulations; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~[Existing law sets forth provisions governing exploration for and the ownership and use of geothermal resources, including, without limitation, the permitting of geothermal wells by the Administrator of the Division of Minerals of the Commission on Mineral Resources. (Chapter 534A of NRS) Section]~~ This bill establishes provisions governing exploration for dissolved mineral resources. Section 1.4 of this bill provides that the provisions of this bill apply only to the exploration for dissolved mineral resources and not the ownership of such resources. Sections 3 and 12-14 of this bill [defines] define the [term] terms “dissolved mineral resource [”], “dissolved mineral resource exploration borehole,” “dissolved mineral resource exploration project” and “dissolved mineral resource exploration well.” Sections [6-10] 16 and 17 of this bill provide for the issuance by the Administrator of the Division of Minerals of the Commission on Mineral Resources of a permit to drill a dissolved mineral resource exploration well or operate a dissolved mineral resource

exploration project. ~~[in the same manner as such permits are issued for geothermal wells and geothermal resource projects.]~~ Section 18 of this bill provides that the reasonable loss of water of not more than 5 acre-feet during the testing and sampling of water pumped by a dissolved mineral resource exploration well or dissolved mineral resource exploration project is not subject to the appropriation procedures of chapters 533 and 534 of NRS, but a dissolved mineral resource exploration well or a dissolved mineral resource exploration project that pumps more than 5 acre-feet of water is required to follow such procedures. Section 19 of this bill requires the Commission on Mineral Resources to establish a fee of not more than \$1,500 for the issuance of a permit to drill a dissolved mineral resource exploration well or operate a dissolved mineral resource exploration project. Section ~~19~~ 20 of this bill requires the Commission, in coordination with the Division of Water Resources of the State Department of Conservation and Natural Resources, to adopt regulations to carry out a program for regulating the drilling or operation of dissolved mineral resource exploration boreholes, dissolved mineral resource exploration wells ~~and~~ and dissolved mineral resource exploration projects. Section 21 of this bill provides that a person who violates any provision of this bill or any regulations adopted pursuant thereto or an order of the Division of Minerals is subject to a penalty.

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

Section 1. ~~[Chapter 534A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.] (Deleted by amendment.)~~

Sec. 1.2. Title 48 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 1.4 to 21, inclusive, of this act.

Sec. 1.4. 1. The provisions of this chapter govern exploration for dissolved mineral resources.

2. Ownership of dissolved mineral resources is determined by the applicable federal and state laws or regulations.

3. Except as expressly provided, nothing in this chapter shall be construed to abrogate the provisions of chapter 533, 534 or 534A of NRS.

Sec. 1.6. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 2 to 15, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 2. "Administrator" means the Administrator of the Division of Minerals of the Commission on Mineral Resources.

Sec. 3. "Dissolved mineral resource" means all dissolved or entrained minerals that may be obtained from the ~~medium~~ naturally occurring liquid or brine in which they are found ~~and which are not used for purposes of recovering heat from the medium or brine, but excluding~~

~~hydrocarbons and helium.] , including, without limitation, lithium. The term does not include a geothermal resource as defined in NRS 534A.010.~~

Sec. 4. ~~["Geothermal resource" means the natural heat of the earth and the energy associated with that natural heat, pressure and all dissolved or entrained minerals that may be obtained from the medium used to transfer that heat, but excluding hydrocarbons and helium.] (Deleted by amendment.)~~

Sec. 5. ~~[NRS 534A.010 is hereby amended to read as follows:
534A.010 As used in this chapter, unless the context otherwise requires, ["geothermal resource" means the natural heat of the earth and the energy associated with that natural heat, pressure and all dissolved or entrained minerals that may be obtained from the medium used to transfer that heat, but excluding hydrocarbons and helium.] the words and terms defined in sections 2, 3 and 4 of this act have the meaning ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 6. ~~[NRS 534A.031 is hereby amended to read as follows:
534A.031 1. Any exploration and subsurface information obtained as a result of a geothermal or dissolved mineral resource project must be filed with the Division of Minerals of the Commission on Mineral Resources within 30 days after it is accumulated. The information is confidential for 5 years after the date of filing and may not be disclosed during that time without the express written consent of the operator of the project, except that it must be made available by the Division to the State Engineer or any other agency of the State upon request. The State Engineer or other agency shall keep the information confidential.~~

~~2. If any information made confidential by subsection 1 is submitted to any other state or local governmental entity in connection with an application for a special use permit or any other license, permit or similar approval, the entity shall keep the information confidential during the period the information is confidential pursuant to subsection 1.] (Deleted by amendment.)~~

Sec. 7. ~~[NRS 534A.040 is hereby amended to read as follows:
534A.040 A consumptive use of water brought to the surface outside of a geothermal well or dissolved mineral well is subject to the appropriation procedures of chapters 533 and 534 of NRS, except for:~~

~~1. Water that is removed from an aquifer or geothermal reservoir to develop and obtain geothermal resources or dissolved mineral resources if the water is returned to or reinjected into the same aquifer or reservoir; or~~

~~2. The reasonable loss of water;~~

~~(a) During a test of a geothermal well [;] or dissolved mineral well; or~~

~~(b) From the temporary failure of all or part of a system that removes water from an aquifer or geothermal reservoir, transfers the heat from that water and reinjects that water into the same aquifer or reservoir.] (Deleted by amendment.)~~

Sec. 8. ~~[NRS 534A.060 is hereby amended to read as follows:~~

~~534A.060 1. A person may not drill or operate a geothermal well or dissolved mineral well or drill an exploratory well without obtaining a permit from the Administrator [of the Division of Minerals of the Commission on Mineral Resources] and complying with the conditions of the permit.~~

~~2. An application must set forth such information as the Administrator requires by regulation.] (Deleted by amendment.)~~

Sec. 9. ~~[NRS 534A.070 is hereby amended to read as follows:~~

~~534A.070 1. The Administrator [of the Division of Minerals of the Commission on Mineral Resources] shall approve or reject an application for a permit to drill an exploratory well within 10 days after the Administrator receives the application in proper form. The permit must not be effective for more than 2 years, but may be extended by the Administrator.~~

~~2. Upon receipt of an application for a permit to drill or operate a geothermal well [,] or dissolved mineral well, the Administrator of the Division of Minerals shall transmit copies of the application to the State Engineer, the Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources, and the Director of the Department of Wildlife. After consultation with the State Engineer, the Administrator of the Division of Environmental Protection, and the Director of the Department of Wildlife, the Administrator of the Division of Minerals may issue a permit to drill or operate a geothermal well or dissolved mineral well if it is determined that issuance of a permit is consistent with:~~

~~(a) The policies specified in NRS 445A.305 and 445B.100;~~

~~(b) The purposes of chapters 533 and 534 of NRS; and~~

~~(c) The purposes specified in chapter 501 of NRS.~~

~~3. The Administrator [of the Division of Minerals] shall approve or reject the application to drill or operate a geothermal well or dissolved mineral well within 90 days after the Administrator receives it in proper form, unless it is determined that a conflict exists pursuant to subsection 2 or a public hearing is necessary pursuant to subsection 4. Notice of the conflict or need for a public hearing must be provided to the applicant within the 90-day period.~~

~~4. The State Engineer and the Administrator [of the Division of Minerals] may hold public hearings jointly or separately to gather such evidence or information as they deem necessary for a full understanding of all the rights involved and to guard properly the public interest.~~

~~5. A permit issued pursuant to this section must include any conditions:~~

~~(a) Deemed necessary by the Administrator [of the Division of Minerals] to carry out the purposes of this section; and~~

~~(b) Imposed by the State Engineer consistent with the provisions of chapters 533 and 534 of NRS.] (Deleted by amendment.)~~

Sec. 10. ~~[NRS 534A.080 is hereby amended to read as follows:~~

~~534A.080 1. The Commission on Mineral Resources shall impose and collect a fee for examining and filing an application for a permit to drill or~~

~~operate a geothermal well or dissolved mineral well or to drill an exploratory well. The fee must be deposited with the State Treasurer, for credit to the Account for the Division of Minerals created in the State General Fund pursuant to NRS 513.103.~~

~~2. The fee may be based in part on the number of acres of land being used by the person who holds the permit.~~

~~3. The Commission and the Division of Minerals may use the money deposited in the Account for the Division of Minerals pursuant to this section to administer the provisions of this chapter.~~ **(Deleted by amendment.)**

Sec. 11. ~~[NRS 534A.090 is hereby amended to read as follows:~~

~~534A.090 The Commission on Mineral Resources [may]:~~

~~1. Shall, in coordination with the Division of Water Resources of the State Department of Conservation and Natural Resources, adopt regulations to carry out a program for regulating the drilling of exploration and production wells for dissolved mineral resources; and~~

~~2. May adopt any other regulations necessary for carrying out the provisions of this chapter.~~ **(Deleted by amendment.)**

Sec. 12. *“Dissolved mineral resource exploration borehole” means a penetration in the ground that is made to sample or obtain water or chemical, geologic, geophysical or geotechnical information about a dissolved mineral resource and which cannot be pumped as a well.*

Sec. 13. *“Dissolved mineral resource exploration project” means a project, which may consist of one or more dissolved mineral resource exploration wells, that is conducted on:*

1. Private land owned or controlled by a natural person or an exploration or mining company; or

2. Public land in relation to a mining claim.

Sec. 14. *“Dissolved mineral resource exploration well” means a well drilled to measure, test or sample water, including, without limitation, pumping tests, to determine whether dissolved mineral resources are present in concentrations and volumes sufficient to justify production.*

Sec. 15. *“Division” means the Division of Minerals of the Commission on Mineral Resources.*

Sec. 16. 1. A person may not drill a dissolved mineral resource exploration well or operate a dissolved mineral resource exploration project without first obtaining a permit from the Administrator and complying with the conditions of the permit.

2. To obtain a permit to drill a dissolved mineral resource exploration well or operate a dissolved mineral resource exploration project, a person must submit an application for a permit to the Administrator in the form and containing such information as prescribed by the Administrator.

3. An application submitted pursuant to subsection 2 must include:

(a) The location, design and expected depth of the well or wells;

(b) The materials of construction for the well or wells;

(c) The status of the land on which the well or wells will be constructed; and

(d) A plan for monitoring the well or wells and a plan for plugging and abandoning the well or wells in accordance with any regulations adopted pursuant to this chapter.

4. In addition to any other requirement of this section, a dissolved mineral resource exploration well or a dissolved mineral resource exploration borehole must be drilled by a person who is licensed to drill wells pursuant to NRS 534.140.

5. A person does not need to obtain a permit pursuant to this section to drill a dissolved mineral resource exploration borehole.

Sec. 17. 1. The Administrator shall approve or reject an application for a permit to drill a dissolved mineral resource exploration well or operate a dissolved mineral resource exploration project within 30 days after the Administrator receives an application in proper form, unless the Administrator determines that the application conflicts with the requirements of NRS 445A.300 to 445A.730, inclusive, and any regulations adopted pursuant thereto, or any other laws and regulations administered by the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

2. A permit issued pursuant to this section must not be effective for more than 2 years, but may be extended by the Administrator for an additional 2 years if he or she determines that the permit complies with the requirements of this chapter and any regulations adopted pursuant thereto.

3. The Administrator and the Division may hold public hearings jointly or separately to gather such evidence or information as they deem necessary for a full understanding of all the rights involved and to properly guard the public interest. The Administrator must notify the applicant in advance of any hearing held pursuant to this section.

4. A permit issued pursuant to this section must include any conditions deemed necessary by the Administrator.

5. The holder of any permit issued pursuant to this section must comply with the requirements of NRS 445A.300 to 445A.730, inclusive, and any regulations adopted pursuant thereto.

Sec. 18. 1. The appropriation procedures of chapters 533 and 534 of NRS do not apply to the reasonable loss of water of not more than 5 acre-feet during the testing and sampling of water pumped by a dissolved mineral resource exploration well or dissolved mineral resource exploration project which is subject to the terms of a permit issued pursuant to section 17 of this act.

2. Any water pumped in excess of 5 acre-feet by a dissolved mineral resource exploration well or within a dissolved mineral resource exploration project is subject to the appropriation procedures of chapters 533 and 534 of NRS. An operator of a dissolved mineral resource exploration well or dissolved mineral resource exploration project must

ensure that the well or project is in compliance with the requirements of chapters 533 and 534 of NRS before the well or project exceeds the threshold of 5-acre-feet.

Sec. 19. 1. The Commission on Mineral Resources shall, by regulation, establish a fee to be collected by the Division for examining and filing an application for a permit to drill a dissolved mineral exploration well or operate a dissolved mineral resource exploration project. The fee must not exceed \$1,500.

2. The money collected pursuant to this section:

(a) Must be deposited with the State Treasurer for credit to the Account for the Division of Minerals created in the State General Fund pursuant to 513.103.

(b) May be used only to administer the provisions of this chapter.

Sec. 20. The Commission on Mineral Resources:

1. Shall, in coordination with the Division of Water Resources of the State Department of Conservation and Natural Resources, adopt regulations to carry out a program for regulating the drilling and operation of dissolved mineral resource exploration wells, dissolved mineral resource exploration projects and dissolved mineral resource exploration boreholes; and

2. May adopt any other regulations necessary to carry out the provisions of this chapter.

Sec. 21. Any person who willfully violates any provision of this chapter or any regulation adopted thereto or an order of the Division issued pursuant to this chapter is subject to a penalty of not more than \$1,000 for each act or violation and for each day that the violation continues.

~~[Sec. 12.]~~ Sec. 22. This act becomes effective ~~on July 1, 2017.~~ :

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

2. On January 1, 2018, for all other purposes.

Assemblywoman Swank moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 62.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 162.

AN ACT relating to tobacco products; revising provisions governing the reporting and disclosure of certain information relating to sales of cigarettes, roll-your-own tobacco and smokeless tobacco in and into this State; requiring the submission of certain monthly reports relating to the sale, transfer, shipment or delivery in or into this State of cigarettes, ~~and~~ roll-your-own tobacco and smokeless tobacco; providing that an importer is jointly

and severally liable for such monthly reports; providing that certain information reported to the Department of Taxation or the Attorney General relating to sales of cigarettes is confidential; requiring a nonparticipating manufacturer to post a bond approved by the Attorney General and revising the amount of such a bond; revising provisions governing the circumstances under which a nonparticipating manufacturer and its brand families may be denied listing in or removed from the directory of manufacturers and brand families created and maintained by the Department; revising provisions relating to the assignment to the State of the interest of a manufacturer in money in a qualified escrow fund; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

On November 23, 1998, leading United States tobacco product manufacturers and the State of Nevada entered into a settlement agreement, entitled the "Master Settlement Agreement," which obligates the manufacturers, in return for a release of past, present and certain future claims against them, to: (1) pay substantial sums to the State; (2) fund a national foundation devoted to the interests of public health; and (3) make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking. In 1999, the Nevada Legislature enacted provisions requiring all manufacturers of tobacco products sold in this State to participate in the Master Settlement Agreement or to place certain money in escrow. (Chapter 370A of NRS) In 2005, the Legislature made a finding that violations of chapter 370A of NRS threatened the integrity of the Master Settlement Agreement and the fiscal soundness of the State and public health, and enacted procedural safeguards to aid in the enforcement of the provisions of chapter 370A of NRS. (NRS 370.600-370.705) This bill generally revises existing, and provides additional, procedures and licensing requirements to aid in the statutory enforcement of the Master Settlement Agreement.

Section 2 of this bill authorizes the Department of Taxation, the Nevada Tax Commission and the Attorney General to share certain information with other entities for the purpose of enforcing the Master Settlement Agreement and ensuring compliance with provisions governing the taxation of sales of cigarettes. **Section 2** also provides that certain data relating to cigarette sales obtained by the Department, the Nevada Tax Commission or the Attorney General is confidential. **Sections 1 and 10** of this bill revise provisions relating to the confidentiality of such information. Existing law authorizes the Department to audit certain licensees to ensure compliance with the Master Settlement Agreement and **section 2** additionally authorizes the Department to investigate the facilities of such licensees and applicants for licenses to ensure compliance. (NRS 370.257)

Section 3 of this bill requires any person, other than a common carrier, who sells, transfers, ships or otherwise delivers cigarettes , roll-your-own tobacco or smokeless tobacco in or into Nevada to submit monthly reports

to the Department. **Section 3** sets forth the information which must be included in the reports, provides certain exceptions from the requirement to file the reports and revises the period for which a manufacturer or importer is required to retain the information provided in the reports. **Section 3** also requires a manufacturer or importer, upon request, to provide to the Attorney General copies of similar reports which the manufacturer or importer files in another state. Additionally, **section 3** requires a manufacturer or importer to provide copies or provide for the release of its quarterly federal tax returns **and certain monthly reports required by federal law** to the Attorney General. **Section 6** of this bill provides that an importer is jointly and severally liable for the reports required by **section 3**.

Existing law provides that a nonparticipating manufacturer may, as a condition of being included in the directory of manufacturers maintained by the Department, be required to post a bond for the benefit of the State of Nevada under certain circumstances. (NRS 370.682) **Section 5** of this bill requires the posting of the bond by all nonparticipating manufacturers and revises the minimum amount of the bond.

Existing law sets forth the circumstances under which a nonparticipating manufacturer and its brand families may be denied listing in the directory maintained by the Department or removed from the directory. (NRS 370.698) **Section 8** of this bill provides that a nonparticipating manufacturer and its brand families may be denied listing in the directory or removed from the directory if, in any year, the total nationwide reported sales of cigarettes of the nonparticipating manufacturer on which federal excise tax is paid exceeds by more than 5 percent the amount of cigarette sales reported by the nonparticipating manufacturer or its importers on certain national, interstate or intrastate reports.

Section 9 of this bill revises provisions governing the assignment to the State of a manufacturer's interest in money in certain qualified escrow funds. (NRS 370A.153)

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

Section 1. NRS 360.255 is hereby amended to read as follows:

360.255 1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, the records and files of the Department concerning the administration or collection of any tax, fee, assessment or other amount required by law to be collected are confidential and privileged. The Department, an employee of the Department and any other person engaged in the administration or collection of any tax, fee, assessment or other amount required by law to be collected or charged with the custody of any such records or files:

(a) Shall not disclose any information obtained from those records or files; and

(b) May not be required to produce any of the records or files for the inspection of any person or governmental entity or for use in any action or proceeding.

2. The records and files of the Department concerning the administration and collection of any tax, fee, assessment or other amount required by law to be collected are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a person in any action or proceeding before the Nevada Tax Commission, the State Board of Equalization, the Department or any court of this State if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his or her authorized representative of a copy of any document filed by the person pursuant to the provisions of any law of this State.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases, or disclosure in confidence to any federal agency that requests the information for the use of the agency in a federal prosecution or criminal investigation.

(e) Disclosure in confidence to the Governor or his or her agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding relating to a taxpayer, or to any agency of this or any other state charged with the administration or enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming.

(f) Exchanges of information pursuant to an agreement between the Nevada Tax Commission and any county fair and recreation board or the governing body of any county, city or town.

(g) Upon written request made by a public officer of a local government, disclosure of the name and address of a taxpayer who must file a return with the Department. The request must set forth the social security number of the taxpayer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and privileged and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

(h) Disclosure of information as to amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties to successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested.

(i) Disclosure of relevant information as evidence in an appeal by the taxpayer from a determination of tax due if the Nevada Tax Commission has determined the information is not proprietary or confidential in a hearing conducted pursuant to NRS 360.247.

(j) Disclosure of the identity of a person and the amount of tax assessed and penalties imposed against the person at any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon the person a penalty for fraud or intent to evade a tax imposed by law becomes final or is affirmed by the Nevada Tax Commission.

(k) Disclosure of information pursuant to subsection 2 ~~for 3~~ of NRS 370.257.

3. The Executive Director shall periodically, as he or she deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which the Executive Director has a record. The list must include the mailing address of the business as reported to the Department.

4. The Executive Director may request from any other governmental agency or officer such information as the Executive Director deems necessary to carry out his or her duties with respect to the administration or collection of any tax, fee, assessment or other amount required by law to be collected. If the Executive Director obtains any confidential information pursuant to such a request, he or she shall maintain the confidentiality of that information in the same manner and to the same extent as provided by law for the agency or officer from whom the information was obtained.

5. As used in this section:

(a) “Records” or “files” means any records and files related to an investigation or audit, financial information, correspondence, advisory opinions, decisions of a hearing officer in an administrative hearing and any other information specifically related to a taxpayer.

(b) “Taxpayer” means a person who pays any tax, fee, assessment or other amount required by law to the Department.

Sec. 1.1. NRS 370.080 is hereby amended to read as follows:

370.080 1. A person shall not engage in business as a wholesale dealer in the State of Nevada unless that person first secures a license to engage in that activity from the Department.

2. A person shall not engage in business as a retail dealer in the State of Nevada unless that person first secures a license to engage in that activity from the Department.

3. **A person shall not engage in business as a cigarette vending machine operator in the State of Nevada unless that person first secures a license to engage in that activity.**

4. A manufacturer shall not:

- (a) Sell any cigarettes to a wholesale dealer in the State of Nevada; or
- (b) Operate or permit any person other than the manufacturer to operate a cigarette rolling machine for the purpose of producing, filling, rolling, dispensing or otherwise manufacturing cigarettes,
 ↪ unless that manufacturer first secures a license to engage in that activity from the Department.

~~4.~~ 5. A separate license is required to engage in each of the activities described in this section.

Sec. 1.3. NRS 370.140 is hereby amended to read as follows:

370.140 1. A current license as a:

(a) Manufacturer authorizes the holder thereof to sell cigarettes ~~[anywhere within the borders of this State]~~ **from the premises for which the license was issued** to a wholesale dealer **in this State** who holds a current license.

(b) Wholesale dealer authorizes the holder thereof to:

(1) Purchase cigarettes from any manufacturer or wholesale dealer who holds a current license; or

(2) Sell cigarettes ~~[anywhere within the borders of this State]~~ **from the premises for which the license was issued** to any Indian tribe **in this State** listed by the Department pursuant to NRS 370.085 or any wholesale or retail dealer who holds a current license.

(c) Retail dealer authorizes the holder thereof to:

(1) Purchase cigarettes from any wholesale dealer who holds a current license; or

(2) Sell cigarettes ~~[anywhere within the borders of this State]~~ **from the premises for which the license was issued** to any consumer ~~[]~~ **in this State.**

(d) Cigarette vending machine operator authorizes the holder thereof to sell Nevada stamped cigarettes by means of coin-operated machines within the borders of this State.

2. No person who holds a current license as a:

(a) Manufacturer may sell cigarettes within the borders of this State to any person other than a wholesale dealer who holds a current license.

(b) Wholesale or retail dealer may purchase cigarettes for sale within the borders of this State or sell cigarettes within the borders of this State except as authorized pursuant to subsection 1.

Sec. 1.5. NRS 370.255 is hereby amended to read as follows:

370.255 1. Each:

(a) Wholesale dealer shall maintain copies of invoices or equivalent documentation for each of its facilities for every transaction in which the wholesale dealer is the seller, purchaser, consignor, consignee or recipient of cigarettes. The invoices or documentation must indicate the name and

address of the consignor, seller, purchaser or consignee, and the quantity by brand and style of the cigarettes involved in the transaction.

(b) Retail dealer shall maintain copies of invoices or equivalent documentation for every transaction in which the retail dealer receives or purchases cigarettes at each of its facilities. The invoices or documentation must indicate the name and address of the wholesale dealer from whom, or the address of another facility of the same retail dealer from which, the cigarettes were received, and the quantity of each brand and style of the cigarettes received in the transaction.

(c) Manufacturer shall maintain copies of invoices or equivalent documentation for each of its facilities for every transaction in which the manufacturer is the seller, purchaser, consignor, consignee or recipient of cigarettes. The invoices or documentation must indicate the name and address of the consignor, seller, purchaser or consignee, and the quantity by brand and style of the cigarettes involved in the transaction.

2. The records required by this section must be preserved on the premises described in the license of the manufacturer, wholesale dealer or retail dealer in such a manner as to ensure permanency and accessibility for inspection at reasonable hours by authorized personnel of the Department. With the permission of the Department, manufacturers, wholesale dealers and retail dealers with multiple places of business may retain centralized records, but shall transmit duplicates of the invoices or the equivalent documentation to each place of business within 24 hours after the request of the Executive Director or his or her designee.

3. The records required by this section must be retained for not less than ~~24~~ 5 years after the date of the transaction unless the Department authorizes, in writing, their earlier removal or destruction.

Sec. 2. NRS 370.257 is hereby amended to read as follows:

370.257 1. Each manufacturer, wholesale dealer and retail dealer shall provide to the Executive Director and his or her designees and to the Secretary or his or her designee, upon request, access to all the reports and records required by ~~NRS 370.001 to 370.430, inclusive,~~ **this chapter or chapter 370A of NRS.**

2. The Department ~~[at its sole discretion],~~ **the Nevada Tax Commission and the Attorney General** may share the records and reports required by ~~those sections with law~~ **this chapter or chapter 370A of NRS:**

(a) **With** law enforcement officials of the Federal Government, this State, other states, Indian tribes ~~[]~~ **or** international authorities ~~for any data clearinghouse or similar entity established~~ for the purposes of enforcing the provisions of ~~NRS 370.600 to 370.705, inclusive,~~ **this chapter** or chapter 370A of NRS ~~[]~~

~~—2.]~~ **or corresponding provisions of federal law or the laws of other states, Indian tribes or nations.**

(b) With a court, an arbitrator or any data clearinghouse or similar entity established for the purpose of making calculations required by the Master Settlement Agreement and related settlement agreements.

(c) Upon the issuance of a protective order to prevent the disclosure of confidential information approved by the Attorney General, with the attorney for a party who appears before a data clearinghouse or similar entity established for the purpose of making calculations required by the Master Settlement Agreement and related settlement agreements.

3. ~~Except as otherwise provided in this subsection, and subsection 4, the reports submitted by licensees pursuant to NRS 370.001 to 370.430, inclusive, this chapter and chapter 370A of NRS are public records. Unless otherwise directed or ordered by a court of competent jurisdiction, any information contained in those reports about quantities of cigarettes or "roll your own" tobacco by brand must not be released to anyone other than persons permitted access to those reports pursuant to subsection 1.~~

~~3.2.~~

~~4.~~ Any data relating to sales of cigarettes provided by an outside party and received by the Department, the Nevada Tax Commission or the Attorney General pursuant to the Master Settlement Agreement or any related settlement agreement is confidential.

~~5.~~ The Department, the Nevada Tax Commission and the Attorney General:

(a) Shall not disclose any such data; and

(b) May not be required to produce any such data for inspection by any person or governmental entity or for use in any action or proceeding.

4. The Department may audit the records and investigate the facilities of each ~~dealer~~ licensee or applicant for a license to determine whether the manufacturer, wholesale dealer or retail dealer, as applicable, has complied with the provisions of ~~[NRS 370.001 to 370.430, inclusive.] this chapter and chapter 370A of NRS.~~

~~6.~~ 5. As used in this section, "Master Settlement Agreement" has the meaning ascribed to it in NRS 370.635.

Sec. 3. NRS 370.327 is hereby amended to read as follows:

370.327 ~~[Not]~~

1. Except as otherwise provided in subsection 3, not later than the 10th day of each calendar month, each person who ~~has mailed, shipped~~ sells, transfers, ships or otherwise ~~delivered cigarettes in connection with a delivery sale during the previous calendar month,~~ delivers cigarettes, roll-your-own tobacco or smokeless tobacco into this State, except a ~~delivery service, shall create and maintain records containing~~ common carrier, shall submit to the Department a report for the immediately preceding calendar month that includes the information required by subsection 2.

2. Each report submitted pursuant to subsection 1 must:

(a) Be on the form prescribed by the Attorney General;

(b) Include a certification by the person who submits the report that the information provided in the report is complete and accurate;

(c) Include the total number of cigarettes or amount of roll-your-own tobacco or smokeless tobacco sold, transferred, shipped or otherwise delivered by the person in or into this State; and

(d) Include for each sale, transfer, shipment or other delivery of cigarettes, roll-your-own tobacco or smokeless tobacco the following information ~~relating to every such delivery sale:~~

~~1.1~~ :

(1) The quantity of cigarettes ~~off~~, roll-your-own tobacco or smokeless tobacco sold, transferred, shipped or otherwise delivered, identified by manufacturer and brand family;

(2) The invoice date and number; ~~and~~

(3) The name and address of the person to whom the ~~delivery sale was made;~~ and

~~2. The quantity and brands of~~ cigarettes ~~that~~, roll-your-own tobacco or smokeless tobacco were sold ~~in the delivery sale.~~

~~The records~~, transferred, shipped or otherwise delivered ~~for~~

~~3. A person is not required to submit the report required by subsection 1 if:~~

~~(a) The person is a manufacturer or importer, and the manufacturer or importer timely submits to the Attorney General the reports with respect to cigarettes required by 15 U.S.C. §§ 375 et seq., and certifies to the State of Nevada that the reports are complete and accurate.~~

~~(b) The person is a wholesale dealer, and the wholesale dealer timely submits to the Department the reports otherwise required by this chapter and such reports separately list by quantity, manufacturer and brand family of cigarettes the deliveries of cigarettes to retail dealers and other wholesale dealers in this State.~~

~~4. Except as otherwise provided in subsection 3, any~~; and

(4) The name and address of the person who transferred, shipped or otherwise delivered the cigarettes, roll-your-own tobacco or smokeless tobacco.

3. Any person who, in the 24 calendar months immediately preceding the date on which a report required by subsection 1 must be submitted, sold, transferred, shipped or otherwise delivered cigarettes, roll-your-own tobacco or smokeless tobacco into this State, other than a common carrier, must submit the report even if the person did not sell, transfer, ship or otherwise deliver cigarettes, roll-your-own tobacco or smokeless tobacco into this State in the calendar month covered by the report.

~~5.1~~ 4. A manufacturer or importer shall, upon request, provide to the Attorney General a copy of each report filed by the manufacturer or importer in another state and that is similar to the report required by subsection 1.

~~6.1~~ 5. Each nonparticipating manufacturer or importer shall:

(a) Submit to the Attorney General a copy of the federal tax return of the manufacturer or importer and a copy of all monthly operational reports on Alcohol and Tobacco Tax and Trade Bureau Forms 5210.5, 5220.6 or any subsequent corresponding form, and all adjustments, changes and amendments to such reports not later than 60 days after the close of the quarter in which the return or report is filed; or

(b) Submit to the United States Department of the Treasury a request or consent pursuant to 26 U.S.C. § 6103(c) authorizing the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury and, in the case of a foreign manufacturer or importer, United States Customs and Border Protection of the United States Department of Homeland Security, to disclose to the Attorney General the federal tax return of the manufacturer or importer not later than 60 days after the close of the quarter in which the return is filed.

~~{7}~~ 6. Except as otherwise provided in this subsection, any information received by the Attorney General pursuant to this section is confidential. The Attorney General may share any information received pursuant to this section with the Department, the Nevada Tax Commission, a taxing authority or law enforcement agency of another state or with any other entity authorized by the Attorney General to aggregate such information.

~~{8}~~ 7. A copy of each report required by this section subsection 1 must be provided to the Department at the Department's request and must be retained for not less than {3} 5 years after the date {of the applicable transaction} on which the report must be submitted unless the Department, in writing, authorizes the {records} report to be removed or destroyed at an earlier time.

Sec. 3.3. NRS 370.480 is hereby amended to read as follows:

370.480 1. Every wholesale dealer must keep at its place of business complete and accurate records for that place of business, including copies of all invoices of other tobacco products which the wholesale dealer holds, purchases and delivers, distributes or sells in this State. All records must be preserved for at least ~~{3}~~ 5 years after the date of purchase or after the date of the last entry made on the record.

2. Every retail dealer shall keep at its place of business complete and accurate records for that place of business, including copies of all itemized invoices or purchases of other tobacco products purchased and delivered from wholesale dealers. The invoices must show the name and address of the wholesale dealer and the date of the purchase. All records must be preserved for at least ~~{3}~~ 5 years after the date of the purchase.

Sec. 3.6. NRS 370.610 is hereby amended to read as follows:

370.610 "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, ~~including, but not limited to, "menthol," "lights," "kings" and "100s,"~~ and includes any brand name, whether or not occurring

alone or in conjunction with any other word, any trademark, logo, symbol, motto, selling message or recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

Sec. 4. NRS 370.665 is hereby amended to read as follows:

370.665 1. A manufacturer of tobacco products whose cigarettes are sold in this State, whether or not directly or through a distributor, retailer or similar intermediary or intermediaries shall, not later than April 30 of each year, execute and deliver to the Attorney General and the Department, on a form provided by the ~~Department,~~ **Attorney General**, a certification which certifies under penalty of perjury that, as of the date of that certification, the manufacturer of tobacco products is:

(a) A participating manufacturer; or
(b) In full compliance with subsection 2 of NRS 370A.140, including any quarterly installment payments required pursuant to NRS 370.690.

2. Except as otherwise provided in NRS 370.670:

(a) A participating manufacturer shall include in its certification pursuant to this section a list of its brand families. The participating manufacturer shall update that list at least 30 calendar days before it adds to or modifies its brand families by executing and delivering a supplemental certification to the Attorney General and the Department.

(b) A nonparticipating manufacturer shall, in its certification pursuant to this section:

(1) Include:

(I) A list of all of its brand families and the number of units sold for each brand family that were sold in the State during the preceding calendar year;

(II) A list of all of its brand families that have been sold in the State at any time during the current calendar year;

(III) The current mailing address of the nonparticipating manufacturer; and

(IV) A valid electronic mail address of the nonparticipating manufacturer;

(2) Indicate any brand family sold in the State during the preceding calendar year that is no longer being sold in the State as of the date of the certification; and

(3) Identify, by name and address:

(I) Any other manufacturer of those brand families in the preceding or current calendar year; and

(II) Each wholesale dealer that sells or offers for sale in this State any brand family of the nonparticipating manufacturer.

➔ A nonparticipating manufacturer shall update the information required by this paragraph at least 30 calendar days before it adds to or modifies its brand families or sells or distributes cigarettes in this State through a new wholesale

dealer by executing and delivering a supplemental certification to the Attorney General and the Department.

3. In addition to the requirements of subsection 2, the certification of a nonparticipating manufacturer pursuant to this section must certify:

(a) That the nonparticipating manufacturer is registered to do business in the State or has appointed an agent for service of process and provided notice thereof as required by NRS 370.680;

(b) That the nonparticipating manufacturer has:

(1) Established and continues to maintain a qualified escrow fund; and

(2) Executed a qualified escrow agreement governing the qualified escrow fund that has been reviewed and approved by the Attorney General;

(c) That the nonparticipating manufacturer is in full compliance with chapter 370A of NRS and any regulations adopted pursuant thereto;

(d) The name, address and telephone number of the financial institution where the nonparticipating manufacturer has established the qualified escrow fund required pursuant to chapter 370A of NRS and any regulations adopted pursuant thereto;

(e) The account number of that qualified escrow fund and any subaccount number for this State;

(f) The amount the nonparticipating manufacturer placed in that qualified escrow fund for cigarettes sold in the State during the preceding calendar year, the date and amount of each such deposit, and such evidence or verification as may be deemed necessary by the Department **or the Attorney General** to confirm the information required by this paragraph; **and**

(g) The amount and date of any withdrawal or transfer of money the nonparticipating manufacturer made at any time from that qualified escrow fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to chapter 370A of NRS and any regulations adopted pursuant thereto; ~~and~~

~~(h) That the nonparticipating manufacturer has submitted to the Attorney General a request or consent to the United States Department of the Treasury pursuant to 26 U.S.C. § 6103(e) authorizing the Alcohol and Tobacco Tax and Trade Bureau of the Department, or in the case of a foreign manufacturer, United States Customs and Border Protection of the United States Department of Homeland Security, to disclose to the Attorney General the federal excise tax returns of the manufacturer and each monthly operational report of the manufacturer reported on Alcohol and Tobacco Tax and Trade Bureau Form 5210.5, and all adjustments, changes and other amendments, thereto.~~

Sec. 5. NRS 370.682 is hereby amended to read as follows:

370.682 1. A nonparticipating manufacturer shall post a bond approved by the Attorney General for the benefit of the State of Nevada . ~~if:~~

~~(a) The cigarettes of the nonparticipating manufacturer have not been sold in this State during any of the 4 immediately preceding calendar quarters;~~

~~—(b) The nonparticipating manufacturer or an affiliate failed to make a full and timely escrow deposit due under this chapter or chapter 370A of NRS during any of the immediately preceding 5 calendar years, unless the failure was neither knowing nor reckless and was promptly cured upon notice; or~~

~~—(c) The nonparticipating manufacturer or an affiliate, or any of the brand families of the nonparticipating manufacturer or an affiliate, were removed from the directory of this or any other state during any of the immediately preceding 5 calendar years, unless the removal is determined to have been erroneous or illegal.]~~

2. The bond must be posted not less than 10 days before the beginning of each calendar quarter as a condition of the nonparticipating manufacturer and its brand families being included in the directory for that quarter. The amount of the bond must be the greater of ~~[\$25,000]~~ **\$50,000** or the ~~largest]~~ **greatest** required escrow amount due from the nonparticipating manufacturer or its predecessor for any of the immediately preceding 12 calendar quarters.

3. If a nonparticipating manufacturer ~~[that posted a bond]~~ has failed to make or have made on its behalf escrow deposits equal to the full amount due for a calendar quarter within 15 business days after the due date for that calendar quarter, the State of Nevada may execute upon the bond **posted by the nonparticipating manufacturer pursuant to subsection 1** in an amount equal to any remaining escrow amount due.

4. Any amount that the State of Nevada collects on a bond posted by a nonparticipating manufacturer pursuant to this section:

(a) Must be deposited into a special escrow account established and maintained by the State of Nevada and used for purposes authorized for the use of money in the qualified escrow fund of the nonparticipating manufacturer pursuant to this chapter and chapter 370A of NRS; and

(b) Reduces the escrow amount due from the nonparticipating manufacturer in the dollar amount collected.

5. Escrow obligations above the amount collected on the bond remain due from the nonparticipating manufacturer and, as provided in NRS 370.683 ~~[.]~~ **and 370.684**, from wholesale dealers **and importers, respectively**, that sold the cigarettes of the nonparticipating manufacturer during that calendar quarter.

6. The withholding, use or return of amounts deposited into the special escrow account must be handled in the same manner as amounts deposited in the qualified escrow fund of the nonparticipating manufacturer pursuant to the provisions of this chapter and chapter 370A of NRS.

7. ~~[As used in this section, “affiliate” has the meaning ascribed to it in NRS 370A.030.]~~ **The Attorney General shall adopt regulations to carry out the provisions of this section.**

Sec. 6. NRS 370.684 is hereby amended to read as follows:

370.684 1. An importer is jointly and severally liable for ~~the]~~ :

(a) The escrow deposit due pursuant to NRS 370A.140 for each cigarette which is intended for sale in this State which the importer causes to be sent to

a person who holds a license as a wholesale dealer or license as a retail dealer issued by the Department ~~[-]; and~~

(b) The reports required by subsection 1 of NRS 370.327.

2. A nonparticipating manufacturer located outside the United States that conducts business in this State shall provide to the Attorney General on a form prescribed by the Attorney General a declaration from each importer that imports the cigarettes of the nonparticipating manufacturer which are intended for sale in this State stating that the importer accepts liability pursuant to subsection 1 and consents to the jurisdiction of the courts of this State for the purposes of enforcing this section.

3. As used in this section, “importer” has the meaning ascribed to it in NRS 370.0295.

Sec. 7. NRS 370.685 is hereby amended to read as follows:

370.685 1. Not later than 20 calendar days after the end of each calendar quarter, and more frequently if so directed by the Department, each distributor shall submit such information as the Department requires to facilitate compliance with the provisions of ~~[NRS 370.600 to 370.705, inclusive,]~~ **this chapter and chapter 370A of NRS**, including, without limitation, a list by brand family of the total number of cigarettes or, in the case of “roll-your-own” tobacco, the equivalent unit count, for which the distributor affixed stamps during the previous calendar quarter or otherwise paid the tax due for those cigarettes. The distributor shall maintain for at least 5 years, and make available to the Department, all invoices and documentation of sales of all cigarettes of nonparticipating manufacturers and any other information relied upon in reporting to the Department.

2. The Department may disclose to the Attorney General any information received pursuant to ~~[NRS 370.600 to 370.705, inclusive,]~~ **this chapter or chapter 370A of NRS** and requested by the Attorney General for purposes of determining compliance with and enforcing the provisions of ~~[NRS 370.600 to 370.705, inclusive,]~~ **this chapter and chapter 370A of NRS**. The Department and Attorney General shall share with each other the information received pursuant to the provisions of ~~[NRS 370.600 to 370.705, inclusive,]~~ **this chapter and chapter 370A of NRS** and may share such information with other federal, state or local agencies only for purposes of enforcement of those provisions ~~[-, the provisions of chapter 370A of NRS]~~ or the corresponding laws of other states.

3. The Department **or the Attorney General** may require at any time from a nonparticipating manufacturer proof, from the financial institution in which that manufacturer has established a qualified escrow fund for the purpose of compliance with chapter 370A of NRS, of the amount of money in that fund, exclusive of interest, the amount and date of each deposit to that fund, and the amount and date of each withdrawal from that fund.

4. In addition to the information otherwise required to be submitted pursuant to ~~[NRS 370.600 to 370.705, inclusive,]~~ **this chapter and chapter 370A of NRS**, the Department **or the Attorney General** may, at any time,

require a distributor or manufacturer of tobacco products to submit any additional information or documentation as is necessary to ~~enable the Department to~~ determine whether a manufacturer of tobacco products is or will continue to be in compliance with the provisions of this chapter and chapter 370A of NRS.

Sec. 8. NRS 370.698 is hereby amended to read as follows:

370.698 1. The license of a wholesale dealer may be suspended or revoked if a similar license of the wholesale dealer is suspended or revoked in any other state based on an act or omission that would, if the act or omission had occurred in this State, be grounds for the suspension or revocation of the license of the wholesale dealer pursuant to NRS 370.379, unless the wholesale dealer demonstrates that the suspension or revocation of its license in the other state was effected without due process. A wholesale dealer whose license is suspended or revoked in this State pursuant to this subsection is eligible for reinstatement upon the earlier of the date on which the violation in the other state is cured or the date on which the license of the wholesale dealer is reinstated in the other state.

2. A nonparticipating manufacturer and its brand families may be denied listing in the directory or removed from the directory for any of the following reasons:

(a) The nonparticipating manufacturer is removed from the directory of another state based on an act or omission that would, if the act or omission had occurred in this State, be grounds for the removal of the nonparticipating manufacturer from the directory of this State pursuant to NRS 370.675, unless the nonparticipating manufacturer demonstrates that its removal from the directory of the other state was effected without due process. A nonparticipating manufacturer that is removed from the directory of this State pursuant to this paragraph is eligible for reinstatement to the directory upon the earlier of the date on which the violation in the other state is cured or the date on which the nonparticipating manufacturer is reinstated to the directory of the other state.

(b) The nonparticipating manufacturer is convicted of any crime relating to the manufacture, sale or distribution of tobacco products in this State or another state.

(c) The nonparticipating manufacturer fails to report the existence or result, including any conviction, of any investigation of the nonparticipating manufacturer which is known to the nonparticipating manufacturer regarding the commission of any crime relating to the manufacture, sale or distribution of tobacco products in this State or another state.

(d) The nonparticipating manufacturer fails to report any investigation of the nonparticipating manufacturer which is known to the nonparticipating manufacturer regarding any violation of the laws of any other state based on an act or omission that would, if the act or omission had occurred in this State, be grounds for the removal of the nonparticipating manufacturer from the directory of this State pursuant to NRS 370.675.

(e) The nonparticipating manufacturer knowingly makes a false, material statement in any report, filing or other communication provided to this State pursuant to this chapter or chapter 370A of NRS.

(f) The nonparticipating manufacturer has a shortfall or fails to make an escrow deposit that is due in another state or territory of the United States, has been given reasonable notice of the shortfall or failure and has failed to cure the shortfall or make the deposit within 30 days after receiving notice of the shortfall or failure.

(g) In any calendar year the total nationwide sales of cigarettes on which federal excise tax is paid by the nonparticipating manufacturer exceeds by more than 5 percent the amount of such sales reported in:

(1) Any nationwide report made by the nonparticipating manufacturer or any importer pursuant to 15 U.S.C. §§ 375 et seq.;

(2) Any interstate report required by law; or

(3) Any intrastate report required by law,

↪ unless the nonparticipating manufacturer cures the discrepancy or provides a satisfactory explanation of the discrepancy within 30 days after receiving notice of the discrepancy.

3. The provisions of NRS 233B.121 to 233B.150, inclusive, apply to:

(a) The suspension or revocation of the license of a wholesale dealer pursuant to subsection 1; and

(b) The removal of a nonparticipating manufacturer and its brand families from the directory pursuant to subsection 2.

Sec. 9. NRS 370A.153 is hereby amended to read as follows:

370A.153 1. Notwithstanding the provisions of NRS 370A.150, a manufacturer that elects to deposit money into a qualified escrow fund pursuant to NRS 370A.140 may assign to the State the interest of the manufacturer in any money in the qualified escrow fund.

2. An assignment executed pursuant to subsection 1 is ***permanent***, irrevocable and applies to ~~any~~ ***all money in the qualified escrow fund, including all money deposited into the qualified escrow fund before the manufacturer executes the assignment, all money deposited into the qualified escrow fund after the manufacturer executes the assignment*** and any interest or other appreciation earned on any money ~~for which the manufacturer executes the assignment.~~ ***in the qualified escrow fund.***

3. The parties to a qualified escrow agreement may amend the agreement for the purposes of executing an assignment pursuant to subsection 1.

4. An assignment executed pursuant to subsection 1 must be in writing and be signed by the assignee and the assignor or by an authorized agent or representative of the assignor. An assignment in writing which is duly executed becomes enforceable after a copy of the assignment is delivered to the Attorney General and the financial institution where the qualified escrow fund is maintained.

5. ***Notwithstanding the provisions of NRS 370A.150, money assigned to the State pursuant to an assignment executed pursuant to subsection 1:***

~~(a) Is not subject to the requirements otherwise applicable to money deposited in a qualified escrow fund;~~

~~(b) Must be deposited in the State General Fund; and~~

~~(c) (b) Must be credited on a dollar-for-dollar basis against any judgment or settlement described in NRS 370A.150 which may be obtained against the manufacturer who executes the assignment.~~

6. Nothing in this section operates to relieve a manufacturer from any obligation or duty imposed pursuant to this chapter or chapter 370 of NRS.

Sec. 10. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, **370.257, 370.327,** 372A.080, 378.290, 378.300, 379.008, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 11. This act becomes effective on July 1, 2017.

Assemblywoman Neal moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 68.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 354.

AN ACT relating to transportation; ~~revising provisions relating to the confidentiality of certain information in the possession of the Department of Motor Vehicles; revising provisions relating to autonomous vehicles and other vehicles using certain advanced technologies; revising provisions regarding the information required to obtain a driver authorization card;~~ revising provisions relating to the photograph on a driver's license; revising provisions governing the licensure and operation of schools for training drivers; revising provisions relating to the fees paid by a person 65 years of age or older for an identification card; revising provisions relating to the issuance of a commercial driver's license to a person who is not a resident of this State; **setting forth exceptions to certain restrictions on the placement of advertising on or near certain highways, rights-of-way, bridges or structures;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Under existing law, the Director of the Department of Motor Vehicles is subject to various restrictions on his or her authority to release personal information from certain files and records of the Department relating to a driver's license, identification card, or title or registration of a vehicle. One such restriction is that the Director is not authorized to provide personal information to individuals or companies for the purpose of marketing extended vehicle warranties, except in the case of activities relating to research or the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person. A person who requests and receives such personal information may sell or disclose that information only for a use permitted by other provisions of the statute, including use in connection with certain civil, criminal,~~

~~administrative or arbitration proceedings, in connection with matters relating to the safety of drivers, safety and theft of motor vehicles, emission from motor vehicles and other similar uses. A person who sells or discloses such information is required to keep a record, for 5 years, of each person to whom the information was provided, and the purpose for which that person will use the information. (NRS 481.063) Section 1 of this bill removes the exception to the provision of personal information to individuals or companies for the purpose of marketing extended vehicle warranties, and expands the applicability of the recordkeeping requirement to other circumstances in which a person may request such information.~~

~~Existing law requires the Department to adopt regulations authorizing the operation of autonomous vehicles on highways within this State. (NRS 482A.100) Such vehicles are equipped with autonomous technology, which has the capability to drive the vehicle without the active control or monitoring of a human operator. (NRS 482A.025, 482A.030) Section 5 of this bill authorizes the Department to adopt regulations authorizing the operation of vehicles which use an "advanced automated vehicle system" on highways and other places within this State. Section 3 of this bill defines an "advanced automated vehicle system" as a combination of technology and equipment that allows a vehicle to: (1) be electronically controlled by an operator; and (2) operate on the highways of this State and in other places, including, without limitation, in the air or in or on the waters of this State. Section 6 of this bill authorizes the Department to adopt regulations authorizing the operation of vehicles which use "driver assistive truck platooning technology" on highways within this State. Section 4 of this bill defines "driver assistive truck platooning technology" as an integration of vehicle automation, safety technology, sensor arrays, vehicle to vehicle communication systems and specialized software that allows for the linking of the safety systems, acceleration and braking between two or more trucks or other vehicles as they travel on a road or highway, leaving the steering of each truck or other vehicle under the command and control of the driver of the truck or other vehicle, to the extent that such integration and linking is authorized under any federal laws or regulations adopted by the National Highway Traffic Safety Administration of the United States Department of Transportation. Section 8 of this bill provides that autonomous technology does not include driver assistive truck platooning technology.~~

~~Existing law requires an applicant for certain instruction permits or a driver authorization card to state their name, date of birth, sex and residence address. (NRS 483.291) Section 9 of this bill requires such an application to instead include the applicant's full legal name, date of birth, sex, address of principal residence and mailing address.]~~

Existing law requires the Department to issue a driver's license which bears a colored photograph of the licensee. (NRS 483.347) **Section 10** of this bill removes the requirement that the photograph be in color.

Existing law requires a person who seeks to operate a school for training drivers or to be an instructor for a school for training drivers to obtain a driver's license from the Department. (NRS 483.700) The Department may cancel, suspend, revoke or refuse to renew the driver's license if the licensee engages in certain acts or practices. (NRS 483.760) **Section 12** of this bill provides that the Department may also refuse to issue a license if the applicant engages in any of those certain acts or practices, and adds to the list of those acts or practices: (1) making a material misstatement on an application; (2) failing or refusing to provide any information requested by the Department regarding an application; and (3) conviction of a crime for a violation of any of the provisions of law governing schools for training drivers and instructors for a school for training drivers. Existing law also requires that each vehicle used for training drivers and operated on a highway is inspected annually. (NRS 483.745) **Section 11** of this bill requires that a vehicle be inspected within 30 days after initial use by the school for training drivers, and then inspected annually thereafter.

Existing law allows certain persons who do not hold a valid driver's license from any state or jurisdiction to obtain an identification card from the Department. (NRS 482.820) A person who is 65 years of age or older must pay a fee of \$4 for an original or duplicate identification card. **Section 13** of this bill clarifies that the \$4 fee applies to such an identification card which expires on or before the fourth anniversary of the person's birthday and an \$8 fee applies to such an identification card which expires on or before the eighth anniversary of the person's birthday.

Existing law requires the Department to adopt regulations providing for the issuance of commercial drivers' licenses, but the regulations may not be more restrictive than the federal regulations adopted pursuant to the Commercial Motor Vehicle Safety Act of 1986, as amended, 49 U.S.C. §§ 31301 et seq. (NRS 483.908) The Department may not issue a commercial driver's license or a commercial learner's permit, which allows a person to operate a commercial motor vehicle on the highways of this State if he or she is accompanied by the holder of a commercial driver's license, to a person unless the person is a resident of this State. (NRS 483.924, 483.934) Existing law prohibits a person who is a resident of this State for 30 days or more from driving a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction. (NRS 483.932) Existing law authorizes the Department to issue a nonresident commercial driver's license or a nonresident commercial learner's permit to a person who is a resident of a foreign jurisdiction which the Federal Highway Administrator has determined does not test drivers and issue commercial drivers' licenses in accordance with federal standards or who is a resident of a state while that state is prohibited from issuing commercial drivers' licenses pursuant to federal regulations. (NRS 483.936) **Section 15** of this bill removes the authorization for the Department to issue a nonresident commercial driver's license or nonresident commercial learner's permit, and

newly provides that the Department may only issue a limited-term commercial driver's license or limited-term commercial learner's permit to a resident of a foreign jurisdiction which the Federal Highway Administrator has determined does not test drivers and issue commercial drivers' licenses in accordance with federal standards. **Section 14** of this bill makes conforming changes to the fees for such a license.

Existing law restricts the placement of advertising on or near certain highways, rights-of-way, bridges or structures, with certain exceptions for benches and shelters for passengers of mass transit and monorail stations. (NRS 405.110, 410.320, 484B.313) Sections 15.3-15.7 of this bill add to the exceptions from those restrictions certain advertisements on a touchdown structure, which is the tower attached to a pedestrian bridge and which houses an elevator.

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

Section 1. ~~[NRS 481.063 is hereby amended to read as follows:~~
~~481.063 1. [The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.] Except as otherwise provided in this section and NRS 483.294, 483.855 and 483.937, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.~~
~~2. Except as otherwise provided in subsection [6,] 3, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.~~
~~3. [Except as otherwise provided in subsections 2 and 4, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415 or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:~~
~~(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;~~

~~—(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or~~

~~—(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.~~

~~— When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.~~

~~— 4. If a person is authorized to obtain such information pursuant to a contract entered into with the Department and if such information is requested for the purpose of an advisory notice relating to a motor vehicle or the recall of a motor vehicle or for the purpose of providing information concerning the history of a vehicle, the Director may release:~~

~~—(a) A list which includes license plate numbers combined with any other information in the records or files of the Department; or~~

~~—(b) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.~~

~~— 5. Except as otherwise provided in subsections 2, 4 and 6 and NRS 483.294, 483.855 and 483.937, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.~~

~~— 6.] Except as otherwise provided in paragraph (a) [and], **paragraph (g) of subsection 7, and subsection 8**, if a person or governmental entity provides a description of the information requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:~~

~~—(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.~~

~~—(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.~~

~~—(c) In connection with matters relating to:~~

~~—(1) The safety of drivers of motor vehicles;~~
~~—(2) Safety and thefts of motor vehicles;~~
~~—(3) Emissions from motor vehicles;~~
~~—(4) Alterations of products related to motor vehicles;~~
~~—(5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;~~
~~—(6) Monitoring the performance of motor vehicles;~~
~~—(7) Parts or accessories of motor vehicles;~~
~~—(8) Dealers of motor vehicles; or~~
~~—(9) Removal of nonowner records from the original records of motor vehicle manufacturers;~~
~~—(d) By any insurer, self insurer or organization that provides assistance or support to an insurer or self insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.~~
~~—(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded;~~
~~—(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer;~~
~~—(g) By a private investigator, private patrol officer or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section;~~
~~—(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose;~~
~~—(i) In connection with an investigation conducted pursuant to NRS 253.0415 or 253.220;~~
~~—(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person;~~
~~—[7. Except as otherwise provided in paragraph (j) of subsection 6, the Director shall not provide personal information to individuals or companies for the purpose of marketing extended vehicle warranties, and a]~~
~~—4. A person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection [6.]~~
~~3. Such a person shall keep and maintain for 5 years a record of:~~
~~—(a) Each person to whom the information is provided; and~~
~~—(b) The purpose for which that person will use the information;~~
~~— The record must be made available for examination by the Department at all reasonable times upon request.~~

~~— [8.] 5. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if the Director reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.~~

~~— 6. Except as otherwise provided in subsections 2 and 7, the Director shall not release to any person:~~

~~— (a) A list which includes license plate numbers combined with any other information in the records or files of the Department;~~

~~— (b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or~~

~~— (c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.~~

~~— When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.~~

~~— 7. Except as otherwise provided in paragraph (g), the Director may release the information listed in paragraphs (a), (b) and (c) of subsection 6 to:~~

~~— (a) A representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services;~~

~~— (b) An officer, employee or agent of a law enforcement agency;~~

~~— (c) An agent of the public defender's office;~~

~~— (d) An agency of a local government which collects fines imposed for parking violations;~~

~~— (e) A person conducting an investigation pursuant to NRS 253.0415 or 253.220;~~

~~— (f) A person authorized to transact insurance pursuant to chapter 680A of NRS or who is licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim; or~~

~~— (g) A person who is authorized to obtain such information pursuant to a contract entered into with the Department and if such information is requested for the purpose of an advisory notice relating to a vehicle or the recall of a vehicle or for the purpose of providing information concerning the history of a vehicle, except that the Director may not release to such a person the information listed in paragraph (b) of subsection 6 regarding social security numbers.~~

~~— 8. The Director shall not provide personal information to individuals or companies for the purpose of marketing extended vehicle warranties.~~

~~— 9. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the system~~

~~created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that system.~~

~~10. The Director shall not release any information relating to legal presence or any other information relating to or describing immigration status, nationality or citizenship from a file or record relating to a request for or the issuance of a license, identification card or title or registration of a vehicle to any person or to any federal, state or local governmental entity for any purpose relating to the enforcement of immigration laws.~~

~~11. **The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.**~~

~~12. The Director shall adopt such regulations as the Director deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate the person's ability to request information electronically or by written request if the person has submitted to the Department proof of employment or licensure, as applicable, and a signed and notarized affidavit acknowledging that the person:~~

~~— (a) Has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;~~

~~— (b) Understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;~~

~~— (c) Understands that a record will be maintained by the Department of any information he or she requests; and~~

~~— (d) Understands that a violation of the provisions of this section is a criminal offense.~~

~~[12.] 13. It is unlawful for any person to:~~

~~— (a) Make a false representation to obtain any information from the files or records of the Department.~~

~~— (b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.~~

~~[13.] 14. As used in this section:~~

~~— (a) "Information relating to legal presence" means information that may reveal whether a person is legally present in the United States, including, without limitation, whether the driver's license that a person possesses is a driver authorization card, whether the person applied for a driver's license pursuant to NRS 483.290 or 483.291 and the documentation used to prove **the full legal name, age [and], address of principal residence and mailing address** that was provided by the person with his or her application for a driver's license.~~

~~—(b) “Personal information” means information that reveals the identity of a person, including, without limitation, his or her photograph, social security number, individual taxpayer identification number, driver’s license number, identification card number, name, address, telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his or her full address, information regarding vehicular crashes or driving violations in which he or she has been involved or other information otherwise affecting his or her status as a driver.~~

~~—(c) “Vehicle” includes, without limitation, an off-highway vehicle as defined in NRS 490.060.~~ **(Deleted by amendment.)**

Sec. 2. ~~{Chapter 482A of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 6, inclusive, of this act.}~~ **(Deleted by amendment.)**

Sec. 3. ~~{“Advanced automated vehicle system” means a combination of technology and equipment that allows a vehicle to:~~

~~—1. Be electronically controlled by an operator; and~~

~~—2. Operate on the highways of this State and in other places within this State, including, without limitation, in the air above, or in or on the waters of, this State.}~~ **(Deleted by amendment.)**

Sec. 4. ~~{“Driver assistive truck platooning technology” means an integration of vehicle automation, safety technology, sensor arrays, vehicle-to-vehicle communication systems and specialized software that allows for the linking of the safety systems, acceleration and braking between two or more trucks or other vehicles as they travel on a road or highway, leaving the steering of each truck or other vehicle under the command and control of the driver of the truck or other vehicle, to the extent that the integration and linking is authorized under federal laws or regulations adopted by the National Highway Traffic Safety Administration of the United States Department of Transportation.}~~ **(Deleted by amendment.)**

Sec. 5. ~~{1. The Department may adopt regulations authorizing the operation of vehicles which use an advanced automated vehicle system on highways and other places within this State.~~

~~—2. If the Department adopts the regulations authorized pursuant to subsection 1, the regulations must:~~

~~—(a) Set forth the requirements that an advanced automated vehicle system must meet before a vehicle which uses an advanced automated vehicle system may be operated on highways or other places within this State;~~

~~—(b) Set forth the requirements for the insurance that is required to test or operate a vehicle which uses an advanced automated vehicle system on highways or other places within this State;~~

~~—(c) Establish minimum safety standards for a vehicle which uses an advanced automated vehicle system and its operation;~~

~~—(d) Provide for the testing of advanced automated vehicle systems and vehicles which use an advanced automated vehicle system;~~

~~—(e) Restrict the testing of vehicles which use an advanced automated vehicle system to specified geographical areas; and~~

~~—(f) Set forth any other requirements required by the Department. }~~
(Deleted by amendment.)

Sec. 6. ~~1. The Department may adopt regulations authorizing the operation of a truck or other vehicle which uses driver assistive truck platooning technology on highways within this State.~~

~~2. If the Department adopts the regulations authorized pursuant to subsection 1, the regulations must:~~

~~—(a) Set forth the requirements that driver assistive truck platooning technology must meet before a truck or other vehicle which uses driver assistive truck platooning technology may be operated on highways within this State;~~

~~—(b) Set forth the requirements for the insurance that is required to test or operate a truck or other vehicle which uses driver assistive truck platooning technology on highways within this State;~~

~~—(c) Establish minimum safety standards for a truck or other vehicle which uses driver assistive truck platooning technology and its operation;~~

~~—(d) Provide for the testing of driver assistive truck platooning technology and any truck or other vehicle which uses driver assistive truck platooning technology;~~

~~—(e) Restrict the testing of a truck or other vehicle which uses driver assistive truck platooning technology to specified geographical areas; and~~

~~—(f) Set forth any other requirements required by the Department. }~~
(Deleted by amendment.)

Sec. 7. ~~[NRS 482A.010 is hereby amended to read as follows:~~

~~482A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 482A.025, 482A.030 and 482A.040 and sections 3 and 4 of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 8. ~~[NRS 482A.025 is hereby amended to read as follows:~~

~~482A.025 “Autonomous technology” means technology which is installed on a motor vehicle and which has the capability to drive the motor vehicle without the active control or monitoring of a human operator. The term does not include an active safety system , driver assistive truck platooning technology or a system for driver assistance, including, without limitation, a system to provide electronic blind spot detection, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keeping assistance, lane departure warning, or traffic jam and queuing assistance, unless any such system, alone or in combination with any other system, enables the vehicle on which the system is installed to be driven without the active control or monitoring of a human operator.] (Deleted by amendment.)~~

Sec. 9. ~~[NRS 483.291 is hereby amended to read as follows:~~

~~483.291 1. An application for an instruction permit or for a driver authorization card must:~~

~~(a) Be made upon a form furnished by the Department;~~

~~(b) Be verified by the applicant before a person authorized to administer oaths. Officers and employees of the Department may administer those oaths without charge;~~

~~(c) Be accompanied by the required fee;~~

~~(d) State the **full legal** name, date of birth, sex [and], **address of principal residence and mailing address, if different from the address of principal residence**, of the applicant and briefly describe the applicant;~~

~~(e) State whether the applicant has theretofore been licensed as a driver, and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for the suspension, revocation or refusal;~~

~~(f) Include such other information as the Department may require to determine the competency and eligibility of the applicant;~~

~~2. Every applicant must furnish proof of his or her **full legal** name and age by displaying an original or certified copy of:~~

~~(a) Any one of the following documents:~~

~~(1) A birth certificate issued by a state, a political subdivision of a state, the District of Columbia or any territory of the United States;~~

~~(2) A driver's license issued by another state, the District of Columbia or any territory of the United States which is issued pursuant to the standards established by 6 C.F.R. Part 37, Subparts A to E, inclusive, and which contains a security mark approved by the United States Department of Homeland Security in accordance with 6 C.F.R. § 37.17;~~

~~(3) A passport issued by the United States Government;~~

~~(4) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States;~~

~~(5) For persons who served in any branch of the Armed Forces of the United States, a report of separation;~~

~~(6) A Certificate of Degree of Indian Blood issued by the United States Government;~~

~~(7) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security;~~

~~(8) A Consular Report of Birth Abroad issued by the Department of State; or~~

~~(9) Such other documentation as specified by the Department by regulation; or~~

~~(b) Any two of the following documents:~~

~~— (1) A driver's license issued by another state, the District of Columbia or any territory of the United States other than such a driver's license described in subparagraph (2) of paragraph (a);~~

~~— (2) A passport issued by a foreign government;~~

~~— (3) A birth certificate issued by a foreign government;~~

~~— (4) A consular identification card issued by the Government of Mexico or a document issued by another government that the Department determines is substantially similar; or~~

~~— (5) Any other proof acceptable to the Department.~~

~~— No document which is written in a language other than English may be accepted by the Department pursuant to this subsection unless it is accompanied by a verified translation of the document in the English language.~~

~~— 3. Every applicant must prove his or her **address of principal** residence in this State by displaying an original or certified copy of any two of the following documents:~~

~~— (a) A receipt from the rent or lease of a residence located in this State;~~

~~— (b) A record from a public utility for a service address located in this State which is dated within the previous 60 days;~~

~~— (c) A bank or credit card statement indicating a residential address located in this State which is dated within the previous 60 days;~~

~~— (d) A stub from an employment check indicating a residential address located in this State;~~

~~— (e) A document issued by an insurance company or its agent, including, without limitation, an insurance card, binder or bill, indicating a residential address located in this State;~~

~~— (f) A record, receipt or bill from a medical provider indicating a residential address located in this State; or~~

~~— (g) Any other document as prescribed by the Department by regulation.~~

~~— 4. Except as otherwise provided in subsection 5, a driver authorization card or instruction permit obtained in accordance with this section must:~~

~~— (a) Contain the same information as prescribed for a driver's license pursuant to NRS 483.340 and any regulations adopted pursuant thereto;~~

~~— (b) Be of the same design as a driver's license and contain only the minimum number of changes from that design that are necessary to comply with subsection 5; and~~

~~— (c) Be numbered from the same sequence of numbers as a driver's license.~~

~~— 5. A driver authorization card or instruction permit obtained in accordance with this section must comply with the requirements of section 202(d)(11) of the Real ID Act of 2005, Public Law 109-13, Division B, Title II, 119 Stat. 302, 312-15, 49 U.S.C. § 30301 note.~~

~~— 6. Notwithstanding the provisions of NRS 483.380, every driver authorization card expires on the anniversary of its issuance or renewal. Every driver authorization card is renewable at any time before its expiration upon application and payment of the required fee. The Department may, by~~

~~regulation, defer the expiration of the driver authorization card of a person who is on active duty in the Armed Forces of the United States upon such terms and conditions as it may prescribe. The Department may similarly defer the expiration of the driver authorization card of the spouse or dependent son or daughter of that person if the spouse or child is residing with the person.~~

~~7. A driver authorization card shall not be used to determine eligibility for any benefits, licenses or services issued or provided by this State or its political subdivisions.~~

~~8. Except as otherwise provided in this section or by specific statute, any provision of this title that applies to drivers' licenses shall be deemed to apply to a driver authorization card and an instruction permit obtained in accordance with this section.~~ **(Deleted by amendment.)**

Sec. 10. NRS 483.347 is hereby amended to read as follows:

483.347 1. Except as otherwise provided in subsection 2, the Department shall issue a rectangular-shaped driver's license which bears a front view ~~colored~~ photograph of the licensee. The photograph and any information included on the license must be placed in a manner which ensures that:

- (a) If the licensee is 21 years of age or older, the longer edges of the rectangle serve as the top and bottom of the license; or
- (b) If the licensee is under 21 years of age, the shorter edges of the rectangle serve as the top and bottom of the license.

2. The Department may issue a temporary driver's license without a photograph of the licensee if the licensee is temporarily absent from this State and requests the renewal of, the issuance of a duplicate of, or a change in the information on, his or her driver's license. If the licensee returns to this State for 14 continuous days or more, the licensee shall, within 24 days after the date of return, surrender the temporary license and obtain a license which bears his or her photograph in accordance with subsection 1. A licensee charged with violating the provisions of this subsection may not be convicted if the licensee surrenders the temporary license, obtains a license which bears his or her photograph in accordance with subsection 1 and produces that license in court or in the office of the arresting officer.

3. The Department shall:

(a) Establish a uniform procedure for the production of drivers' licenses, applicable to renewal as well as to original licenses.

(b) Except as otherwise provided in NRS 483.417 and 483.825, by regulation, increase the fees provided in NRS 483.410, 483.820 and 483.910 as necessary to cover the actual cost of production of photographs for drivers' licenses and identification cards. The increase must be deposited in the State Treasury for credit to the Motor Vehicle Fund and must be allocated to the Department to defray the increased costs of producing the drivers' licenses required by this section.

Sec. 11. NRS 483.745 is hereby amended to read as follows:

483.745 1. A school for training drivers or a third-party certifier provided for by regulation shall ensure that each vehicle used for training drivers and operated on a highway is inspected ***within 30 days after initial use by the school for training drivers and inspected*** annually ~~and~~ ***thereafter***.

2. The school for training drivers or the third-party certifier shall provide to the Department, within 30 days of the inspection or by December 31 of each calendar year, whichever comes first, the results of the inspection regarding the safety and road worthiness of the vehicles inspected pursuant to subsection 1.

3. The Department shall adopt regulations setting forth:

- (a) The persons qualified to conduct the inspection; and
- (b) The standards with which the inspection must comply.

4. The owner of the school for training drivers or the third-party certifier shall maintain a copy of the results of the inspection at his or her principal place of business for 3 years after the inspection is completed.

Sec. 12. NRS 483.760 is hereby amended to read as follows:

483.760 The Department may ***refuse to issue a license or may*** cancel, suspend, revoke or refuse to renew any license granted pursuant to NRS 483.700 to 483.780, inclusive:

1. ***If the applicant or licensee makes a material misstatement on an application.***

2. ***If the applicant or licensee fails or refuses to provide any information requested by the Department in conjunction with an application.***

3. ***If the applicant has been convicted of a crime for a violation of any of the provisions of NRS 483.700 to 483.780, inclusive.***

4. If the licensee permits fraud or engages in fraudulent practices either with reference to the applicant or the Department or induces or countenances fraud or fraudulent practices on the part of any applicant for driver's license.

~~{2-}~~ 5. If the licensee fails to comply with ***or is convicted of a crime for a violation of*** any of the provisions of NRS 483.700 to 483.780, inclusive, or any of the regulations or requirements of the Department made pursuant thereto.

~~{3-}~~ 6. If the licensee or any employee or agent of the licensee solicits persons for enrollment in a school for training drivers in an office of the Department or within 200 feet of any such office.

~~{4-}~~ 7. If the licensee or any employee or agent of the licensee follows the identical course of training which is used by the Department in giving an examination for a driver's license.

Sec. 13. NRS 483.820 is hereby amended to read as follows:

483.820 1. A person who applies for an identification card in accordance with the provisions of NRS 483.810 to 483.890, inclusive, and who is not ineligible to receive an identification card pursuant to NRS 483.861, is entitled to receive an identification card if the person is:

(a) A resident of this State and is 10 years of age or older and does not hold a valid driver's license or identification card from any state or jurisdiction; or

(b) A seasonal resident who does not hold a valid Nevada driver's license.

2. Except as otherwise provided in NRS 483.825, the Department shall charge and collect the following fees for the issuance of an original, duplicate or changed identification card:

An original or duplicate identification card issued to a person 65 years of age or older <i>which expires on or before the fourth anniversary of the person's birthday</i>	\$4
<i>An original or duplicate identification card issued to a person 65 years of age or older which expires on or before the eighth anniversary of the person's birthday</i>	8
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.

Sec. 14. NRS 483.910 is hereby amended to read as follows:

483.910 1. The Department shall charge and collect the following fees:

For an original commercial driver's license ~~for nonresident commercial driver's license~~ which expires on **or before** the eighth anniversary of the date of issuance of the license **but after the fourth anniversary of the date of issuance of the license** \$108

For an original commercial driver's license ~~for nonresident commercial driver's license~~, **or** commercial learner's permit ~~for nonresident commercial learner's permit~~ which expires on or before the fourth anniversary of the birthday of the licensee or permit holder 54

For renewal of a commercial driver's license ~~for nonresident commercial driver's license~~ which expires on **or before** the eighth anniversary of the date of issuance of the license **but after the fourth anniversary of the date of issuance of the license** 108

For renewal of a commercial driver's license ~~for nonresident commercial driver's license~~, **or** commercial learner's permit ~~for nonresident commercial learner's permit~~ which expires on or before the fourth anniversary of the birthday of the licensee or permit holder 54

For reinstatement of a commercial driver's license after suspension or revocation of the license for a violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430, or pursuant to NRS 484C.210 and 484C.220, or pursuant to 49 C.F.R. § ~~383.51(b)(2)(i) or (ii)~~ **383.51(b)(1) to (4)** 145

For reinstatement of a commercial driver's license after suspension, revocation, cancellation or disqualification of the license, except a suspension or revocation for a violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430, or pursuant to NRS 484C.210 and

484C.220, or pursuant to 49 C.F.R. § ~~383.51(b)(2)(i)~~ ~~or (ii)~~ 383.51(b)(1) to (4)	110
For a duplicate commercial driver's license	19
For any change of information on a commercial driver's license.....	9
For each endorsement added after the issuance of an original commercial driver's license	14
For the administration of a driving skills test for the issuance, renewal or transfer of a commercial driver's license or to change any information on, or add an endorsement to, an existing commercial driver's license.....	30

2. The Department shall charge and collect an annual fee of \$555 from each person who is authorized by the Department to administer a driving skills test pursuant to NRS 483.912.

3. An additional charge of \$3 must be charged for each knowledge test administered to a person who has twice failed the test.

4. An additional charge of \$25 must be charged for each driving skills test administered to a person who has twice failed the test.

5. The increase in fees authorized in NRS 483.347 must be paid in addition to the fees charged pursuant to this section.

6. The Department shall charge an applicant for a hazardous materials endorsement an additional fee for the processing of fingerprints. The Department shall establish the additional fee by regulation, except that the amount of the additional fee must not exceed the sum of the amount charged by the Central Repository for Nevada Records of Criminal History and each applicable federal agency to process the fingerprints for a background check of the applicant in accordance with Section 1012 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, 49 U.S.C. § 5103a.

Sec. 15. NRS 483.936 is hereby amended to read as follows:

483.936 A person who is a resident of a foreign jurisdiction which the Federal Highway Administrator has determined does not test drivers and issue commercial drivers' licenses in accordance with federal standards ~~for who is a resident of a state while that state is prohibited from issuing commercial drivers' licenses pursuant to 49 C.F.R. § 384.405~~ and who wishes to be issued a ~~nonresident~~ **limited-term** commercial driver's license or ~~nonresident~~ **limited-term** commercial learner's permit by this State must:

1. Apply to the Department for a ~~nonresident~~ **limited-term** commercial driver's license or ~~nonresident~~ **limited-term** commercial learner's permit; and

2. Comply with all other requirements contained in the regulations adopted by the Department pursuant to NRS 483.908.

Sec. 15.3. NRS 484B.313 is hereby amended to read as follows:

484B.313 1. It is unlawful for any person to place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any such device, sign or signal, and except as otherwise provided in ~~subsection~~ **subsections 4, 5, and 6**, a person shall not place or maintain nor may any public authority permit upon any highway any sign, signal, marking or street banner bearing thereon any commercial advertising, ~~[except on benches and shelters for passengers of public mass transportation for which a franchise has been granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, or 277A.310 and 277A.330, or on monorail stations.]~~

2. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance, and the proper public authority may remove the same or cause it to be removed without notice.

3. This section does not prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official traffic-control devices.

4. A person may place and maintain commercial advertising in an airspace above a highway under the conditions specified pursuant to subsection 3 of NRS 405.110, and a public authority may permit commercial advertising that has been placed in an airspace above a highway under the conditions specified pursuant to subsection 3 of NRS 405.110.

5. **The provisions of subsection 1 do not apply to any sign, signal, marking or street banner bearing thereon any commercial advertising that is located:**

(a) On a bench or shelter for passengers of public mass transportation built pursuant to a franchise granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, or 277A.310 and 277A.330;

(b) On a monorail station; or

(c) On a touchdown structure if a public authority authorizes such advertising and the advertising is placed and maintained by a person who owns real property adjacent to the touchdown structure and who has:

(1) Dedicated the touchdown structure to the public authority or has granted a fee or perpetual easement to the public authority for the construction or maintenance of the touchdown structure; and

(2) Entered a written agreement with the public authority on terms and conditions acceptable to the public authority.

6. If a franchisee receives revenues from commercial advertising authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated by the advertising authorized by subsection 1 to meet its obligations to the

State of Nevada as set forth in the financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

~~6.~~ 7. As used in this section:

(a) “Monorail station” means:

(1) A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

(2) Any facilities or appurtenances within such a structure.

(b) “Street banner” has the meaning ascribed to it in NRS 277A.130.

(c) “Touchdown structure” means a structure, connected to a pedestrian bridge, which houses an elevator.

Sec. 15.5. NRS 405.110 is hereby amended to read as follows:

~~405.110 1. Except for benches and shelters for passengers of public mass transportation for which a franchise has been granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, or 277A.310 and 277A.330, or on monorail stations,~~ **as otherwise provided in subsection 5,** no advertising signs, signboards, boards or other materials containing advertising matter may:

(a) Except as otherwise provided in subsection 3, be placed upon or over any state highway.

(b) Except as otherwise provided in subsections 3 and 4, be placed within the highway right-of-way.

(c) Except as otherwise provided in subsection 3, be placed upon any bridge or other structure thereon.

(d) Be so situated with respect to any public highway as to obstruct clear vision of an intersecting highway or highways or otherwise so situated as to constitute a hazard upon or prevent the safe use of the state highway.

2. With the permission of the Department of Transportation, counties, towns or cities of this State may place at such points as are designated by the Director of the Department of Transportation suitable signboards advertising the counties, towns or municipalities.

3. A person may place an advertising sign, signboard, board or other material containing advertising matter in any airspace above a highway if:

(a) The Department of Transportation has leased the airspace to the person pursuant to subsection 2 of NRS 408.507, the airspace is over an interstate highway and:

(1) The purpose of the sign, signboard, board or other material is to identify a commercial establishment that is entirely located within the airspace, services rendered, or goods produced or sold upon the commercial establishment or that the facility or property that is located within the airspace is for sale or lease; and

(2) The size, location and design of the sign, signboard, board or other material and the quantity of signs, signboards, boards or other materials have been approved by the Department of Transportation; or

(b) The person owns real property adjacent to an interstate highway and:

(1) The person has dedicated to a public authority a fee or perpetual easement interest in at least 1 acre of the property for the construction or maintenance, or both, of the highway over which the person is placing the sign, signboard, board or other material and the person retained the air rights in the airspace above the property for which the person has dedicated the interest;

(2) The sign, signboard, board or other material is located in the airspace for which the person retained the air rights;

(3) The structure that supports the sign, signboard, board or other material is not located on the property for which the person dedicated the fee or easement interest to the public authority, and the public authority determines that the location of the structure does not create a traffic hazard; and

(4) The purpose of the sign, signboard, board or other material is to identify an establishment or activity that is located on the real property adjacent to the interstate highway, or services rendered or goods provided or sold on that property.

4. A tenant of a mobile home park may exhibit a political sign within a right-of-way of a state highway or road which is owned or controlled by the Department of Transportation if the tenant exhibits the sign within the boundary of the tenant's lot and in accordance with the requirements and limitations set forth in NRS 118B.145. As used in this subsection, the term "political sign" has the meaning ascribed to it in NRS 118B.145.

5. **The provisions of subsection 1 do not apply to any advertising, signs, signboards or other materials containing advertising matter located:**

(a) On a bench or shelter for passengers of public mass transportation built pursuant to a franchise granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, or 277A.310 and 277A.330;

(b) On a monorail station; or

(c) On a touchdown structure if a public authority authorizes such advertising matter and the advertising matter is placed and maintained by a person who owns real property adjacent to the touchdown structure and who has:

(1) Dedicated the touchdown structure to the public authority or has granted a fee or perpetual easement to the public authority for the construction or maintenance of the touchdown structure; and

(2) Entered a written agreement with the public authority on terms and conditions acceptable to the public authority.

6. If any such sign is placed in violation of this section, it is thereby declared a public nuisance and may be removed forthwith by the Department of Transportation or the public authority.

~~{6.}~~ 7. Any person placing any such sign in violation of the provisions of this section shall be punished by a fine of not more than \$250, and is also liable in damages for any injury or injuries incurred or for injury to or loss of property sustained by any person by reason of the violation.

~~{7.}~~ 8. If a franchisee receives revenues from an advertising sign, signboard, board or other material containing advertising matter authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated by the advertising sign, signboard, board or other material containing advertising matter authorized by subsection 1 to meet its obligations to the State of Nevada as set forth in the financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

~~{8.}~~ 9. As used in this section, ~~{“monorail”}~~ “monorail”:

(a) “Monorail station” means:

~~{(a)}~~ (1) A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

~~{(b)}~~ (2) Any facilities or appurtenances within such a structure.

(b) “Touchdown structure” means a structure, connected to a pedestrian bridge, which houses an elevator.

Sec. 15.7. NRS 410.320 is hereby amended to read as follows:

410.320 Outdoor advertising shall not be erected or maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate or primary highway systems in this state, and, outside urban areas outdoor advertising shall not be erected or maintained beyond 660 feet from the nearest edge of the right-of-way of the interstate and primary highway systems which is visible and placed with the purpose of having its message read from the main-traveled way of the interstate and primary highway systems in this state, except the following:

1. Directional, warning, landmark, informational and other official signs and notices, including but not limited to signs and notices pertaining to natural wonders, scenic and historic attractions. Only signs which are required or authorized by law or by federal, state or county authority, and which conform to national standards promulgated by the Secretary of Transportation pursuant to 23 U.S.C. § 131, are permitted.

2. Signs, displays and devices which advertise the sale or lease of the property upon which they are located.

3. Signs, displays and devices which advertise the activities conducted or services rendered or the goods produced or sold upon the property upon which the advertising sign, display or device is erected.

4. Signs, displays and devices located in zoned commercial or industrial areas, when located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate and primary highway systems within this state.

5. Signs, displays and devices located in an unzoned commercial or industrial area as defined in NRS 410.300, when located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate and primary highway systems within this state.

6. Nonconforming signs in defined hardship areas which provide directional information about goods and services in the interest of the traveling public and are approved by the Secretary of Transportation pursuant to 23 U.S.C. § 131(o).

7. Signs, displays and devices located as described in subsection 5 of NRS 405.110 and subsection 5 of NRS 484B.313.

~~Sec. 16. [NRS 648.157 is hereby amended to read as follows:~~

~~648.157 1. A private investigator licensed pursuant to this chapter shall not obtain or seek access to information from the Department of Motor Vehicles pursuant to subsection [3] 7 of NRS 481.063 for any purpose other than a purpose that is directly related to the investigation of an insurance claim.~~

~~2. If the Board finds that a violation of this section has occurred, the Board shall, in addition to any other disciplinary action it deems appropriate, suspend the license of the private investigator.] (Deleted by amendment.)~~

Sec. 17. 1. This section and sections 1 to 9, inclusive, and 15.3 to 16, inclusive, of this act become effective on July 1, 2017.

2. Sections 10 to 15, inclusive, of this act become effective on October 1, 2017.

Assemblyman Carrillo moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 77.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 307.

AN ACT relating to education; **revising provisions governing the membership of the English Mastery Council;** revising provisions concerning reporting and monitoring of criminal cases and actions taken pursuant to criminal convictions of certain charter school employees and applicants for employment; revising provisions relating to the suspension of a license to teach; ~~requiring the Department of Education to maintain an employment record of each licensed employee employed by a school district~~

~~or charter school; revising provisions concerning employment of licensed teachers who do not hold an endorsement to teach in certain subject areas;~~ **revising provisions relating to the qualifications for the issuance of a license to teach middle school, junior high school education or secondary education;** revising provisions relating to reciprocal licensure; providing that teachers and other educational personnel may obtain a license to teach pupils in a program of early childhood education; revising provisions governing the assignment of certain teachers and administrators; revising provisions governing the Commission on Professional Standards in Education; requiring that any cost associated with employing a substitute teacher while a teacher who is a member of certain councils or commissions attends meetings must be paid ~~by the school district or charter school that employs the member;~~ **by certain persons or governmental entities; transferring, from the State Board of Education to the Commission on Professional Standards in Education, responsibility for prescribing standards for approval of a course of study or training offered by an educational institution to qualify a person to be a teacher or administrator or perform other educational functions; authorizing the Department of Education to waive certain fees for licensure for certain veterans and members of the Armed Forces and their spouses; requiring each school district to submit to the Department the overall performance rating for each licensed employee employed by the district;** authorizing the Department to charge and collect certain fees for the monitoring of certain criminal cases; authorizing the Department to charge and collect a fee to review certain information submitted by a prospective applicant for licensure; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 21 of this bill adds a license to teach pupils in a program of early childhood education to the kinds of licenses available for teachers and other educational personnel. **Section 21 also removes language specifying the particular grades the holder of a license to teach middle school or junior high school may teach and instead authorizes such a person to teach in any middle school or junior high school.** Section 24 of this bill increases the minimum amount of the fee that the Commission on Professional Standards in Education may impose for the issuance or renewal of a license to teach. **Section 24 authorizes the Department of Education to waive this fee for veterans of the Armed Forces, members of the Armed Forces who are on active duty and the spouses of such veterans and members of the Armed Forces.**

Section 13 of this bill authorizes the Department of Education to charge and collect a fee to: (1) review information pertaining to a person's qualifications for a license to teach or perform other educational functions; and (2) provide feedback to the person concerning whether the information submitted indicates that the person may satisfy one or more of the

requirements for the issuance of a license and, if so, the kind of license for which the person may be eligible.

~~[Section 14 of this bill requires the Department to maintain a permanent, confidential employment record of each licensed employee employed by a school district or charter school.]~~

Section 13 requires any such fee that is collected to be applied toward the fee prescribed for the issuance of a license if the Department determines from the information submitted that the person satisfies the requirements for the issuance of a license. Existing law creates the English Mastery Council and requires the Council to include two members who hold a master's degree to teach English as a second language and meet certain other criteria. (NRS 388.409) Section 1.7 of this bill provides that these two members may hold an endorsement to teach English as a second language instead of holding a master's degree.

Existing law requires the Department to adopt regulations that establish a procedure for the notification, tracking and monitoring of the status of criminal cases involving licensed educational personnel. (NRS 391.055) **Section 4** of this bill requires the Department to adopt regulations that establish a similar procedure for the notification, tracking and monitoring of the status of criminal cases involving teachers and administrators who are employed by a charter school but are not licensed.

Existing law requires the board of trustees of each school district and the governing body of each charter school to adopt a policy which requires a licensed employee of the school district or charter school to report to the school district or charter school if the employee is arrested for or convicted of a crime. (NRS 391.056) **Section 5** of this bill requires the governing body of a charter school to adopt a similar policy regarding a teacher or administrator who is not licensed but who is employed by a charter school as a teacher or administrator.

Existing law requires the superintendent of schools of each school district and the administrative head of each charter school to submit certain information relating to the arrest of a licensed employee to the Department. (NRS 391.057) **Section 6** of this bill requires the administrative head of each charter school to submit information relating to the arrest of an unlicensed teacher or administrator to the Department.

Existing law provides immunity from civil or criminal liability for any person who makes a report, causes or conducts an investigation, or submits information relating to a licensed employee who is arrested for or convicted of a crime. (NRS 391.059) **Section 7** of this bill extends this immunity from liability to every person who makes a report, causes or conducts an investigation or submits information relating to an unlicensed teacher or administrator who is arrested for or convicted of a crime.

Existing law authorizes the State Board of Education, after notice and an opportunity for a hearing, to suspend or revoke the license of any teacher, administrator or other licensed employee under certain circumstances,

including, without limitation, conviction of the teacher, administrator or other licensed employee of a felony, a crime involving moral turpitude or certain sex offenses. (NRS 391.330) **Section 8** of this bill requires the governing body of a charter school to terminate the employment of any teacher or administrator who is employed by the charter school but is not licensed upon conviction of a felony, a crime involving moral turpitude or certain sex offenses.

Section 26 of this bill provides that the board of trustees of a school district need only seek to obtain the consent of a principal before transferring certain teachers or administrators to a school. **Section 26** also requires the superintendent of a school district to submit the plan to address the assignment of certain teachers and administrators to the State Board of Education. **Sections 10 and 27** of this bill authorize the Superintendent of Public Instruction to prescribe the date by which each charter school and school district must submit certain information regarding licensed employees employed by the governing body of the charter school or the school district during that year.

~~[Existing law authorizes the board of trustees of a school district, with the approval of the Superintendent of Public Instruction, to employ licensed teachers who do not hold an endorsement to teach in certain subject areas for which there is a shortage of teachers. (NRS 391.125) Section 28 of this bill: (1) removes the requirement for approval of the Superintendent; and (2) requires a board of trustees that employs such teachers to submit a written report to the Superintendent and the Commission concerning the employment of such teachers.]~~

Section 27 requires the information submitted by a school district to include the overall performance rating of each licensed employee employed by the school district.

Existing law provides that if an employee's license lapses during a time that school is in session, a certain period must pass before the employee is suspended from employment. (NRS 391.3015) **Section 29** of this bill provides that if the Superintendent denies an application for renewal of a license, the licensee may be suspended immediately.

Under existing law, the membership of the Advisory Council on Parental and Family Engagement, the Commission on Professional Standards in Education, the Teachers and Leaders Council of Nevada and the Statewide Council for the Coordination of the Regional Training Programs includes one or more members who are teachers. (NRS 385.610, 391.015, 391.455, 391A.130) ~~[Sections 1, 18, 20 and 31]~~ **Section 1** of this bill ~~[provide]~~ **provides** that any costs associated with employing a substitute teacher while a member who is a teacher ~~[is attending]~~ **attends** a meeting of ~~[such a body]~~ **the Advisory Council**, the school district or charter school that employs the member is responsible for such costs. **Sections 18, 30 and 31 of this bill also require the school district or charter school that employs the teacher to pay the cost associated with employing a substitute needed for a teacher**

to serve on one of the other bodies but also allow the organization that submitted the name of the member to the Governor for appointment to pay the cost.

Sections 15-17 of this bill revise provisions governing the membership, terms and officers of the Commission on Professional Standards in Education.

Existing law requires the Commission **on Professional Standards in Education** to adopt regulations governing examinations for the initial licensing of teachers and authorizes the Commission to provide an exemption from such examinations for teachers and other educational personnel from another state under certain circumstances. (NRS 391.021, 391.032) **Section 19 of this bill requires the regulations establishing these qualifications to require an applicant for a license to teach middle school, junior high school or high school to demonstrate proficiency in a field of specialization or area of concentration by successfully completing certain course work or passing a subject matter competency examination prescribed by the Department. Sections 19, 20, ~~and~~ 22 and 25.5 of this bill revise provisions governing ~~exemptions from the examinations for~~ initial licensure for teachers and educational personnel from other states who obtain a reciprocal license. ~~Section 22 also removes the requirement that the regulations adopted by the Commission that provide for reciprocal licensure of educational personnel from other states include provisions regarding persons who obtain a license pursuant to an alternative route to licensure.~~**

Section 23.3 of this bill transfers, from the State Board to the Commission on Professional Standards in Education, responsibility for prescribing standards for approval of a course of study or training offered by an educational institution to qualify a person to be a teacher or administrator or perform other educational functions. Sections 23.5 and 25.7 of this bill make conforming changes.

Section 33.5 of this bill repeals a provision requiring the Superintendent of Public Instruction to file with the clerk of the board of trustees of each school district a directory of all teachers and other educational personnel who are entitled to draw salaries from the county school district fund. Section 1.5 of this bill makes a conforming change.

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

Section 1. NRS 385.610 is hereby amended to read as follows:

385.610 1. The Superintendent of Public Instruction shall establish an Advisory Council on Parental Involvement and Family Engagement. The Advisory Council is composed of 11 members.

2. The Superintendent of Public Instruction shall appoint the following members to the Advisory Council:

- (a) Two parents or legal guardians of pupils enrolled in public schools;
- (b) Two teachers in public schools;
- (c) One administrator of a public school;
- (d) One representative of a private business or industry;
- (e) One member of the board of trustees of a school district in a county whose population is 100,000 or more;
- (f) One member of the board of trustees of a school district in a county whose population is less than 100,000; and
- (g) One member who is the President of the Board of Managers of the Nevada Parent Teacher Association or its successor organization, or a designee nominated by the President.

➡ The Superintendent of Public Instruction shall, to the extent practicable, ensure that the members the Superintendent appoints to the Advisory Council reflect the ethnic, economic and geographic diversity of this State.

3. The Speaker of the Assembly shall appoint one member of the Assembly to the Advisory Council.

4. The Majority Leader of the Senate shall appoint one member of the Senate to the Advisory Council.

5. The Advisory Council shall elect a Chair and Vice Chair from among its members. The Chair and Vice Chair serve a term of 1 year.

6. After the initial terms:

(a) The term of each member of the Advisory Council who is appointed by the Superintendent of Public Instruction is 3 years.

(b) The term of each member of the Advisory Council who is appointed by the Speaker of the Assembly and the Majority Leader of the Senate is 2 years.

7. The Department shall provide:

(a) Administrative support to the Advisory Council; and

(b) All information that is necessary for the Advisory Council to carry out its duties.

8. For each day or portion of a day during which a member of the Advisory Council who is a Legislator attends a meeting of the Advisory Council or is otherwise engaged in the business of the Advisory Council, except during a regular or special session of the Legislature, the member is entitled to receive the:

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

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

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

➡ The compensation, per diem allowances and travel expenses of the legislative members of the Advisory Council must be paid from the Legislative Fund.

9. A member of the Advisory Council who is not a Legislator is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally for each day or portion of a day during

which the member attends a meeting of the Advisory Council or is otherwise engaged in the business of the Advisory Council. The per diem allowance and travel expenses for the members of the Advisory Council who are not Legislators must be paid by the Department.

10. Any costs associated with employing a substitute teacher while a member of the Advisory Council who is a teacher attends a meeting of the Advisory Council must be paid by the school district or charter school that employs the member.

Sec. 1.5. NRS 387.310 is hereby amended to read as follows:

387.310 1. Except as otherwise provided by the board of trustees, the clerk of the board shall draw all orders for the payment of money belonging to the school district. The orders must be listed on cumulative voucher sheets.

2. The board of trustees shall prescribe the procedures by which the orders must be approved and the cumulative voucher sheets signed. The procedures must provide:

(a) That the approval of the board of trustees is required before orders are paid unless a payment must be expedited for the school district to:

(1) Receive a discount or other savings which is related to the timeliness of payment;

(2) Avoid a service charge or other cost which is related to the timeliness of payment; or

(3) Abide by a purchase order, contract or other order for payment which has been approved by the board of trustees at a public meeting.

(b) For ratification by the board of trustees at its next regularly scheduled meeting of any payment that is made without the approval of the board pursuant to an exception set forth in paragraph (a).

3. When the orders have been approved and the cumulative voucher sheets have been signed in accordance with such procedures, the orders are valid vouchers in the hands of the county auditor for the county auditor to issue warrants on the county treasurer to be paid out of money belonging to the school district.

4. No order in favor of the board of trustees or any member thereof, except for salaries as required by NRS 386.320 or travel expenses and subsistence as authorized by NRS 386.290, may be drawn.

~~5. No order for salary for any teacher may be drawn unless the teacher is included in the directory of teachers supplied to the clerk of the board of trustees pursuant to the provisions of NRS 391.045.~~

~~6.1~~ An order drawn by a clerk of a board of trustees pursuant to subsection 1 is void if not presented for payment within 1 year after the date of issuance.

~~7.1~~ 6. Any order remaining unpaid after the expiration of 1 year, whether outstanding or uncalled for in the office of the county auditor, must be cancelled by the county auditor, who shall immediately notify the county treasurer of the cancellation. The county treasurer shall not pay a warrant presented for payment more than 1 year after the date of issuance of such an

order. This subsection does not apply if the board of trustees establishes and administers a separate account pursuant to NRS 354.603.

Sec. 1.7. NRS 388.409 is hereby amended to read as follows:

388.409 1. The English Mastery Council is hereby created. The English Mastery Council consists of the following 16 members:

(a) The Superintendent of Public Instruction, or his or her designee, who serves as an ex officio member of the English Mastery Council.

(b) Two members who have knowledge and expertise in language acquisition and who represent the Nevada System of Higher Education, appointed by the Chancellor of the Nevada System of Higher Education.

(c) Two members who are teachers at public schools in this State, hold a master's degree to teach English as a second language **or an endorsement to teach English as a second language** and have knowledge and expertise in providing instruction to pupils who are limited English proficient, appointed by the Governor from a list of nominees submitted by the Nevada State Education Association, or its successor organization. The Governor shall ensure that the members appointed pursuant to this paragraph represent the geographic and ethnic diversity of this State.

(d) Two members who are parents or legal guardians of pupils who are limited English proficient, one of whom is appointed by the Governor from a list of nominees submitted by the Speaker of the Assembly and one of whom is appointed by the Governor from a list of nominees submitted by the Majority Leader of the Senate. The Governor shall ensure that the members appointed pursuant to this paragraph represent the geographic and ethnic diversity of this State. The Nevada Parent Teacher Association shall submit a list of names of persons that the Association would recommend for inclusion on the list of nominees submitted by the Speaker of the Assembly and the Majority Leader of the Senate.

(e) Two members who are school-level administrators, one of whom is employed by a school district in a county whose population is 100,000 or more and one of whom is employed by a school district in a county whose population is less than 100,000, appointed by the Governor from a list of nominees submitted by the Nevada Association of School Administrators.

(f) Two members who are school-district-level administrators, one of whom is employed by a school district in a county whose population is 100,000 or more and one of whom is employed by a school district in a county whose population is less than 100,000, appointed by the Governor from a list of nominees submitted by the Nevada Association of School Administrators.

(g) One member who is a member of a board of trustees of a school district, appointed by the Governor from a list of nominees submitted by the Nevada Association of School Boards.

(h) Two members who are representatives of the general public, private business and industry in this State or nonprofit organizations and who have

been leaders in education reform related to pupils who are limited English proficient, appointed by the Governor.

(i) Two members with expertise in the development of public policy relating to the education of pupils who are limited English proficient, appointed by the Superintendent of Public Instruction upon the advice and recommendation of persons who have knowledge and expertise in providing instruction to pupils who are limited English proficient.

2. Each appointed member of the English Mastery Council serves a term of 2 years and may be reappointed to additional terms.

3. A vacancy on the English Mastery Council must be filled in the same manner as the original appointment.

4. The English Mastery Council shall, at its first meeting and annually thereafter, elect a Chair from among its members.

5. The English Mastery Council shall meet at least quarterly and may meet at other times upon the call of the Chair.

6. Members of the English Mastery Council serve without compensation, except that for each day or portion of a day during which a member of the Council attends a meeting of the Council or is otherwise engaged in the business of the Council, the member is entitled to receive the per diem allowances and travel expenses provided for state officers and employees generally.

7. A member of the English Mastery Council who is a public employee must be granted administrative leave from the member's duties to engage in the business of the Council without loss of his or her regular compensation. Such leave does not reduce the amount of the member's other accrued leave.

8. The English Mastery Council may apply for and accept gifts, grants, donations and contributions from any source for the purpose of carrying out its duties pursuant to NRS 388.411.

9. The Department shall provide administrative support to the English Mastery Council.

Sec. 2. Chapter 388A of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 8, inclusive, of this act.

Sec. 3. *As used in sections 3 to 8, inclusive, of this act, "arrest" has the meaning ascribed to it in NRS 171.104.*

Sec. 4. 1. *The Department shall adopt regulations that establish a procedure for the notification, tracking and monitoring of the status of criminal cases involving teachers and administrators who are employed by a charter school but are not licensed pursuant to chapter 391 of NRS. The procedure must include, without limitation:*

(a) The method by which the administrative head of a charter school must notify the Department in a timely manner of the arrest of such an employee if:

(1) The act for which the employee is arrested:

(I) May be a ground for the suspension or revocation of a person's license pursuant to NRS 391.330; and

(II) Is not excluded by the Department from the notification requirements of this section; and

(2) The charter school has knowledge of the arrest.

(b) The method by which the administrative head of a charter school must notify the Department in a timely manner of:

(1) Each action, if any, taken against the employee by the charter school after the arrest; and

(2) The conviction of the employee, if the employee is convicted of the act for which he or she was arrested.

(c) The steps the Department must follow in response to the receipt of notice pursuant to this section, including, without limitation, the preparation of a separate file on the employee for the documentation and monitoring of the status of the case.

2. Each file that is maintained on an employee pursuant to subsection 1 must include, without limitation:

(a) The date on which the employee was arrested and the date on which the Department received notice of the arrest from the charter school;

(b) The reason why the employee was arrested;

(c) The steps taken by the Department in response to all notices received by the Department from a charter school pursuant to subsection 1; and

(d) The final resolution of the case and the date of resolution.

3. If the Department maintains a file on an employee pursuant to this section and the employee is not convicted of an offense, the file and any related documents must not be made a part of that employee's permanent employment record.

4. The Department may prescribe a fee to be assessed against a charter school for the costs incurred by the Department for tracking and monitoring the status of a criminal case in accordance with the requirements prescribed pursuant to this section. Any fee prescribed pursuant to this section must be calculated to produce the revenue estimated to cover the costs related to tracking and monitoring the status of a criminal case, but the amount of the fee for tracking and monitoring the status of a criminal case must not exceed the actual cost to the Department of tracking and monitoring the status of the criminal case.

Sec. 5. The governing body of each charter school shall adopt a policy which requires a person who is employed by the charter school as a teacher or administrator but who is not licensed pursuant to chapter 391 of NRS to report to the charter school if the employee is arrested for or convicted of a crime. The policy must include, without limitation, an identification of:

1. The crimes for which an arrest or conviction must be reported;

2. The person to whom the report must be made; and

3. The time period after the arrest or conviction in which the report must be made.

Sec. 6. The administrative head of each charter school shall submit all information required by the Department pursuant to section 4 of this act within the period prescribed by the Department.

Sec. 7. Immunity from civil or criminal liability extends to every person who, pursuant to sections 3 to 8, inclusive, of this act, in good faith:

- 1. Participates in the making of a report;**
- 2. Causes or conducts an investigation of a person who is employed by the charter school as a teacher or administrator who is not licensed pursuant to chapter 391 of NRS and who is arrested; or**
- 3. Submits information to the Department concerning a person who is employed by the charter school as a teacher or administrator, who is not licensed pursuant to chapter 391 of NRS and who is arrested.**

Sec. 8. The governing body of a charter school shall terminate the employment of any teacher or administrator who is employed by the charter school but is not licensed pursuant to chapter 391 of NRS upon his or her conviction of a:

- 1. Felony or crime involving moral turpitude; or**
- 2. Sex offense ~~under~~ pursuant to NRS 200.366, 200.368, 201.190, 201.220, 201.230, 201.540 or 201.560, ~~in which a pupil enrolled in the charter school was the victim.~~**

Sec. 9. NRS 388A.515 is hereby amended to read as follows:

388A.515 1. Each applicant for employment with a charter school, except a licensed teacher or other person licensed by the Superintendent of Public Instruction, must, as a condition to employment, submit to the governing body of the charter school a complete set of the applicant's fingerprints and written permission authorizing the governing body to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant.

2. If the reports on the criminal history of an applicant indicate that the applicant has not been convicted of a ~~felony or an offense involving moral turpitude,~~ **crime listed in section 8 of this act,** the governing body of the charter school may employ the applicant.

3. If a report on the criminal history of an applicant indicates that the applicant has been convicted of a felony or an offense involving moral turpitude and the governing body of the charter school does not disqualify the applicant from further consideration of employment on the basis of that report, the governing body shall, upon the written authorization of the applicant, forward a copy of the report to the Superintendent of Public Instruction. If the applicant refuses to provide his or her written authorization to forward a copy of the report pursuant to this subsection, the charter school shall not employ the applicant.

4. ~~The~~ **Not later than 15 days after receiving a report on the criminal history of an applicant, the** Superintendent of Public Instruction or the

Superintendent's designee shall ~~[promptly]~~ review the report to determine whether the conviction of the applicant is related or unrelated to the position with the charter school for which the applicant has applied. If the applicant desires employment with the charter school, the applicant shall, upon the request of the Superintendent of Public Instruction or the Superintendent's designee, provide any further information that the Superintendent or the designee determines is necessary to make the determination. If the governing body of the charter school desires to employ the applicant, the governing body shall, upon the request of the Superintendent of Public Instruction or the Superintendent's designee, provide any further information that the Superintendent or the designee determines is necessary to make the determination. The Superintendent of Public Instruction or the Superintendent's designee shall provide written notice of the determination to the applicant and to the governing body of the charter school.

5. If the Superintendent of Public Instruction or the Superintendent's designee determines that the conviction of the applicant is related to the position with the charter school for which the applicant has applied, the governing body of the charter school shall not employ the applicant. If the Superintendent of Public Instruction or the Superintendent's designee determines that the conviction of the applicant is unrelated to the position with the charter school for which the applicant has applied, the governing body of the charter school may employ the applicant for that position.

Sec. 10. NRS 388A.524 is hereby amended to read as follows:

388A.524 1. A charter school shall not employ a person pursuant to NRS 388A.518 or 388A.521 if the person's license to teach or provide other educational services has been revoked or suspended in this State or another state.

2. ~~[On or before November 15 of each year, a]~~ ***A charter school shall annually, on or before the date prescribed by the Superintendent of Public Instruction,*** submit to the Department, in a format prescribed by the Superintendent of Public Instruction, the following information for each person who is licensed pursuant to chapter 391 of NRS and who is employed by the governing body ~~[on October 1 of]~~ ***during*** that year:

(a) The amount of salary or compensation of the licensed person, including, without limitation, verification of compliance with subsection 2 of NRS 388A.521, if applicable to that person; and

(b) The designated assignment, as that term is defined by the Department, of the licensed person.

Sec. 11. NRS 388A.533 is hereby amended to read as follows:

388A.533 1. All employees of a charter school shall be deemed public employees.

2. ~~[The]~~ ***Except as otherwise provided in section 8 of this act, the*** governing body of a charter school may make all decisions concerning the terms and conditions of employment with the charter school and any other matter relating to employment with the charter school. In addition, the

governing body may make all employment decisions with regard to its employees pursuant to NRS 391.650 to 391.830, inclusive, unless a collective bargaining agreement entered into by the governing body pursuant to chapter 288 of NRS contains separate provisions relating to the discipline of licensed employees of a school.

3. Upon the request of the governing body of a charter school, the board of trustees of a school district shall, with the permission of the licensed employee who is seeking employment with the charter school, transmit to the governing body a copy of the employment record of the employee that is maintained by the school district. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the school district and any disciplinary action taken by the school district against the licensed employee.

Sec. 12. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 13 and 14 of this act.

Sec. 13. 1. *The Department may charge and collect a fee of \$50 to review information pertaining to and provide feedback concerning a person's qualifications for a license to teach or perform other educational functions, including, without limitation, records from a college or other educational institution and scores on examinations administered pursuant to the regulations adopted by the Commission, before the person applies for such a license. ~~The~~ Except as otherwise provided in subsection 4, the money received from the fee collected pursuant to this section must be deposited with the State Treasurer for credit to the appropriate account of the Department.*

2. Upon submission and payment of the fee prescribed pursuant to subsection 1, the Department shall review the information submitted pursuant to that subsection and provide feedback to a person concerning whether the information submitted by the person is indicative of whether the person appears to satisfy all or some of the requirements for the issuance of a license and, if so, the kind of license for which it appears the person may satisfy the requirements.

3. The submission of information pursuant to subsection 1 or any feedback provided by the Department pursuant to subsection 2 is not a substitute for the application process prescribed by NRS 391.033 and does not confer upon any person a right to the issuance of a license.

4. If the Department determines from the information submitted pursuant to subsection 1 that the person satisfies the requirements for the issuance of a license, the fee prescribed pursuant to subsection 1 must be applied toward the fee prescribed for the initial issuance of a license by the Commission pursuant to NRS 391.040.

Sec. 14. ~~1. The Department shall maintain a permanent employment record for each licensed employee who is employed by a school district or charter school. The employment record must include, without limitation,~~

~~(a) The employee's overall performance rating as highly effective, effective, minimally effective or ineffective under the statewide performance evaluation system established by the State Board pursuant to NRS 391.465 and the criteria for making the designation;~~

~~(b) The amount of salary or compensation of the employee reported by a charter school or school district pursuant to paragraph (a) of subsection 2 of NRS 388A.524 or paragraph (a) of subsection 4 of NRS 391.120, respectively; and~~

~~(c) The designated assignment of the employee reported by a charter school or school district pursuant to paragraph (b) of subsection 2 of NRS 388A.524 or paragraph (b) of subsection 4 of NRS 391.120, respectively.~~

~~2. Each school district and charter school shall annually submit to the Department, in a format prescribed by the Superintendent of Public Instruction, the information prescribed in paragraph (a) of subsection 1 for each licensed employee.~~

~~3. Except as otherwise provided in NRS 239.0115, the records maintained by the Department pursuant to subsection 1 are confidential.] (Deleted by amendment.)~~

Sec. 15. NRS 391.011 is hereby amended to read as follows:

391.011 1. The Commission on Professional Standards in Education, consisting of ~~nine~~ **eleven** members appointed by the Governor, is hereby created.

2. ~~Four~~ **Five** members of the Commission must be teachers who teach in the classroom as follows:

(a) One who **holds a license to teach secondary education and** teaches in a secondary school.

(b) One who **holds a license to teach middle school or junior high school education and** teaches in a middle school or junior high school.

(c) One who **holds a license to teach elementary education and** teaches in an elementary school.

(d) One who **holds a license to teach special education and** teaches special education.

(e) **One who holds a license to teach pupils in a program of early childhood education and teaches in a program of early childhood education.**

3. The remaining members of the Commission must include:

(a) One **school** counselor, ~~or~~ psychologist, **speech-language pathologist, audiologist, or other person social worker who is licensed pursuant to chapter 391 of NRS and** employed by a school district ~~or~~ **or** charter school.

(b) Two administrators of schools ~~at least one of whom must be~~ **who are employed by a** ~~principal of a school~~ **school district or charter school to provide administrative service at an individual school. Such administrators must not provide service at the district level.**

(c) The dean of the College of Education at one of the universities in the Nevada System of Higher Education, or a representative of one of the Colleges of Education nominated by such a dean for appointment by the Governor.

(d) One member who is ~~the representative of the general public~~ **the parent or legal guardian of a pupil enrolled in a public school.**

(e) One member who has expertise and experience in the operation of a business.

4. ~~The appointments of a counselor, the administrators and three of the four teachers~~ **Three appointments made pursuant to subsection 2** must be made from a list of names of at least three persons for each position that is submitted to the Governor ~~by~~:

~~(a) For the counselor and teachers,~~ by an employee organization representing the majority of ~~counselors and the majority of~~ teachers in the State ~~of Nevada~~ who teach in the educational level from which the appointment is being made. ~~or~~

~~(b) For administrators, by an organization of administrators for schools in which the majority of administrators of schools in this State have membership.~~

5. ~~One member~~ **The appointment made pursuant to:**

(a) Paragraph (a) of subsection 3 must be made from a list of names of at least three persons that is submitted to the Commission who is a teacher, administrator, counselor or psychologist must be employed by a private school licensed pursuant to chapter 394 of NRS. Governor by an employee organization representing the majority of school counselors, psychologists ~~for other licensed educational personnel~~, speech-language pathologists, audiologists or social workers in this State who are not administrators.

(b) Paragraph (b) of subsection 3 must be made from a list of names of at least three persons for each position that is submitted to the Governor by the organization of administrators for schools in which the majority of administrators of schools in this State have membership.

(c) Paragraph (d) of subsection 3 must be made from a list of names of persons submitted to the Governor by the Nevada Parent Teacher Association or its successor organization.

Sec. 16. NRS 391.013 is hereby amended to read as follows:

391.013 No member of the Commission ~~who is a teacher, counselor, administrator or representative of the general public~~ may serve more than two terms.

Sec. 17. NRS 391.015 is hereby amended to read as follows:

391.015 1. The Commission shall **annually** elect one of its members as President ~~and one of its members as Vice President~~, to serve at the pleasure of the Commission.

2. The Superintendent of Public Instruction or the Superintendent's designee shall serve as the nonvoting Secretary to the Commission. The Secretary shall coordinate the activities of the Commission.

Sec. 18. NRS 391.017 is hereby amended to read as follows:

391.017 1. The Commission may meet at least once each month.

2. A majority of the Commission constitutes a quorum for the transaction of business.

3. The members of the Commission are entitled to the travel expenses and subsistence allowances provided by law for state officers and employees generally while attending meetings of the Commission.

4. Any costs associated with employing a substitute teacher while a member of the Commission who is a teacher attends a meeting of the Commission must be ~~paid~~ :

(a) Paid by the school district or charter school that employs the member
; **or**

(b) Reimbursed to the school district or charter school that employs the member by the organization that submitted the name of the member to the Governor for appointment pursuant to paragraph (a), (b) or (c) of subsection 5 of NRS 391.011.

Sec. 19. NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission shall adopt regulations:

(a) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses. The regulations:

(1) Must include, without limitation, the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure which provides that the required education and training may be provided by any qualified provider which has been approved by the Commission, including, without limitation, institutions of higher education and other providers that operate independently of an institution of higher education. The regulations adopted pursuant to this subparagraph must:

(I) Establish the requirements for approval as a qualified provider;

(II) Require a qualified provider to be selective in its acceptance of students;

(III) Require a qualified provider to provide supervised, school-based experiences and ongoing support for its students, such as mentoring and coaching;

(IV) Significantly limit the amount of course work required or provide for the waiver of required course work for students who achieve certain scores on tests;

(V) Allow for the completion in 2 years or less of the education and training required under the alternative route to licensure;

(VI) Provide that a person who has completed the education and training required under the alternative route to licensure and who has satisfied all other requirements for licensure may apply for a regular license pursuant to sub-subparagraph (VII) regardless of whether the person has

received an offer of employment from a school district, charter school or private school; and

(VII) Upon the completion by a person of the education and training required under the alternative route to licensure and the satisfaction of all other requirements for licensure, provide for the issuance of a regular license to the person pursuant to the provisions of this chapter and the regulations adopted pursuant to this chapter.

(2) **Must require an applicant for a license to teach middle school or junior high school education or secondary education to demonstrate proficiency in a field of specialization or area of concentration by successfully completing course work prescribed by the Department or completing a subject matter competency examination prescribed by the Department with a score deemed satisfactory.**

(3) Must not prescribe qualifications which are more stringent than the qualifications set forth in NRS 391.0315 for a licensed teacher who applies for an additional license in accordance with that section.

(b) Identifying fields of specialization in teaching which require the specialized training of teachers.

(c) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization, including, without limitation, an endorsement to teach English as a second language based upon the recommendations of the English Mastery Council pursuant to NRS 388.411.

(d) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(e) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Aging and Disability Services Division of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

(f) Requiring teachers and other educational personnel to be registered with the Aging and Disability Services Division pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

(1) Provide instruction or other educational services; and

(2) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(g) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a bachelor's degree, a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(1) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(2) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

↪ An applicant for licensure pursuant to this paragraph who holds a bachelor's degree must submit proof of participation in a program of student teaching or mentoring or agree to participate in a program of mentoring or courses of pedagogy for the first 2 years of the applicant's employment as a teacher with a school district or charter school.

(h) Requiring an applicant for a special qualifications license to:

(1) Pass each examination required by **subsection 1 of** NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(2) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the bachelor's degree, master's degree or doctoral degree held by the applicant.

(i) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the bachelor's degree, master's degree or doctoral degree held by that person.

(j) Providing for the issuance and renewal of a special qualifications license to an applicant who:

(1) Holds a bachelor's degree or a graduate degree from an accredited college or university in the field for which the applicant will be providing instruction;

(2) Is not licensed to teach public school in another state;

(3) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(4) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of the applicant's employment as a teacher with a school district or charter school if the applicant holds a graduate degree or, if the applicant holds a bachelor's degree, submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring or courses of pedagogy for the first 2 years of his or her employment as a teacher with a school district or charter school.

↪ An applicant for licensure pursuant to this paragraph is exempt from each examination required by **subsection 1 of** NRS 391.021 if the applicant successfully passed the examination in another state.

(k) Prescribing course work on parental involvement and family engagement. The Commission shall work in cooperation with the Office of Parental Involvement and Family Engagement created by NRS 385.630 in developing the regulations required by this paragraph.

2. Except as otherwise provided in NRS 391.027, the Commission may adopt such other regulations as it deems necessary for its own government or to carry out its duties.

3. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

4. A person who is licensed pursuant to paragraph (g) or (j) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if the person is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 20. NRS 391.021 is hereby amended to read as follows:

391.021 **1.** Except as otherwise provided in paragraph (j) of subsection 1 of NRS 391.019 and NRS 391.027, the Commission shall adopt regulations governing examinations for the initial licensing of teachers and other educational personnel. The ***regulations adopted by the Commission must ensure that the*** examinations ~~must~~ test the ability of the applicant to teach and the applicant's knowledge of each specific subject he or she proposes to teach. ~~Each Teacher.~~ ***Except as otherwise provided in subsection 2, teachers and educational personnel from another state who obtain a reciprocal license pursuant to NRS 391.032 are not required to take the examinations for the initial licensing of teachers and other educational personnel described in this subsection ~~1~~ or any other examination for initial licensing required by the regulations adopted by the Commission.***

2. ***Except as otherwise provided in subsection 3, in addition to the examinations for the initial licensing of teachers and other educational personnel governed by the regulations adopted by the Commission pursuant to subsection 1, an applicant for initial licensure must take and successfully pass an examination ~~must include~~ on the following subjects:***

~~1.~~ **(a)** The laws of Nevada relating to schools;

~~2.~~ **(b)** The Constitution of the State of Nevada; and

~~3.~~ **(c)** The Constitution of the United States.

~~3.~~ **3.** The ~~provisions of this section do not prohibit the~~ Commission ~~from adopting~~ **may adopt** regulations ~~pursuant to subsection 2 of NRS 391.032 that~~ **which** provide ~~an exemption from the examinations for~~ **that** teachers and other educational personnel from another state ~~if the~~

~~Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are comparable to the examinations required for initial licensure in this State.]~~ ***who obtain a reciprocal license pursuant to NRS 391.032 may obtain an exemption from the requirement to take the examination required by subsection 2.***

Sec. 21. NRS 391.031 is hereby amended to read as follows:

391.031 There are the following kinds of licenses for teachers and other educational personnel in this State:

1. ***A license to teach pupils in a program of early childhood education, which authorizes the holder to teach in any program of early childhood education in the State.***

2. A license to teach elementary education, which authorizes the holder to teach in any elementary school in the State.

~~{2.}~~ 3. A license to teach middle school or junior high school education, which authorizes the holder to teach in his or her major or minor field of preparation or in both fields in ~~[grades 7, 8 and 9 at]~~ any middle school or junior high school. He or she may teach only in these fields unless an exception is approved pursuant to regulations adopted by the Commission.

~~{3.}~~ 4. A license to teach secondary education, which authorizes the holder to teach in his or her major or minor field of preparation or in both fields in any secondary school. He or she may teach only in these fields unless an exception is approved pursuant to regulations adopted by the Commission.

~~{4.}~~ 5. A license to teach special education, which authorizes the holder to teach pupils with disabilities or gifted and talented pupils, or both.

~~{5.}~~ 6. A special license, which authorizes the holder to teach or perform other educational functions in a school or program as designated in the license.

~~{6.}~~ 7. A special license designated as a special qualifications license, which authorizes the holder to teach only in the grades and subject areas designated in the license. A special qualifications license is valid for 3 years and may be renewed in accordance with the applicable regulations of the Commission adopted pursuant to paragraph (g) or (j) of subsection 1 of NRS 391.019.

Sec. 22. NRS 391.032 is hereby amended to read as follows:

391.032 1. Except as otherwise provided in NRS 391.027, the Commission shall:

(a) ~~{Consider and may adopt}~~ ***Adopt*** regulations which provide for the issuance of ~~{conditional}~~ ***provisional*** licenses to teachers and other educational personnel before completion of all courses of study or other requirements for a license in this State.

(b) Adopt regulations which provide for the reciprocal licensure of educational personnel from other states ~~{including, without limitation, for the reciprocal licensure of persons who hold a license to teach special education. Such regulations must include, without limitation, provisions for~~

the reciprocal licensure of persons who obtained a license pursuant to an alternative route to licensure which the ~~{Commission}~~ **Department** determines is as rigorous or more rigorous than the alternative route to licensure prescribed pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 391.019.

~~2. The regulations adopted pursuant to paragraph (b) of subsection 1 may provide an exemption from the examinations required for initial licensure for teachers and other educational personnel from another state if the Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are comparable to the examinations required for initial licensure in this State.~~

~~—3. A person who is issued a ~~{conditional}~~ **provisional** license must complete all courses of study and other requirements for a license in this State which is not ~~{conditional}~~ **provisional** within 3 years after the date on which a ~~{conditional}~~ **provisional** license is issued.~~

Sec. 23. NRS 391.033 is hereby amended to read as follows:

391.033 1. All licenses for teachers and other educational personnel are granted by the Superintendent of Public Instruction pursuant to regulations adopted by the Commission and as otherwise provided by law.

2. An application for the issuance of a license must include the social security number of the applicant.

3. Every applicant for a license must submit with his or her application a complete set of his or her fingerprints and written permission authorizing the Superintendent to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its initial report on the criminal history of the applicant and for reports thereafter upon renewal of the license pursuant to subsection 7 of NRS 179A.075, and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant.

4. The Superintendent may issue a provisional license pending receipt of the reports of the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History if the Superintendent determines that the applicant is otherwise qualified.

5. A license must be issued to, or renewed for, as applicable, an applicant if:

(a) The Superintendent determines that the applicant is qualified;

(b) The reports on the criminal history of the applicant from the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History:

(1) Do not indicate that the applicant has been convicted of a felony or any offense involving moral turpitude; or

(2) Indicate that the applicant has been convicted of a felony or an offense involving moral turpitude but the Superintendent determines that the conviction is unrelated to the position within the county school district or charter school for which the applicant applied or for which he or she is currently employed, as applicable; and

(c) For initial licensure, the applicant submits the statement required pursuant to NRS 391.034.

6. *If the Superintendent denies an application pursuant to this section, the Superintendent must, within 15 days after the date on which the application is denied, provide notice of the denial to the school district or charter school that employs the applicant if the applicant is employed by a school district or charter school. Such notice must not state the reasons for denial.*

Sec. 23.3. NRS 391.037 is hereby amended to read as follows:

391.037 1. The ~~{State Board,}~~ **Commission** shall:

(a) Prescribe by regulation the standards for approval of a course of study or training offered by an educational institution to qualify a person to be a teacher or administrator or to perform other educational functions. The regulations prescribed pursuant to this paragraph must include, without limitation, training on how to identify a pupil who is at risk for dyslexia or related disorders.

(b) Maintain descriptions of the approved courses of study required to qualify for endorsements in fields of specialization and provide to an applicant, upon request, the approved course of study for a particular endorsement.

2. Except for an applicant who submits an application for the issuance of a license pursuant to subparagraph (1) of paragraph (a) or paragraph (g) or (j) of subsection 1 of NRS 391.019, an applicant for a license as a teacher or administrator or to perform some other educational function must submit with his or her application, in the form prescribed by the Superintendent of Public Instruction, proof that the applicant has satisfactorily completed a course of study and training approved by the ~~{State Board,}~~ **Commission** pursuant to subsection 1.

Sec. 23.5. NRS 391.038 is hereby amended to read as follows:

391.038 1. The ~~{State Board,}~~ **Commission,** in consultation with educational institutions in this State which offer courses of study and training for the education of teachers, the board of trustees of each school district in this State and other educational personnel, shall review and evaluate a course of study and training offered by an educational institution which is designed to provide the education required for:

- (a) The licensure of teachers or other educational personnel;
- (b) The renewal of licenses of teachers or other educational personnel; or
- (c) An endorsement in a field of specialization.

➡ If the course of study and training meets the requirements established by the ~~{State Board,}~~ **Commission,** it must be approved by the ~~{State Board,}~~ **Commission.** The ~~{State Board,}~~ **Commission** shall not approve a course of study or training unless the course of study and training provides instruction, to the extent deemed necessary by the ~~{State Board,}~~ **Commission,** in the standards of content and performance prescribed by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520.

2. The ~~{State Board}~~ Commission may review and evaluate such courses of study and training itself or may recognize a course of study and training approved by a national agency for accreditation acceptable to the ~~{Board}~~ Commission.

3. The ~~{State Board}~~ Commission shall adopt regulations establishing fees for the review by the ~~{Board}~~ Commission of a course of study and training submitted to the ~~{Board}~~ Commission by an educational institution.

4. The ~~{State Board}~~ Commission, in consultation with educational institutions in this State which offer courses of study and training for the education of teachers and other educational personnel, shall adopt regulations governing the approval by the ~~{State Board}~~ Commission of courses of study and training.

5. If the ~~{State Board}~~ Commission denies or withdraws its approval of a course of study or training, the educational institution is entitled to a hearing and judicial review of the decision of the ~~{State Board}~~ Commission.

Sec. 23.7. NRS 391.039 is hereby amended to read as follows:

391.039 1. The State Board shall, on an annual basis, evaluate each provider approved by ~~{the State Board or}~~ the Commission to offer a course of study or training designed to qualify a person to be a teacher or administrator or to perform other educational functions, including, without limitation, a qualified provider approved by the Commission pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 391.019 to offer an alternative route to licensure. The evaluation must include, without limitation, for each provider, the number of persons:

(a) Who received a license pursuant to this chapter after completing the education, course of study or training offered by the provider; and

(b) Identified in paragraph (a) who are employed by a school district or a charter school in this State after receiving a license and information relating to the performance evaluations of those persons conducted by the school district or charter school. The information relating to the performance evaluations must be reported in an aggregated format and not reveal the identity of a person.

2. The Department shall post on its Internet website the evaluation conducted pursuant to subsection 1.

Sec. 24. NRS 391.040 is hereby amended to read as follows:

391.040 1. The Commission shall fix fees of not less than ~~{\$65}~~ **\$100** for the:

(a) Initial issuance of a license, which must include the fees for processing the fingerprints of the applicant by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation; and

(b) Renewal of a license, which must include the fees for processing the fingerprints of the applicant for renewal by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation.

2. The fee for issuing a duplicate license is the same as for issuing the original.

3. The portion of each fee which represents the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant must be deposited with the State Treasurer for credit to the appropriate account of the Department of Public Safety. The remaining portion of the money received from the fees must be deposited with the State Treasurer for credit to the appropriate account of the Department of Education.

4. The Department of Education may waive any fee for the initial issuance of a license, the renewal of a license or the issuance of a duplicate license for an applicant or licensee who is a veteran of the Armed Forces of the United States, an applicant or licensee who is a member of the Armed Forces of the United States who is on active duty or an applicant or licensee who is the spouse of such a veteran or member of the Armed Forces of the United States.

Sec. 25. ~~NRS 391.045 is hereby amended to read as follows:~~

~~391.045 The Superintendent of Public Instruction shall file with the clerk of the board of trustees of each local school district a directory of all teachers and other educational personnel, including, without limitation, teachers and educational personnel employed by a charter school pursuant to NRS 388A.518, 388A.521, 388A.524, 388A.530 to 388A.544, inclusive, and sections 3 to 8, inclusive, of this act, and 388B.400 to 388B.450, inclusive, who are entitled to draw salaries from the county school district fund, and shall advise the clerk from time to time of any changes or additions to the directory. (Deleted by amendment.)~~

Sec. 25.5. NRS 391.090 is hereby amended to read as follows:

391.090 1. ~~{Any}~~ **Except as otherwise provided in subsection 3, any** person who is:

(a) Granted a license to teach or perform other educational functions in the public schools of Nevada, in the school conducted at the Nevada Youth Training Center, the Caliente Youth Center or any other state facility for the detention of children that is operated pursuant to title 5 of NRS or for any program of instruction for kindergarten or grades 1 to 12, inclusive, conducted at any correctional institution in the Department of Corrections; or

(b) Charged with the duty at the Nevada Youth Training Center, the Caliente Youth Center or any other state facility for the detention of children that is operated pursuant to title 5 of NRS of giving instruction in the Constitution of the United States and the Constitution of the State of Nevada, ➤ must show, by examination or credentials showing college, university or normal school study, satisfactory evidence of adequate knowledge of the origin, history, provisions and principles of the Constitution of the United States and the Constitution of the State of Nevada.

2. The Commission may grant a reasonable time for compliance with the terms of this section.

3. The Department may waive the requirements of subsection 1 for a person who obtains a reciprocal license pursuant to NRS 391.032.

Sec. 25.7. NRS 391.095 is hereby amended to read as follows:

391.095 1. A school district may enter into an agreement with a branch of the Nevada System of Higher Education or an accredited postsecondary educational institution which is licensed by the Commission on Postsecondary Education and which offers courses of study and training for the education of teachers which are approved or recognized by the ~~State Board of Education~~ **Commission** pursuant to NRS 391.038, for the assignment of students for training purposes as student teachers, counselors or trainees in a library, or for experience in a teaching laboratory. Students so assigned within the school district for training purposes may, under the direction and supervision of a licensed teacher, instruct and supervise pupils in the school, on the school grounds or on authorized field trips. The students so assigned are employees of the school district for purposes of NRS 41.038 and 41.039, while performing such authorized duties, whether or not the duties are performed entirely in the presence of the licensed teacher.

2. As used in this section:

(a) "Accredited" has the meaning ascribed to it in NRS 394.006.

(b) "Postsecondary educational institution" has the meaning ascribed to it in NRS 394.099.

Sec. 26. NRS 391.102 is hereby amended to read as follows:

391.102 1. Notwithstanding the provisions of any collective bargaining agreement or contract of employment to the contrary, before the board of trustees of a school district may transfer a teacher or administrator who has received an evaluation designating his or her overall performance as minimally effective or ineffective to another school as a result of decreased enrollment, administrative transfer or a reduction in workforce at a public school, the board of trustees of the school district must ~~obtain~~ **seek** the consent of the principal of the school to which the teacher or administrator is proposed to be transferred. If such consent is not obtained, the superintendent of schools of the school district:

(a) May assign the teacher or administrator to a school within the district other than the school from which the teacher or administrator was transferred; and

(b) May assign the teacher or administrator to the school at which the principal did not consent to the transfer of the teacher or administrator.

2. The superintendent of schools of a school district shall develop **and submit to the State Board** a plan to address the assignment of teachers or administrators who have received evaluations designating their overall performance as minimally effective or ineffective when the consent of a principal to a transfer pursuant to subsection 1 is not obtained. Such a plan must include, without limitation, a plan for any such teacher or administrator to receive assistance to help the teacher or administrator, as applicable, meet the standards for effective teaching, which may include, without limitation,

peer assistance and review, participation in programs of professional development and other appropriate training.

Sec. 27. NRS 391.120 is hereby amended to read as follows:

391.120 1. Boards of trustees of the school districts in this State may employ legally qualified teachers and other licensed personnel and may determine their salaries and the length of the term of school for which they are employed. These conditions and any other conditions agreed upon by the parties must be embodied in a written contract, or notice of reemployment, to be approved by the board of trustees and accepted and signed by the employee. A copy of the contract or notice of reemployment, properly written, must be delivered to each teacher or other licensed employee not later than the opening of the term of school.

2. A board of trustees may not employ teachers or other licensed personnel for any school year commencing after the expiration of the time for which any member of the board of trustees was elected or appointed.

3. It is unlawful for the board of trustees of any school district to employ any teacher who is not legally qualified to teach all the grades which the teacher is engaged to teach. Except as otherwise provided in NRS 391.3015, the board of trustees shall suspend or terminate, as applicable, the employment of any teacher who fails to maintain a license issued pursuant to this chapter in force, if such a license is required for employment. Any such suspension or termination must comply with the requirements of NRS 391.301 to 391.309, inclusive.

4. ~~{On or before November 15 of each year, the}~~ ***The school district shall annually, on or before the date prescribed by the Superintendent of Public Instruction,*** submit to the Department, in a form prescribed by the Superintendent of Public Instruction, the following information for each licensed employee employed by the school district ~~{on October 1 of}~~ ***during*** that year:

(a) The amount of salary of the employee; ~~{and}~~

(b) The designated assignment, as that term is defined by the Department, of the employee. ~~{,}~~ ***; and***

(c) The overall performance rating of the employee as highly effective, effective, minimally effective or ineffective under the statewide performance evaluation system established by the State Board pursuant to NRS 391.465 and the criteria for making the designation.

5. Except as otherwise provided in NRS 239.0115, information submitted to the Department pursuant to paragraph (c) of subsection 4 is confidential.

Sec. 28. NRS 391.125 is hereby amended to read as follows:

391.125 1. If the board of trustees of a school district determines that a shortage of teachers exists within the school district in a particular subject area, the board of trustees may ***, on or before September 1 of the school year in which such a determination is made, submit a written request to the Superintendent of Public Instruction to*** employ persons who are licensed

teachers but who do not hold an endorsement to teach in the subject area for which there is a shortage of teachers at a public school within the school district. ~~that is not rated as underperforming pursuant to the statewide system of accountability for public schools.~~ The Superintendent of Public Instruction may grant such a request if the Superintendent determines that a shortage of teachers exists in the subject area. If the Superintendent of Public Instruction grants a request pursuant to this subsection, a ~~(4)~~ person who holds a license to teach but not an endorsement in the subject area for which the request was granted ~~(that he or she is employed to teach)~~ may be employed by the school district for not more than ~~(2)~~ 3 school years to teach in that subject area at a public school within the school district. ~~that is not rated as underperforming pursuant to the statewide system of accountability for public schools.~~

2. If the Superintendent of Public Instruction grants a request pursuant to subsection 1, the Superintendent ~~(The board of trustees of a school district that employs a person to teach pursuant to subsection 1)~~ shall submit a written report to the ~~(Superintendent of Public Instruction and the~~ Commission and the State Board that includes the name of the school district for which the request was granted ~~(number of persons employed to teach pursuant to subsection 1)~~ and the subject area for which the request was granted ~~(in which such employees teach.)~~ Upon receipt of such a report, the Commission shall consider whether to adopt revisions to the requirements for an endorsement in that subject area to address the shortage of teachers.

Sec. 29. NRS 391.3015 is hereby amended to read as follows:

391.3015 1. Except as otherwise provided by subsection 3, if the license of an employee lapses during a time that school is in session:

(a) The school district that employs him or her shall provide written notice to the employee of the lapse of the employee's license and of the provisions of this section;

(b) The employee must not be suspended from employment for the lapsed license for a period of 90 days after the date of the notice pursuant to paragraph (a) or the end of the school year, whichever is longer; and

(c) The employee's license shall be deemed valid for the period described in paragraph (b) for purposes of the employee's continued employment with the school district during that period.

2. If a school district complies with subsection 1 and an employee fails to reinstate his or her license within the time prescribed in paragraph (b) of subsection 1, his or her employment shall be deemed terminated at the end of the period described in paragraph (b) of subsection 1 and the school district is not otherwise required to comply with NRS 391.301 to 391.309, inclusive.

3. The provisions of this section do not apply to an employee whose ~~license~~:

(a) **License** has been suspended or revoked by the State Board pursuant to NRS 391.320 to 391.361, inclusive ~~(1)~~; or

(b) Application for renewal was denied by the Superintendent of Public Instruction pursuant to NRS 391.033.

Sec. 30. NRS 391.455 is hereby amended to read as follows:

391.455 1. There is hereby created the Teachers and Leaders Council of Nevada consisting of the following 15 members:

(a) The Superintendent of Public Instruction, or his or her designee, who serves as an ex officio member of the Council.

(b) The Chancellor of the Nevada System of Higher Education, or his or her designee, who serves as an ex officio member of the Council.

(c) Four teachers in public schools appointed by the Governor from a list of nominees submitted by the Nevada State Education Association. The members appointed pursuant to this paragraph must represent the geographical diversity of the school districts in this State.

(d) Two administrators in public schools appointed by the Governor from a list of nominees submitted by the Nevada Association of School Administrators and one superintendent of schools of a school district appointed by the Governor from a list of nominees submitted by the Nevada Association of School Superintendents. The members appointed pursuant to this paragraph must represent the geographical diversity of the school districts in this State.

(e) Two persons who are members of boards of trustees of school districts and who are appointed by the Governor from a list of nominees submitted by the Nevada Association of School Boards.

(f) One representative of the regional training programs for the professional development of teachers and administrators created by NRS 391A.120 appointed by the Governor from a list of nominees submitted by the Nevada Association of School Superintendents.

(g) One parent or legal guardian of a pupil enrolled in public school appointed by the Governor from a list of nominees submitted by the Nevada Parent Teacher Association.

(h) Two persons with expertise in the development of public policy relating to education appointed by the Superintendent of Public Instruction. The members appointed pursuant to this paragraph must not otherwise be eligible for appointment pursuant to paragraphs (a) to (g), inclusive.

2. After the initial terms, each appointed member of the Council serves a term of 3 years commencing on July 1 and may be reappointed to one additional 3-year term following his or her initial term. If any appointed member of the Council ceases to be qualified for the position to which he or she was appointed, the position shall be deemed vacant and the appointing authority shall appoint a replacement for the remainder of the unexpired term. A vacancy must be filled in the same manner as the original appointment.

3. The Council shall, at its first meeting and annually thereafter, elect a Chair from among its members.

4. The Council shall meet at least semiannually and may meet at other times upon the call of the Chair or a majority of the members of the Council. Nine members of the Council constitute a quorum, and a quorum may exercise all the power and authority conferred on the Council.

5. Members of the Council serve without compensation, except that for each day or portion of a day during which a member of the Council attends a meeting of the Council or is otherwise engaged in the business of the Council, the member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. A member of the Council who is a public employee must be granted administrative leave from the member's duties to engage in the business of the Council without loss of his or her regular compensation. Such leave does not reduce the amount of the member's other accrued leave.

7. *Any costs associated with employing a substitute teacher while a member of the Council who is a teacher attends a meeting of the Council must be paid:*

(a) Paid by the school district or charter school that employs the member

or
(b) Reimbursed to the school district or charter school that employs the member by the organization that submitted the name of the member to the Governor for appointment pursuant to paragraph (c), (d), (e), (f) or (g) of subsection 1.

8. The Department shall provide administrative support to the Council.

~~{8.}~~ 9. The Council may apply for and accept gifts, grants, donations and contributions from any source for the purpose of carrying out its duties pursuant to NRS 391.460.

Sec. 31. NRS 391A.130 is hereby amended to read as follows:

391A.130 1. The Statewide Council for the Coordination of the Regional Training Programs, consisting of nine members, is hereby created. The membership of the Council consists of:

(a) The Superintendent of Public Instruction or his or her designee.

(b) One member, who is not a Legislator, appointed by the Majority Leader of the Senate.

(c) One member, who is not a Legislator, appointed by the Speaker of the Assembly.

(d) One member who is a teacher appointed by the Governor from a list of nominees submitted by the Nevada State Education Association.

(e) One member who is an administrator at a public school employed to provide administrative services at the school level and not to provide administrative services at the district level, appointed by the Governor from a list of nominees submitted by the Nevada Association of School Administrators.

(f) One member appointed by the Governor.

(g) Three members, each of whom is a superintendent of schools, or his or her designee, appointed by the governing body of each regional training

program to represent the school districts served by the regional training program.

2. In making the appointments pursuant to paragraphs (b) to (g), inclusive, of subsection 1, the appointing authorities shall consider whether the appointments provide a geographical balance between urban and rural areas of this State and represent the cultural diversity of this State.

3. The Statewide Council shall elect a Chair from among its members.

4. After the initial terms, the appointed members of the Statewide Council serve a term of 2 years, commencing on July 1 of the year of appointment. A member may not be appointed to serve more than 3 consecutive terms.

5. A vacancy on the Statewide Council must be filled for the remainder of the unexpired term in the same manner as the original appointment.

6. Members of the Statewide Council serve without salary for their service on the Council . ~~But are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally for each day or portion of a day during which a member attends a meeting of the Statewide Council or is otherwise engaged in the work of the Statewide Council. The per diem allowance and travel expenses for:~~

~~—(a) The members who are appointed by the Majority Leader of the Senate and the Speaker of the Assembly~~ ***are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally for each day or portion of a day during which a member attends a meeting of the Statewide Council or is otherwise engaged in the work of the Statewide Council. The per diem allowance and travel expenses for the members who are appointed by the Majority Leader of the Senate and the Speaker of the Assembly*** must be paid from the Legislative Fund.

~~[(b) All]~~ ***To the extent that money is appropriated for this purpose, all other members of the Statewide Council are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally for each day or portion of a day during which a member attends a meeting of the Statewide Council or is otherwise engaged in the work of the Statewide Council. The per diem allowance and travel expenses for such members*** must be paid by the Department.

7. ***Any costs associated with employing a substitute teacher while a member of the Statewide Council who is a teacher attends a meeting of the Statewide Council must be paid :***

(a) Paid by the school district or charter school that employs the member ~~or~~ ***;***

(b) Reimbursed to the school district or charter school that employs the member by the organization that submitted the name of the member to the Governor for appointment pursuant to paragraph (d), (e), (f) or (g) of subsection 1.

8. The Department shall provide administrative support to the Statewide Council.

~~{8-}~~ 9. The governing bodies of the regional training programs may mutually agree to expend a portion of their respective budgets to pay for any administrative support of the Statewide Council that is required in addition to that provided pursuant to subsection ~~{7-}~~ 8.

Sec. 32. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 391.120, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, ~~and section 14 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. 33. The Governor shall, as soon as practicable on or after July 1, 2017, appoint to the Commission on Professional Standards in Education created by NRS 391.011 the members of the Commission described in paragraph (e) of subsection 2 and paragraph (e) of subsection 3 of NRS 391.011, as amended by section 15 of this act.

Sec. 33.3. Notwithstanding the amendatory provisions of this act transferring the authority to adopt regulations from the State Board of Education to the Commission on Professional Standards in Education, any regulations adopted by the State Board pursuant to NRS 391.037 or 391.038 before July 1, 2017, remain in effect and may be enforced by the State Board until the Commission adopts regulations to repeal or replace those regulations.

Sec. 33.5. NRS 391.045 is hereby repealed.

Sec. 34. 1. This act becomes effective on July 1, 2017.

2. Section 1.7 of this act expires by limitation on June 30, 2019.

TEXT OF REPEALED SECTION

391.045 Directory of licensed personnel to be filed with clerk of board of trustees. The Superintendent of Public Instruction shall file with the clerk of the board of trustees of each local school district a directory of all teachers and other educational personnel, including, without limitation, teachers and educational personnel employed by a charter school pursuant to NRS 388A.518, 388A.521, 388A.524, 388A.530 to 388A.544, inclusive, and 388B.400 to 388B.450, inclusive, who are entitled to draw salaries from the county school district fund, and shall advise the clerk from time to time of any changes or additions to the directory.

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 94.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 292.

AN ACT relating to economic development; repealing the prospective expiration of the NV Grow Program that provides certain assistance to existing small businesses; **recognizing the Small Business Development**

Center in Clark County and requiring the Centers in Clark and Washoe Counties to cooperatively expand the NV Grow Program; making ~~for~~ **appropriation]** **appropriations** to support the NV Grow Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law directs the Office of Economic Development within the Office of the Governor to create the NV Grow Program as a pilot program to provide certain informational and technical assistance to existing small businesses in this State that are expanding or ready to expand. (Section 2 of chapter 459, Statutes of Nevada 2015, p. 2681) Existing law provided a \$150,000 appropriation for the 2015–2017 biennium to the Nevada System of Higher Education for the College of Southern Nevada to hire a geographic information technology specialist, purchase related software and provide other services related to the NV Grow Program. (Section 5 of chapter 459, Statutes of Nevada 2015, p. 2683) Existing law also provides that the NV Grow Program expires by limitation on June 30, 2017. (Section 8 of chapter 459, Statutes of Nevada 2015, p. 2683)

~~[Section 2 of this bill repeals the prospective expiration of the NV Grow Program. Sections 2-6, inclusive, of this bill remove the term “pilot” because the program is ongoing. Section 8 of this bill makes a \$300,000 appropriation for the 2017-2019 biennium to the Nevada System of Higher Education to support the NV Grow Program, providing: (1) \$150,000 to the Nevada Small Business Development Centers for the operation of the Program; and (2) \$150,000 to the College of Southern Nevada to hire counselors to assist small businesses who participate in the Program.]~~ **Sections 1-7 of this bill make the NV Grow Program ongoing by repealing the prospective expiration of the provisions that created the NV Grow Program and make conforming changes to remove the designation of the program as a pilot program. Section 1.5 of this bill designates the NV Grow Act as the short title for the act that establishes the NV Grow Program.**

Section 3 of this bill recognizes the Small Business Development Center in Clark County as a participant in the program and requires cooperation with the geographic information system specialist. Section 3 also requires the Small Business Development Centers in Clark and Washoe Counties to select the lead counselor and manage the NV Grow Program jointly, including: (1) appointing the College of Southern Nevada as administrator of the geographic information system; (2) identifying businesses and business sectors in this State that are ready to expand; (3) determining those businesses and business sectors that will participate in the program; (4) identifying skilled labor in this State and its potential for growth; (5) targeting business sectors and occupations in the State that have demonstrated the ability to grow and stimulate the economy; (6) focusing on utilization of existing resources; (7) harnessing the academic expertise of the College of Southern Nevada; (8) using the geographic information systems to map areas in which retail sales and

other commerce are flourishing or have capacity for further growth; and (9) facilitating informational and other assistance of the College of Southern Nevada to businesses and business sectors, including business training, monitoring marketing techniques and business mentoring. Additionally, section 3: (1) adds business mentorship within the program as part of the resources and expertise the Centers provide to businesses in this State; (2) expands the goal of the NV Grow Program from serving 10 businesses to serving 15 businesses in this State every year; and (3) reduces the minimum revenue threshold for participation in the NV Grow Program to businesses that generate at least \$50,000 per year.

Section 8 of this bill increases the appropriations to provide grants for program support for business courses and allow the College of Southern Nevada to hire a lead counselor. Section 8 also requires the money appropriated by this bill to be used for direct program expenditures.

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

Section 1. Chapter 459, Statutes of Nevada 2015, is hereby amended by adding thereto a new section to be designated as section ~~405.1~~ **1.5**, immediately ~~preceding~~ **following** section 1, to read as follows:

~~[Section 0.5.]~~ **Sec. 1.5.** *This act may be cited as the NV Grow Act.*

Sec. 2. Section 1 of chapter 459, Statutes of Nevada 2015, at page 2681, is hereby amended to read as follows:

Section 1. The Legislature hereby finds and declares that:

1. It is vital to the overall health and growth of the economy of the State of Nevada to promote favorable conditions which allow the expansion of Nevada businesses that demonstrate the ability to grow;

2. As a result of the extraordinary economic challenges which have been, and are, confronting the State, the public has an interest in expanding the resources of this State to stimulate investment in Nevada's economy;

3. It is the intent of the Legislature that resources be provided for the operation of the ~~pilot~~ program described in section 2 of this act; and

4. The purpose of the ~~pilot~~ program described in section 2 of this act is to stimulate investment in Nevada's economy by providing technical assistance for businesses in this State that are expanding or ready to expand.

Sec. 3. Section 2 of chapter 459, Statutes of Nevada 2015, at page 2681, is hereby amended to read as follows:

Sec. 2. 1. The Office, in consultation with the stakeholders group, shall develop, create and oversee the NV Grow Program ~~as a pilot program~~ to stimulate Nevada's economy with a view toward providing assistance to businesses that are already located and operating in this

State rather than recruiting businesses from other states to relocate in Nevada.

2. Under the auspices of the ~~{pilot}~~ program:

(a) Institutions of the Nevada System of Higher Education located in Clark County and the Nevada Small Business Development Center in Clark County shall, in cooperation with the geographic information system specialist employed at the College of Southern Nevada, mentor and track businesses participating in the ~~{pilot}~~ program in Clark County. The Clark County Department of Business License will coordinate with the College to provide such data as may be necessary for the operation of the ~~{pilot}~~ program in Clark County.

(b) The Nevada Small Business Development ~~{Center}~~ **Centers** located in **Clark County and** Washoe County shall **each** cooperate with the geographic information system specialist employed to assist businesses in Clark County that are participating in the ~~{pilot}~~ program with marketing and other efforts.

3. The ~~{pilot-program}~~ **Centers, jointly, shall select the lead counselor and manage the NV Grow Program, which** must include, without limitation:

(a) The employment of a geographic information specialist at the College of Southern Nevada who provides data to clients of the stakeholders group;

(b) The appointment of the ~~{Nevada Small Business Development Center in Washoe County}~~ **College of Southern Nevada** as administrator of the geographic information system;

(c) An analysis **and identification by the Centers** of businesses **and business sectors** in this State that are ready to expand ~~{-}~~ **and a determination of which of these businesses and business sectors will participate in the program;**

(d) ~~{The identification}~~ **Identification by the Centers** of the skilled labor that exists in this State and its potential for growth;

(e) ~~{The targeting}~~ **Targeting by the Centers** of business sectors and occupations in this State that have demonstrated the ability to grow and stimulate the economy of the State;

(f) A focus **by the Centers** on the utilization of existing resources;

(g) The harnessing of the academic expertise of the **College of Southern Nevada and the** Centers to provide economic and market data to contribute to the diversification and growth of the economy of this State;

(h) The use of geographic information systems **by the College of Southern Nevada and the Centers** to map areas of this State to determine locations in which retail sales and other commerce are flourishing and locations in which retail sales and commerce demonstrate the capacity for further growth;

(i) ~~[(The selection of businesses and business sectors in this State to participate in the pilot program;~~

~~[(j)]~~ The elements described in subsection 2;

~~[(4)]~~ **(j)** The provision of informational and other assistance ***by the College of Southern Nevada*** to businesses and business sectors in this State ~~[(j)]~~ ***, including, without limitation, business training, nontraditional marketing techniques and business mentoring;*** and

~~[(4)]~~ **(k)** Such other components as the Office, in consultation with the stakeholders group, determines are likely to be necessary, advisable or advantageous for the growth and development of businesses located in this State.

4. The ~~[(pilot)]~~ program shall, insofar as is possible, use the resources and expertise of the Centers and make available those resources and that expertise to businesses in this State for the purposes of:

(a) Developing business connections ~~[(j)]~~ ***and business mentorships within the program;***

(b) Exchanging data and other information with and between businesses and trade associations;

(c) Creating and facilitating peer-to-peer mentoring sessions ~~[(j)]~~ ***for participants in the NV Grow Program;*** and

(d) Providing to businesses and business sectors data and other information that is calculated or otherwise generated through the use of geographic information systems.

5. To the extent possible, the ~~[(pilot)]~~ program must be conducted with the goal of selecting ~~[(10)]~~ ***15*** businesses in Clark County to participate in the ~~[(pilot)]~~ program ~~[(j)]~~ ***every year.***

6. To qualify to participate in the ~~[(pilot)]~~ program, a business must:

(a) Have its principal place of business within the State of Nevada and have had its principal place of business in this State for at least 2 years;

(b) Generate at least ~~[(100,000)]~~ ***\$50,000*** but not more than \$700,000 in revenue; and

(c) Have a business plan.

7. As used in this section:

(a) “Business plan” means a written statement of a set of business goals, the reasons those goals are believed to be attainable and the plan for reaching those goals.

(b) “Centers” means all institutions of the Nevada System of Higher Education, including, without limitation, the College of Southern Nevada and the University of Nevada, Reno.

(c) “Geographic information system” means a computerized database management system for the capture, storage, retrieval, analysis and display of spatial or locationally defined data.

(d) “Office” means the Office of Economic Development within the Office of the Governor.

(e) “Stakeholders group” means a group of persons interested in economic development in this State selected by the Office, including, without limitation, a representative of the College of Southern Nevada, the University of Nevada, Las Vegas, the Urban Chamber of Commerce of Las Vegas, the Las Vegas Latin Chamber of Commerce, the Valley Center Opportunity Zone, the University of Nevada Cooperative Extension in Clark County, Clark County and incorporated cities in Clark County.

Sec. 4. Section 3 of chapter 459, Statutes of Nevada 2015, at page 2683, is hereby amended to read as follows:

Sec. 3. In assisting and carrying out the ~~fpilot~~ program described in section 2 of this act, the Centers, as defined in section 2 of this act, shall, without limitation, perform the following services:

1. Analyze data;
2. Ensure that businesses participating in the ~~fpilot~~ program understand the manner in which the data so analyzed will be applied to those businesses so that the businesses may make better business decisions and understand the current business market in which they exist;
3. Mentor the businesses as to the optimum use of data received under the ~~fpilot~~ program relative to the making of business decisions; and
4. With respect to the businesses participating in the ~~fpilot~~ program:
 - (a) Track the business decisions and growth of each business over the entire period of the ~~fpilot~~ program; and
 - (b) Report the data tracked pursuant to paragraph (a), at least once each 6 months, to the Office of Economic Development within the Office of the Governor.

Sec. 5. Section 4.5 of chapter 459, Statutes of Nevada 2015, at page 2683, is hereby amended to read as follows:

Sec. 4.5. The Office of Economic Development within the Office of the Governor may apply for any available grants, accept any gifts, grants or donations and use any such gifts, grants or donations to aid the Office in carrying out the ~~fpilot~~ program described in section 2 of this act.

Sec. 6. Section 7 of chapter 459, Statutes of Nevada 2015, at page 2683, is hereby amended to read as follows:

Sec. 7. The ~~fpilot~~ program described in section 2 of this act must begin operating not later than January 1, 2016.

Sec. 7. Section 8 of chapter 459, Statutes of Nevada 2015, at page 2683, is hereby amended to read as follows:

Sec. 8. ~~{1-}~~ This act becomes effective upon passage and approval for the purpose of performing any preparatory administrative tasks necessary to carry out the provisions of this act, and on July 1, 2015, for all other purposes.

~~{2.—This act expires by limitation on June 30, 2017.}~~

Sec. 8. 1. There is hereby appropriated from the State General Fund to the Nevada System of Higher Education:

~~1.1~~ **(a)** The sum of ~~[\$150,000]~~ **\$250,000** to allow the Nevada Small Business Development Centers to provide such services as may be necessary to assist and carry out the NV Grow Program established pursuant to the NV Grow Act ~~1.1~~ **and to provide grants of \$25,000 each to the Urban Chamber of Commerce and the Las Vegas Latin Chamber of Commerce for program support for business courses.**

~~1.2~~ **(b)** The sum of ~~[\$150,000]~~ **\$175,000** to allow the College of Southern Nevada to hire ~~(counselors)~~ **a geographic information specialist** to assist small businesses who participate in the NV Grow Program established pursuant to the NV Grow Act. **Any portion of the money not used to hire the geographic information specialist may be used by the College to hire a lead counselor. Any money not used for these purposes must be used for direct program expenditures by the College, such as, without limitation, marketing tools, stipends and field trips.**

2. All money appropriated by the provisions of this section must be distributed to the entities specified in paragraphs (a) and (b) of subsection 1 and must be used only for the purposes specified in those paragraphs and no portion of the money may be set aside, distributed or otherwise committed or used for any other purpose, including University indirect costs.

Sec. 9. Any remaining balance of the appropriation made by section 8 of this act must not be committed for expenditure after June 30, 2019, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 20, 2019, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 20, 2019.

Sec. 10. 1. This section and sections 1 to 7, inclusive, of this act become effective upon passage and approval.

2. Sections 8 and 9 of this act become effective on July 1, 2017.

Assemblywoman Neal moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 100.

Bill read second time.

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

Amendment No. 247.

SUMMARY—Revises provisions governing contractors. (BDR ~~{54-194}~~ **28-194**)

AN ACT relating to contractors; revising the requirement that certain types of provisions are void and unenforceable in certain agreements with contractors; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law ~~provides that~~ **prohibits a provision** in a contract for a public work, other than a contract entered into by the Nevada Department of Transportation, ~~a provision~~ that requires a contractor to waive a right to damages or an extension of time acquired as a result of a delay caused by certain actions by the public body. ~~is void and unenforceable.~~ (NRS 338.480, 338.485) ~~Section 2 of this bill removes this provision of existing law. Instead, section 1 of this bill makes applicable to an agreement between a public body and a prime contractor for work and labor on a public work a provision of existing law that provides that in an agreement between an owner and a prime contractor a provision that requires the prime contractor to waive a right to damages or an extension of time acquired as a result of certain disruptions or other events is void and unenforceable.~~ **Existing law also prohibits a provision in an agreement, except contracts for public works and certain other agreements, that requires a prime contractor to waive, release, or extinguish a claim or right for damages or an extension of time that the prime contractor may otherwise possess or acquire as a result of delay, acceleration, disruption or an impact event that is unreasonable under the circumstances, that was not within the contemplation of the parties at the time the agreement was entered into, or for which the prime contractor is not responsible. (NRS 624.622) This bill adds those prohibited provisions to the list of provisions that are prohibited in existing law in contracts for public works other than contracts for public works entered into by the Nevada Department of Transportation.**

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

Section 1. ~~NRS 624.622 is hereby amended to read as follows:~~
~~624.622 1. A prime contractor shall provide a copy of any notice given to an owner pursuant to subsection 1 or 2 of NRS 624.610 to each lower-tiered subcontractor with whom the prime contractor has entered into an agreement. Upon receipt of payment pursuant to NRS 624.609, the prime contractor shall notify all such lower-tiered subcontractors in writing of receipt of payment.~~
~~2. A condition, stipulation or provision in an agreement which:~~
~~(a) Requires a prime contractor to waive any rights provided in this section, NRS 624.609, 624.610, 624.620 or 624.630, or which limits those rights;~~
~~(b) Relieves an owner of any obligation or liability imposed pursuant to NRS 624.606 to 624.630, inclusive; or~~

~~— (c) Requires a prime contractor to waive, release or extinguish a claim or right for damages or an extension of time that the prime contractor may otherwise possess or acquire as a result of delay, acceleration, disruption or an impact event that is unreasonable under the circumstances, that was not within the contemplation of the parties at the time the agreement was entered into, or for which the prime contractor is not responsible;~~

~~— is against public policy and is void and unenforceable.~~

~~— 3. All notices required pursuant to NRS 624.609 to 624.622, inclusive, must be:~~

~~— (a) Delivered personally, in which case the prime contractor shall obtain a notarized statement from the person who delivered the notice as proof of delivery;~~

~~— (b) Sent by facsimile and delivered by regular mail, in which case the prime contractor shall retain proof of a successful transmission of the facsimile;~~

~~— (c) Delivered by certified mail; or~~

~~— (d) Delivered in the manner provided for in the agreement.~~

~~— 4. Except as otherwise provided in paragraph (b), NRS 624.609 to 624.622, inclusive, do not apply to an agreement between:~~

~~— (a) A prime contractor and a natural person who owns a single family residence for the performance of qualified services with respect to the residence; or~~

~~— (b) A public body and a prime contractor for the performance of work and labor on a public work [.] , except that this subsection and paragraph (c) of subsection 2 apply to such an agreement.~~

~~— 5. Within 5 days after an owner receives a written request for the information set forth in paragraphs (a), (b) and (c) from a lower tiered subcontractor, the owner shall notify the lower tiered subcontractor in writing of the following:~~

~~— (a) The date the owner made a specified payment to the prime contractor;~~

~~— (b) Whether the owner has paid the entire amount of a specified payment to the prime contractor; and~~

~~— (c) The amount withheld by the owner from a specified payment to the prime contractor and the condition or reason for the withholding.] (Deleted by amendment.)~~

Sec. 2. NRS 338.485 is hereby amended to read as follows:

338.485 1. A person may not waive or modify a right, obligation or liability set forth in the provisions of NRS 338.400 to 338.645, inclusive.

2. A condition, stipulation or provision in a contract or other agreement that:

(a) Requires a person to waive a right set forth in the provisions of NRS 338.400 to 338.645, inclusive;

(b) Relieves a person of an obligation or liability imposed by the provisions of NRS 338.400 to 338.645, inclusive; ~~for~~

(c) Requires a contractor **or subcontractor** to waive, release or extinguish a claim or right for damages or an extension of time that the contractor **or subcontractor** may otherwise possess or acquire as a result of a delay, acceleration, disruption or an impact event that is:

(1) ~~{So}~~ **In the case of a disruption or delay, so** unreasonable in length as to amount to an abandonment of the public work;

(2) **Caused by fraud, misrepresentation, concealment or other bad faith by the public body;**

(3) **Caused by active interference by the public body;** ~~{or}~~

(4) **Caused by a decision by the public body to significantly add to the scope or duration of the public work;** ~~{or}~~

(5) **Unreasonable under the circumstances;**

(6) **Not a delay, acceleration, disruption or an impact event which was within the contemplation of the parties at the time the agreement was entered into; or**

(7) **Not a delay, acceleration, disruption or an impact event for which the contractor or subcontractor, as applicable, is responsible; or**

(d) Requires a contractor or public body to be responsible for any consequential damages suffered or incurred by the other party that arise from or relate to a contract for a public work, including, without limitation, rental expenses or other damages resulting from a loss of use or availability of the public work, lost income, lost profit, lost financing or opportunity, business or reputation, and loss of management or employee availability, productivity, opportunity or services,

↪ is against public policy and is void and unenforceable.

3. The provisions of subsection 2 do not prohibit the use of a liquidated damages clause which otherwise satisfies the requirements of law.

Sec. 3. This act becomes effective on July 1, 2017.

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 105.

Bill read second time.

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

Amendment No. 586.

AN ACT relating to public health; revising continuing education requirements relating to suicide prevention and awareness for certain providers of health care; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires or encourages certain providers of health care, including physicians, physician assistants, advanced practice registered nurses, psychologists, behavior analysts, assistant behavior analysts,

marriage and family therapists, clinical professional counselors, social workers, alcohol and drug abuse counselors and problem gambling counselors and certain interns related to these professions to receive at least 1 or 2 hours of continuing education in certain topics related to suicide prevention and awareness. (NRS 630.253, ~~632.343, 633.471,~~ 641.220, 641A.260, 641B.280, 641C.450) **Sections 1-6** of this bill ~~[increase to 3 hours and]~~ make mandatory ~~[certain]~~ continuing education requirements relating to suicide prevention and awareness for each of these providers of health care ~~[]~~ **and requires the completion of a course of instruction on suicide prevention and awareness every 4 years.**

Section 1 also removes the authority for certain persons who hold a license to practice medicine, including, without limitation, physicians and psychiatrists, to substitute not more than 2 hours of continuing education in certain topics related to suicide prevention for an equivalent continuing education requirement in ethics. (NRS 630.253)

Section 9 of this bill repeals the prospective expiration of the existing requirement for a physician and osteopathic physician to complete a course of instruction on suicide prevention and awareness. Section 9 also repeals a provision to remove the prospective expiration of the requirement for psychologists, behavior analysts and assistant behavior analysts to complete a course of instruction on suicide prevention and awareness.

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

Section 1. NRS 630.253 is hereby amended to read as follows:

630.253 1. The Board shall, as a prerequisite for the:

(a) Renewal of a license as a physician assistant; or
(b) Biennial registration of the holder of a license to practice medicine,
➡ require each holder to submit evidence of compliance with the requirements for continuing education as set forth in regulations adopted by the Board.

2. These requirements:

(a) May provide for the completion of one or more courses of instruction relating to risk management in the performance of medical services.

(b) Must provide for the completion of a course of instruction, within 2 years after initial licensure, relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:

(1) An overview of acts of terrorism and weapons of mass destruction;
(2) Personal protective equipment required for acts of terrorism;
(3) Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;

(4) Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and

(5) An overview of the information available on, and the use of, the Health Alert Network.

(c) Must provide for the completion by a holder of a license to practice medicine ~~[who is a psychiatrist]~~ of a course of instruction **within 2 years after initial licensure** that provides at least ~~2~~ **12** hours of instruction on ~~[clinically-based]~~ **evidence-based** suicide prevention and awareness ~~[assessment, treatment and management]~~ **as described in subsection 5.**

↪ The Board may thereafter determine whether to include in a program of continuing education additional courses of instruction relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction.

3. The Board shall encourage each holder of a license who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:

(a) The skills and knowledge that the licensee needs to address aging issues;

(b) Approaches to providing health care to older persons, including both didactic and clinical approaches;

(c) The biological, behavioral, social and emotional aspects of the aging process; and

(d) The importance of maintenance of function and independence for older persons.

4. The Board shall encourage each holder of a license to practice medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.

5. The Board shall ~~[encourage]~~ **require** each holder of a license to practice medicine ~~[, other than a psychiatrist,]~~ to receive as a portion of his or her continuing education ~~[training concerning suicide, including,]~~ **at least 12 hours of instruction every 4 years on evidence-based suicide prevention and awareness, which may include,** without limitation, ~~[such topics as:]~~ **instruction concerning:**

(a) The skills and knowledge that the licensee needs to detect behaviors that may lead to suicide, including, without limitation, post-traumatic stress disorder;

(b) Approaches to engaging other professionals in suicide intervention; and

(c) The detection of suicidal thoughts and ideations and the prevention of suicide.

6. A holder of a license to practice medicine may **not** substitute ~~for not more than 2 hours of~~ the continuing education credits ~~[in the detection of suicidal thoughts and ideations, and the intervention and prevention of suicide, pain management or addiction care]~~ **relating to suicide prevention and awareness required by this section** for the purposes of satisfying an equivalent requirement for continuing education in ethics.

7. ***A holder of a license to practice medicine may substitute not more than 2 hours of continuing education credits in pain management or addiction care for the purposes of satisfying an equivalent requirement for continuing education in ethics.***

8. As used in this section:

- (a) "Act of terrorism" has the meaning ascribed to it in NRS 202.4415.
- (b) "Biological agent" has the meaning ascribed to it in NRS 202.442.
- (c) "Chemical agent" has the meaning ascribed to it in NRS 202.4425.
- (d) "Radioactive agent" has the meaning ascribed to it in NRS 202.4437.
- (e) "Weapon of mass destruction" has the meaning ascribed to it in NRS 202.4445.

Sec. 2. NRS 632.343 is hereby amended to read as follows:

632.343 1. The Board shall not renew any license issued under this chapter until the licensee has submitted proof satisfactory to the Board of completion, during the 2-year period before renewal of the license, of 30 hours in a program of continuing education approved by the Board in accordance with regulations adopted by the Board. ~~The~~ **Except as otherwise provided in subsection 3, the** licensee is exempt from this provision for the first biennial period after graduation from:

- (a) An accredited school of professional nursing;
- (b) An accredited school of practical nursing;
- (c) An approved school of professional nursing in the process of obtaining accreditation; or
- (d) An approved school of practical nursing in the process of obtaining accreditation.

2. The Board shall review all courses offered to nurses for the completion of the requirement set forth in subsection 1. The Board may approve nursing and other courses which are directly related to the practice of nursing as well as others which bear a reasonable relationship to current developments in the field of nursing or any special area of practice in which a licensee engages. These may include academic studies, workshops, extension studies, home study and other courses.

3. The program of continuing education required by subsection 1 must include:

(a) For a person licensed as an advanced practice registered nurse, a course of instruction to be completed within 2 years after initial licensure that provides at least 2 hours of instruction on suicide prevention and awareness as described in subsection 5.

(b) For each person licensed pursuant to this chapter, a course of instruction, to be completed within 2 years after initial licensure, relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:

~~[(a)]~~ **(1)** An overview of acts of terrorism and weapons of mass destruction;

~~[(b)]~~ **(2)** Personal protective equipment required for acts of terrorism;

~~[(c)]~~ **(3)** Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;

~~[(d)]~~ **(4)** Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and

~~[(e)]~~ **(5)** An overview of the information available on, and the use of, the Health Alert Network.

➔ The Board may thereafter determine whether to include in a program of continuing education additional courses of instruction relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction.

4. The Board shall encourage each licensee who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:

(a) The skills and knowledge that the licensee needs to address aging issues;

(b) Approaches to providing health care to older persons, including both didactic and clinical approaches;

(c) The biological, behavioral, social and emotional aspects of the aging process; and

(d) The importance of maintenance of function and independence for older persons.

5. The Board shall ~~encourage~~ **require** each person licensed as an advanced practice registered nurse to receive as a portion of his or her continuing education at least 2 ~~12~~ hours of instruction **every 4 years** on ~~clinically based~~ **evidence-based** suicide prevention and awareness ~~or~~ **another course of instruction on suicide prevention and awareness that is approved by the Board which the Board has determined to be effective and appropriate.**

6. As used in this section:

(a) “Act of terrorism” has the meaning ascribed to it in NRS 202.4415.

(b) “Biological agent” has the meaning ascribed to it in NRS 202.442.

(c) “Chemical agent” has the meaning ascribed to it in NRS 202.4425.

(d) “Radioactive agent” has the meaning ascribed to it in NRS 202.4437.

(e) “Weapon of mass destruction” has the meaning ascribed to it in NRS 202.4445.

Sec. 2.5. NRS 633.471 is hereby amended to read as follows:

633.471 1. Except as otherwise provided in subsection ~~491~~ 9 and NRS 633.491, every holder of a license issued under this chapter, except a temporary or a special license, may renew the license on or before January 1 of each calendar year after its issuance by:

- (a) Applying for renewal on forms provided by the Board;
- (b) Paying the annual license renewal fee specified in this chapter;
- (c) Submitting a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against the holder during the previous year;
- (d) Submitting evidence to the Board that in the year preceding the application for renewal the holder has attended courses or programs of continuing education approved by the Board in accordance with regulations adopted by the Board totaling a number of hours established by the Board which must not be less than 35 hours nor more than that set in the requirements for continuing medical education of the American Osteopathic Association; and

(e) Submitting all information required to complete the renewal.

2. The Secretary of the Board shall notify each licensee of the requirements for renewal not less than 30 days before the date of renewal.

3. The Board shall request submission of verified evidence of completion of the required number of hours of continuing medical education annually from no fewer than one-third of the applicants for renewal of a license to practice osteopathic medicine or a license to practice as a physician assistant. Upon a request from the Board, an applicant for renewal of a license to practice osteopathic medicine or a license to practice as a physician assistant shall submit verified evidence satisfactory to the Board that in the year preceding the application for renewal the applicant attended courses or programs of continuing medical education approved by the Board totaling the number of hours established by the Board.

4. **The Board shall require each holder of a license to practice osteopathic medicine to complete a course of instruction within 1 year after initial licensure that provides at least 2 hours of instruction on evidence-based suicide prevention and awareness as described in subsection 7.**

5. The Board shall encourage each holder of a license to practice osteopathic medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.

~~5.1~~ 6. The Board shall require, as part of the continuing education requirements approved by the Board, the biennial completion by a holder of a license to practice osteopathic medicine of ~~1~~

~~(a) At least 2 hours of continuing education credits in ethics, pain management or addiction care, 1 and~~

~~(b) If the holder of a license to practice osteopathic medicine is a psychiatrist, at least 2 hours of continuing education credits on clinically based suicide prevention and awareness.~~

~~6.] 7.~~ The Board shall ~~[encourage]~~ **require** each holder of a license to practice osteopathic medicine ~~[, other than a psychiatrist,]~~ to receive as a portion of his or her continuing education ~~[training concerning suicide, including,]~~ **at least 2 hours of instruction every 4 years on evidence-based suicide prevention and awareness which may include,** without limitation, ~~[such topics as:]~~ **instruction concerning:**

(a) The skills and knowledge that the licensee needs to detect behaviors that may lead to suicide, including, without limitation, post-traumatic stress disorder;

(b) Approaches to engaging other professionals in suicide intervention; and

(c) The detection of suicidal thoughts and ideations and the prevention of suicide.

~~[7.] 8.~~ A holder of a license to practice osteopathic medicine may **not** substitute ~~[not more than 2 hours of]~~ **the** continuing education credits ~~[in the detection of suicidal thoughts and ideations, and the intervention and prevention of suicide]~~ **relating to suicide prevention and awareness required by this section** for the purposes of satisfying an equivalent requirement for continuing education in ethics.

~~[8.] 9.~~ Members of the Armed Forces of the United States and the United States Public Health Service are exempt from payment of the annual license renewal fee during their active duty status.

Sec. 3. NRS 641.220 is hereby amended to read as follows:

641.220 1. To renew a license issued pursuant to this chapter, each person must, on or before the first day of January of each odd-numbered year:

- (a) Apply to the Board for renewal;
- (b) Pay the biennial fee for the renewal of a license;
- (c) Submit evidence to the Board of completion of the requirements for continuing education as set forth in regulations adopted by the Board; and
- (d) Submit all information required to complete the renewal.

2. Upon renewing his or her license, a psychologist shall declare his or her areas of competence, as determined in accordance with NRS 641.112.

3. The Board shall, as a prerequisite for the renewal of a license, require each holder to comply with the requirements for continuing education adopted by the Board ~~[, which]~~

4. The requirements for continuing education adopted by the Board pursuant to subsection 3 must include, without limitation, a requirement that the holder of a license receive at least 2 ~~[3]~~ hours of instruction on evidence-based suicide prevention and awareness ~~[,]~~ **or another course of instruction on suicide prevention and awareness that is approved by the Board which the Board has determined to be effective and appropriate. The hours of**

instruction required by this subsection must be completed within 2 years after initial licensure and at least every 4 years thereafter.

Sec. 4. NRS 641A.260 is hereby amended to read as follows:

641A.260 1. To renew a license issued pursuant to this chapter, each person must, on or before the date of expiration of the current license:

- (a) Apply to the Board for renewal;
- (b) Pay the fee for renewal set by the Board;
- (c) Submit evidence to the Board of completion of the requirements for continuing education as set forth in regulations adopted by the Board; and
- (d) Submit all information required to complete the renewal.

2. The Board shall, as a prerequisite for the renewal of a license, require each holder to comply with the requirements for continuing education adopted by the Board, which must include, without limitation, a requirement that the holder receive at least 2 ~~12~~ hours of instruction on evidence-based suicide prevention and awareness ~~or~~ or another course of instruction on suicide prevention and awareness that is approved by the Board which the Board has determined to be effective and appropriate.

Sec. 5. NRS 641B.280 is hereby amended to read as follows:

641B.280 1. Every holder of a license issued pursuant to this chapter may renew his or her license annually by:

- (a) Applying to the Board for renewal;
- (b) Paying the annual renewal fee set by the Board;
- (c) Submitting evidence to the Board of completion of the required continuing education as set forth in regulations adopted by the Board; and
- (d) Submitting all information required to complete the renewal.

2. The Board shall, as a prerequisite for the renewal of a license, require the holder to comply with the requirements for continuing education adopted by the Board, which must include, without limitation, a requirement that the holder receive at least 2 ~~12~~ hours of instruction on evidence-based suicide prevention and awareness ~~or~~ or another course of instruction on suicide prevention and awareness that is approved by the Board which the Board has determined to be effective and appropriate.

Sec. 6. NRS 641C.450 is hereby amended to read as follows:

641C.450 Except as otherwise provided in NRS 641C.310, 641C.320, 641C.440 and 641C.530, a person may renew his or her license or certificate by submitting to the Board:

1. An application for the renewal of the license or certificate;
2. The fee for the renewal of a license or certificate prescribed in NRS 641C.470;

3. Evidence of completion of the continuing education required by the Board, which must include, without limitation, a requirement that the applicant receive at least 1 hour ~~12 hours~~ of instruction on evidence-based suicide prevention and awareness ~~or~~ or another course of instruction on suicide prevention and awareness that is approved by the Board which the

Board has determined to be effective and appropriate for each year of the term of the applicant's licensure or certification;

4. If the applicant is a certified intern, the name of the licensed or certified counselor who supervises the applicant; and

5. All information required to complete the renewal.

Sec. 7. Section 6 of chapter 403, Statutes of Nevada 2015, at page 2289, is hereby amended to read as follows:

Sec. 6. 1. This section and sections 1, 1.5, 2, 3, 4, 5, 5.3 and 5.7 of this act become effective on July 1, 2016.

2. Sections 5.3 and 5.7 of this act expire by limitation on June 30, 2026.

3. Sections ~~[1.3, 2.5, 3.5,]~~ 4.5 and 5.1 of this act become effective on July 1, 2026.

Sec. 8. A person who is:

1. Licensed to practice medicine pursuant to the provisions of chapter 630 of NRS;

2. Licensed as an advanced practice registered nurse pursuant to the provisions of chapter 632 of NRS;

3. Licensed to practice osteopathic medicine pursuant to the provisions of chapter 633 of NRS; or

4. Licensed pursuant to the provisions of chapter 641 of NRS, and who has previously renewed his or her license before July 1, 2017, shall complete a course of instruction on suicide prevention and awareness as required pursuant to NRS 630.253, 632.343, 633.471 or 641.220, as amended by sections 1, 2, 2.5 and 3 of this act, as applicable, by July 1, 2018, or before the date on which the license of the person must next be renewed, whichever is later.

Sec. 9. Sections 1.3, 2.5 and 3.5 of chapter 403, Statutes of Nevada 2015, at pages 2281, 2285 and 2287, respectively, are hereby repealed.

~~{Sec. 7.}~~ **Sec. 10. This act becomes effective on:**

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

2. On July 1, [2018, and expires by limitation on June 30, 2026.] 2017, for all other purposes.

TEXT OF REPEALED SECTIONS

Section 1.3 of chapter 403, Statutes of Nevada 2015:

Sec. 1.3. NRS 630.253 is hereby amended to read as follows:

630.253 1. The Board shall, as a prerequisite for the:

(a) Renewal of a license as a physician assistant; or

(b) Biennial registration of the holder of a license to practice medicine,

↪ require each holder to submit evidence of compliance with the requirements for continuing education as set forth in regulations adopted by the Board.

2. These requirements:

(a) May provide for the completion of one or more courses of instruction relating to risk management in the performance of medical services.

(b) Must provide for the completion of a course of instruction, within 2 years after initial licensure, relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:

(1) An overview of acts of terrorism and weapons of mass destruction;

(2) Personal protective equipment required for acts of terrorism;

(3) Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;

(4) Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and

(5) An overview of the information available on, and the use of, the Health Alert Network.

↪ The Board may thereafter determine whether to include in a program of continuing education additional courses of instruction relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction.

3. The Board shall encourage each holder of a license who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:

(a) The skills and knowledge that the licensee needs to address aging issues;

(b) Approaches to providing health care to older persons, including both didactic and clinical approaches;

(c) The biological, behavioral, social and emotional aspects of the aging process; and

(d) The importance of maintenance of function and independence for older persons.

4. The Board shall encourage each holder of a license to practice medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for

which a drug is prescribed included on the label attached to the container of the drug.

5. The Board shall encourage each holder of a license to practice medicine to receive as a portion of his or her continuing education training concerning suicide, including, without limitation, such topics as:

(a) The skills and knowledge that the licensee needs to detect behaviors that may lead to suicide, including, without limitation, post-traumatic stress disorder;

(b) Approaches to engaging other professionals in suicide intervention; and

(c) The detection of suicidal thoughts and ideations and the prevention of suicide.

6. A holder of a license to practice medicine may substitute not more than 2 hours of continuing education credits in the detection of suicidal thoughts and ideations, and the intervention and prevention of suicide, pain management or addiction care for the purposes of satisfying an equivalent requirement for continuing education in ethics.

7. As used in this section:

(a) “Act of terrorism” has the meaning ascribed to it in NRS 202.4415.

(b) “Biological agent” has the meaning ascribed to it in NRS 202.442.

(c) “Chemical agent” has the meaning ascribed to it in NRS 202.4425.

(d) “Radioactive agent” has the meaning ascribed to it in NRS 202.4437.

(e) “Weapon of mass destruction” has the meaning ascribed to it in NRS 202.4445.

Section 2.5 of chapter 403, Statutes of Nevada 2015:

Sec. 2.5. NRS 633.471 is hereby amended to read as follows:

633.471 1. Except as otherwise provided in subsection 8 and NRS 633.491, every holder of a license issued under this chapter, except a temporary or a special license, may renew the license on or before January 1 of each calendar year after its issuance by:

(a) Applying for renewal on forms provided by the Board;

(b) Paying the annual license renewal fee specified in this chapter;

(c) Submitting a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against the holder during the previous year;

(d) Submitting evidence to the Board that in the year preceding the application for renewal the holder has attended courses or

programs of continuing education approved by the Board in accordance with regulations adopted by the Board totaling a number of hours established by the Board which must not be less than 35 hours nor more than that set in the requirements for continuing medical education of the American Osteopathic Association; and

(e) Submitting all information required to complete the renewal.

2. The Secretary of the Board shall notify each licensee of the requirements for renewal not less than 30 days before the date of renewal.

3. The Board shall request submission of verified evidence of completion of the required number of hours of continuing medical education annually from no fewer than one-third of the applicants for renewal of a license to practice osteopathic medicine or a license to practice as a physician assistant. Upon a request from the Board, an applicant for renewal of a license to practice osteopathic medicine or a license to practice as a physician assistant shall submit verified evidence satisfactory to the Board that in the year preceding the application for renewal the applicant attended courses or programs of continuing medical education approved by the Board totaling the number of hours established by the Board.

4. The Board shall encourage each holder of a license to practice osteopathic medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.

5. The Board shall require, as part of the continuing education requirements approved by the Board, the biennial completion by a holder of a license to practice osteopathic medicine of at least 2 hours of continuing education credits in ethics, pain management or addiction care.

6. The Board shall encourage each holder of a license to practice osteopathic medicine to receive as a portion of his or her continuing education training concerning suicide, including, without limitation, such topics as:

(a) The skills and knowledge that the licensee needs to detect behaviors that may lead to suicide, including, without limitation, post-traumatic stress disorder;

(b) Approaches to engaging other professionals in suicide intervention; and

(c) The detection of suicidal thoughts and ideations and the prevention of suicide.

7. A holder of a license to practice osteopathic medicine may substitute not more than 2 hours of continuing education credits in the detection of suicidal thoughts and ideations, and the intervention and prevention of suicide for the purposes of satisfying an equivalent requirement for continuing education in ethics.

8. Members of the Armed Forces of the United States and the United States Public Health Service are exempt from payment of the annual license renewal fee during their active duty status.

Section 3.5 of chapter 403, Statutes of Nevada 2015:

Sec. 3.5. NRS 641.220 is hereby amended to read as follows:

641.220 1. To renew a license or certificate issued pursuant to this chapter, each person must, on or before the first day of January of each odd-numbered year:

(a) Apply to the Board for renewal;

(b) Pay the biennial fee for the renewal of a license or certificate;

(c) Submit evidence to the Board of completion of the requirements for continuing education as set forth in regulations adopted by the Board; and

(d) Submit all information required to complete the renewal.

2. Upon renewing his or her license, a psychologist shall declare his or her areas of competence, as determined in accordance with NRS 641.112.

3. The Board shall, as a prerequisite for the renewal of a license or certificate, require each holder to comply with the requirements for continuing education adopted by the Board.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 106.

Bill read second time.

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

Amendment No. 461.

SUMMARY—Revises provisions governing ~~government contracting;~~ **state governmental procurement.** (BDR 27-295)

AN ACT relating to ~~government contracting; requiring certain employers to establish their compliance with certain antidiscrimination provisions of state and federal law as a condition of entry into a governmental contract; requiring the inclusion of certain terms and conditions in such a contract; providing a penalty;~~ **state governmental procurement; requiring the Administrator of the Purchasing Division of the Department of Administration to establish by regulation a program of certification of**

vendors who pay equal pay for equal work without regard to gender; requiring the Purchasing Division to include the certification of such a vendor in certain records; authorizing a certified vendor to include its certification in advertising and promotional materials; providing a limited bidding preference for certified vendors under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing provisions of state and federal law generally prohibit discrimination in employment on the basis of race, color, creed, sex, sexual orientation, gender identity or expression, religion, age, disability or national origin. (42 U.S.C. §§ 2000e et seq.; NRS 338.125, 613.310-613.435) In particular, an employer is generally prohibited from paying lower wages to an employee than the wages paid to an employee of the opposite sex for equal work performed under similar working conditions. (29 U.S.C. § 206(d); NRS 608.017)

~~[Sections 2, 6, 11 and 19 of this bill prohibit various governmental entities from awarding a contract to an employer, including a public employer, having 50 or more employees unless the employer provides a certificate of pay equity compliance issued to the employer by the Labor Commissioner. Pursuant to section 22 of this bill, the Commissioner is authorized to issue such a certificate only if the employer establishes and the Commissioner determines that the employer provides equal employment opportunity for all employees and applicants for employment regardless of sex, and that male and female employees receive equal pay for equal work. Sections 2, 6, 11 and 19 also authorize those governmental entities to refuse to award a contract to an employer with less than 50 employees unless the employer provides such a certificate. Section 2 applies to a local government with respect to contracts for the purchase of services, supplies, materials or equipment. Section 6 applies to similar contracts awarded by the Administrator of the Purchasing Division of the Department of Administration or another officer or agency in the Executive Department of the State Government. Section 11 applies to a contract for any public work that is financed in whole or in part from public money of this State or its political subdivisions. Section 11 also enacts those provisions with respect to a subcontract between an employer who has been awarded a contract for a public work and any subcontractor. Section 19 applies to contracts for the construction, reconstruction, improvement and maintenance of highways. Section 19 likewise makes similar provisions applicable to any subcontract. — Section 22 governs the process of obtaining the required certificate from the Labor Commissioner. Section 22: (1) sets forth the information that must be provided by an employer in an application for a certificate; (2) authorizes the Commissioner to issue a provisional certificate pending a review of the information; (3) requires the Commissioner to make certain determinations about the practices of the employer as they relate to male and female employees and applicants for employment; and (4) provides for the issuance~~

~~or denial of a certificate, the cancellation of a provisional certificate and the revocation of a certificate under certain circumstances. Section 22 further requires the Commissioner to adopt regulations as necessary to effectuate this process.~~

Section 24 of this bill requires the Administrator of the Purchasing Division of the Department of Administration to establish by regulation a program to certify vendors that pay their employees equal pay for equal work without regard to gender. The regulations must include a method for a vendor to self-certify that it pays its employees equal pay for equal work without regard to gender. Section 25 of this bill provides that if the Administrator certifies a vendor: (1) the Purchasing Division is required to include the certification in any information concerning the vendor that the Purchasing Division maintains in its records or makes available on its Internet website; and (2) the vendor is authorized to include the certification in its advertising, marketing or other promotional materials. Section 26 of this bill provides that a vendor that makes a material misstatement or commits a fraudulent act in its self-certification may be prohibited from bidding on state contracts for up to 3 years. Section 27 of this bill requires the Administrator to submit an annual report to the Governor and the Legislature concerning the program of certification.

Existing law establishes procedures for certain purchases of supplies, materials and equipment by the State. (NRS 333.300) Section 28 of this bill gives a limited 5 percent bidder's preference to bidders who are certified vendors under the program of certification established by the Administrator in cases in which the lowest submitted bids are within 5 percent of each other and none is submitted by a bidder who is resident in this State. Section 29 of this bill makes a conforming change. Section 32 of this bill provides that the program established by the Administrator pursuant to this bill expires on June 30, 2021.

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

Section 1. ~~{Chapter 332 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. ~~{Except in the case of an emergency described in NRS 332.112 and notwithstanding any other provision of this chapter, a governing body or its authorized representative:~~

~~— 1. Shall not award a contract governed by this chapter to an employer with 50 or more employees in this State unless the employer submits to the governing body or its authorized representative, as applicable, a current certificate of pay equity compliance issued by the Labor Commissioner pursuant to section 22 of this act.~~

~~2. May refuse to award such a contract to an employer with less than 50 employees in this State unless the employer submits to the governing body or its authorized representative, as applicable, a current certificate of pay equity compliance issued by the Labor Commissioner pursuant to section 22 of this act.} (Deleted by amendment.)~~

Sec. 3. ~~{Any contract described in section 2 of this act that is conditioned on submission of a current certificate of pay equity compliance by the employer must:~~

~~1. Require the employer, in accordance with subsection 7 of section 22 of this act, to notify the governing body or its authorized representative, as applicable, of any notice or decision issued by the Labor Commissioner to the employer pursuant to that section; and~~

~~2. Provide for the termination of the contract if:~~

~~(a) The employer fails to give any notice required by subsection 1; or~~

~~(b) The Labor Commissioner;~~

~~(1) Refuses to issue a certificate to the employer;~~

~~(2) Cancels a provisional certificate previously issued to the employer;~~

~~or~~

~~(3) Issues a decision pursuant to section 22 of this act and NRS 607.215 revoking a certificate previously issued to the employer and the decision is not stayed and set aside on judicial review.} (Deleted by amendment.)~~

Sec. 4. ~~{NRS 332.025 is hereby amended to read as follows:~~

~~332.025 As used in this chapter, unless the context otherwise requires:~~

~~1. "Authorized representative" means a person designated by the governing body to be responsible for the development, award and proper administration of all purchases and contracts for a local government or a department, division, agency, board or unit of a local government made pursuant to this chapter;~~

~~2. "Chief administrative officer" means the person directly responsible to the governing body for the administration of that particular entity;~~

~~3. "Employer" includes, without limitation, a government, governmental agency and political subdivision of a government;~~

~~4. "Evaluator" means an authorized representative, officer, employee, representative, agent, consultant or member of a governing body who has participated in:~~

~~(a) The evaluation of bids;~~

~~(b) Negotiations concerning purchasing by a local government; or~~

~~(c) The review or approval of the award, modification or extension of a contract.~~

~~[4.] 5. "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of the local government are vested.~~

~~[5.] 6. "Proprietary information" means:~~

~~— (a) Any trade secret or confidential business information that is contained in a bid submitted to a governing body or its authorized representative on a particular contract; or~~

~~— (b) Any other trade secret or confidential business information submitted to a governing body or its authorized representative by a bidder and designated as proprietary by the governing body or its authorized representative.~~

~~As used in this subsection, “confidential business information” means any information relating to the amount or source of any income, profits, losses or expenditures of a person, including data relating to cost, price, or the customers of a bidder which is submitted in support of a bid. The term does not include the amount of a bid submitted to a governing body or its authorized representative.~~

~~[6.] 7. “Trade secret” has the meaning ascribed to it in NRS 600A.030.]~~
(Deleted by amendment.)

Sec. 5. ~~[Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections 6 and 7 of this act.]~~ **(Deleted by amendment.)**

Sec. 6. ~~[Except in the case of an emergency described in NRS 333.300 or by rules of the Administrator adopted pursuant to NRS 333.380, and notwithstanding any other provision of this chapter, the Administrator or a using agency:~~

~~— 1. Shall not award a contract governed by this chapter to an employer with 50 or more employees in this State unless the employer submits to the Administrator or using agency, as applicable, a current certificate of pay equity compliance issued by the Labor Commissioner pursuant to section 22 of this act.~~

~~— 2. May refuse to award such a contract to an employer with less than 50 employees in this State unless the employer submits to the Administrator or using agency, as applicable, a current certificate of pay equity compliance issued by the Labor Commissioner pursuant to section 22 of this act.]~~ **(Deleted by amendment.)**

Sec. 7. ~~[Any contract described in section 6 of this act that is conditioned on submission of a current certificate of pay equity compliance by the employer must:~~

~~— 1. Require the employer, in accordance with subsection 7 of section 22 of this act, to notify the Administrator or using agency, as applicable, of any notice or decision issued by the Labor Commissioner to the employer pursuant to that section; and~~

~~— 2. Provide for the termination of the contract if:~~

~~— (a) The employer fails to give any notice required by subsection 1; or~~

~~— (b) The Labor Commissioner;~~

~~— (1) Refuses to issue a certificate to the employer;~~

~~— (2) Cancels a provisional certificate previously issued to the employer;~~

~~(3) Issues a decision pursuant to section 22 of this act and NRS 607.215 revoking a certificate previously issued to the employer and the decision is not stayed and set aside on judicial review. (Deleted by amendment.)~~

Sec. 8. ~~[NRS 333.020 is hereby amended to read as follows:~~

~~333.020 As used in this chapter, unless the context otherwise requires:~~

~~1. "Administrator" means the Administrator of the Purchasing Division.~~

~~2. "Best value" means the greatest possible economy consistent with grades or qualities of supplies, materials, equipment and services that are adapted to the purposes to be served.~~

~~3. "Director" means the Director of the Department of Administration.~~

~~4. "Employer" includes, without limitation, a government, governmental agency and political subdivision of a government.~~

~~5. "Invitation to bid" means a written statement which sets forth the requirements and specifications of a contract to be awarded by competitive selection.~~

~~[5.] 6. "Proprietary information" means:~~

~~(a) Any trade secret or confidential business information that is contained in a bid or proposal submitted on a particular contract; or~~

~~(b) Any other trade secret or confidential business information submitted in a bid or proposal and designated as proprietary by the Administrator.~~

~~As used in this subsection, "confidential business information" means any information relating to the amount or source of any income, profits, losses or expenditures of a person, including data relating to cost or price submitted in support of a bid or proposal. The term does not include the amount of a bid or proposal.~~

~~[6.] 7. "Purchasing Division" means the Purchasing Division of the Department of Administration.~~

~~[7.] 8. "Purchasing officer" means a person who is authorized by the Administrator or a using agency to participate in:~~

~~(a) The evaluation of bids or proposals for a contract;~~

~~(b) Any negotiations concerning a contract; or~~

~~(c) The development, review or approval of a contract.~~

~~[8.] 9. "Request for proposals" means a written statement which sets forth the requirements and specifications of a contract to be awarded by competitive selection.~~

~~[9.] 10. "Trade secret" has the meaning ascribed to it in NRS 600A.020.~~

~~[10.] 11. "Using agencies" means all officers, departments, institutions, boards, commissions and other agencies in the Executive Department of the State Government which derive their support from public money in whole or in part, whether the money is provided by the State of Nevada, received from the Federal Government or any branch, bureau or agency thereof, or derived from private or other sources. The term does not include the Nevada Rural Housing Authority, the Housing Division of the Department of Business and~~

~~Industry, local governments as defined in NRS 354.474, conservation districts, irrigation districts and the Nevada System of Higher Education.~~

~~[11.] 12. “Volunteer fire department” means a volunteer fire department which pays premiums for industrial insurance pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.] (Deleted by amendment.)~~

~~Sec. 9. [NRS 287.0415 is hereby amended to read as follows:~~

~~287.0415 1. A majority of the members of the Board constitutes a quorum for the transaction of business.~~

~~2. The Governor shall designate one of the members of the Board to serve as the Chair.~~

~~3. The Board shall meet at least once every calendar quarter and at other times upon the call of the Chair.~~

~~4. The Board may meet in closed session:~~

~~(a) To discuss matters relating to personnel;~~

~~(b) With investment counsel to plan future investments or establish investment objectives and policies;~~

~~(c) With legal counsel to receive advice upon claims or suits by or against the Program;~~

~~(d) To prepare a request for a proposal or other solicitation for bids to be released by the Board for competitive bidding; or~~

~~(e) As otherwise provided pursuant to chapter 241 of NRS.~~

~~5. Except as otherwise provided in this subsection, if the Board causes a meeting to be transcribed by a court reporter who is certified pursuant to chapter 656 of NRS, the Board shall post a transcript of the meeting on its Internet website not later than 30 days after the meeting. The Board shall post a transcript of a closed session of the Board on its Internet website when the Board determines that the matters discussed no longer require confidentiality and, if applicable, the person whose character, conduct, competence or health was discussed in the closed session has consented to the posting.~~

~~6. The Board may appoint such advisory committees as it deems necessary to assist the Board in carrying out its duties pursuant to NRS 287.0402 to 287.049, inclusive.~~

~~7. As used in this section, “request for a proposal” has the meaning ascribed to it in subsection [8] 9 of NRS 333.020.] (Deleted by amendment.)~~

~~Sec. 10. [Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 11 and 12 of this act.] (Deleted by amendment.)~~

~~Sec. 11. [1. Except in the case of an emergency described in NRS 338.011 and notwithstanding any other provision of this chapter, a public body:~~

~~(a) Shall not award a contract governed by this chapter to an employer with 50 or more employees in this State unless the employer submits to the~~

~~public body a current certificate of pay equity compliance issued by the Labor Commissioner pursuant to section 22 of this act.~~

~~— (b) May refuse to award such a contract to an employer with less than 50 employees in this State unless the employer submits to the public body a current certificate of pay equity compliance issued by the Labor Commissioner pursuant to section 22 of this act.~~

~~— 2. In connection with the performance of work under a contract governed by this chapter and awarded to an employer by a public body, the employer:~~

~~— (a) Shall not enter into a contract with a subcontractor with 50 or more employees in this State unless the subcontractor submits to the employer a current certificate of pay equity compliance issued by the Labor Commissioner pursuant to section 22 of this act.~~

~~— (b) May refuse to award such a contract to a subcontractor with less than 50 employees in this State unless the subcontractor submits to the employer a current certificate of pay equity compliance issued by the Labor Commissioner pursuant to section 22 of this act.} (Deleted by amendment.)~~

Sec. 12. ~~{Any contract described in section 11 of this act that is conditioned on submission of a current certificate of pay equity compliance by the employer or subcontractor, as applicable, must:~~

~~— 1. Require the employer or subcontractor, as applicable, in accordance with subsection 7 of section 22 of this act, to notify the public body and any other party to the contract of any notice or decision issued by the Labor Commissioner to the employer or subcontractor pursuant to that section; and~~

~~— 2. Provide for the termination of the contract if:~~

~~— (a) The employer or subcontractor fails to give any notice required by subsection 1; or~~

~~— (b) The Labor Commissioner:~~

~~— (1) Refuses to issue a certificate to the employer or subcontractor;~~

~~— (2) Cancels a provisional certificate previously issued to the employer or subcontractor; or~~

~~— (3) Issues a decision pursuant to section 22 of this act and NRS 607.215 revoking a certificate previously issued to the employer or subcontractor and the decision is not stayed and set aside on judicial review.} (Deleted by amendment.)~~

Sec. 13. ~~{NRS 338.010 is hereby amended to read as follows:~~

~~— 338.010 As used in this chapter [:], unless the context otherwise requires:~~

~~— 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. “Employer” includes, without limitation, a government, governmental agency and political subdivision of a government.~~

~~11. “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.] 12. “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.] 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.~~

~~[13.] 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.~~

~~[14.] 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.~~

~~[15.] 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.~~

~~— [16.] 17. “Public work” means any project for the new construction, repair or reconstruction of a project financed in whole or in part from public money for:~~

- ~~— (a) Public buildings;~~
- ~~— (b) Jails and prisons;~~
- ~~— (c) Public roads;~~
- ~~— (d) Public highways;~~
- ~~— (e) Public streets and alleys;~~
- ~~— (f) Public utilities;~~
- ~~— (g) Publicly owned water mains and sewers;~~
- ~~— (h) Public parks and playgrounds;~~
- ~~— (i) Public convention facilities which are financed at least in part with public money; and~~
- ~~— (j) All other publicly owned works and property.~~

~~— [17.] 18. “Specialty contractor” means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.~~

~~— [18.] 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 339.1711.~~

~~— [19.] 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.~~

~~— [20.] 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.~~

~~— [21.] 22. “Supplier” means a person who provides materials, equipment or supplies for a construction project.~~

~~— [22.] 23. “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.~~

~~[23.] 24. "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. 14. ~~[NRS 338.018 is hereby amended to read as follows:~~
~~338.018 The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$250,000 even if the construction work does not qualify as a public work, as defined in subsection 17 of] NRS 338.010.]~~ **(Deleted by amendment.)**

Sec. 15. ~~[NRS 338.075 is hereby amended to read as follows:~~
~~338.075 The provisions of NRS 338.020 to 338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$250,000 even if the construction work does not qualify as a public work, as defined in subsection 17 of] NRS 338.010.]~~ **(Deleted by amendment.)**

Sec. 16. ~~[NRS 338.1908 is hereby amended to read as follows:~~
~~338.1908 1. The governing body of each local government shall, by July 28, 2009, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:~~

~~(a) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:~~

- ~~(1) The length of time necessary to commence the project;~~
- ~~(2) The number of workers estimated to be employed on the project;~~
- ~~(3) The effectiveness of the project in reducing energy consumption;~~
- ~~(4) The estimated cost of the project;~~
- ~~(5) Whether the project is able to be powered by or otherwise use sources of renewable energy;~~
- ~~(6) Whether the project has qualified for participation in one or more of the following programs:~~

~~(I) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(II) The Renewable Energy School Pilot Program created by NRS 701B.350;~~

~~(III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or~~

~~(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.~~

~~(b) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. §~~

~~17152 and grants, gifts, donations or other sources of money from public and private sources.~~

~~2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Director of the Office of Energy and to any other entity designated for that purpose by the Legislature.~~

~~3. As used in this section:~~

~~(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in [subsection 13 of] NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.~~

~~(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:~~

~~(1) Biomass;~~

~~(2) Fuel cells;~~

~~(3) Geothermal energy;~~

~~(4) Solar energy;~~

~~(5) Waterpower; and~~

~~(6) Wind.~~

~~↗ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.~~

~~(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy efficient.] (Deleted by amendment.)~~

Sec. 17. ~~[Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 18, 19 and 20 of this act.] (Deleted by amendment.)~~

Sec. 18. ~~["Employer" includes, without limitation, a government, governmental agency and political subdivision of a government.] (Deleted by amendment.)~~

Sec. 19. ~~[1. Except in the case of a disaster or great emergency described in NRS 408.323, the Director and the Department:~~

~~(a) Shall not award a contract governed by this chapter to an employer with 50 or more employees in this State unless the employer submits to the Director or Department, as applicable, a certificate of pay equity compliance issued by the Labor Commissioner pursuant to section 22 of this act.~~

~~(b) May refuse to award such a contract to an employer with less than 50 employees in this State unless the employer submits to the Director or Department, as applicable, a current certificate of pay equity compliance issued by the Labor Commissioner pursuant to section 22 of this act.~~

~~2. In connection with the performance of work under a contract governed by this chapter and awarded to an employer by the Director or Department, the employer:~~

~~—(a) Shall not enter into a contract with a subcontractor with 50 or more employees in this State unless the subcontractor submits to the employer a current certificate of pay equity compliance issued by the Labor Commissioner pursuant to section 22 of this act.~~

~~—(b) May refuse to award such a contract to a subcontractor with less than 50 employees in this State unless the subcontractor submits to the employer a current certificate of pay equity compliance issued by the Labor Commissioner pursuant to section 22 of this act.~~ (Deleted by amendment.)

Sec. 20. ~~[Any contract described in section 19 of this act that is conditioned on submission of a current certificate of pay equity compliance by the employer or subcontractor, as applicable, must:~~

~~1. Require the employer or subcontractor, as applicable, in accordance with subsection 7 of section 22 of this act, to notify the Director or Department, as applicable, and any other party to the contract of any notice or decision issued by the Labor Commissioner to the employer or subcontractor pursuant to that section; and~~

~~2. Provide for the termination of the contract if:~~

~~—(a) The employer or subcontractor fails to give any notice required by subsection 1; or~~

~~—(b) The Labor Commissioner;~~

~~—(1) Refuses to issue a certificate to the employer or subcontractor;~~

~~—(2) Cancels a provisional certificate previously issued to the employer or subcontractor; or~~

~~—(3) Issues a decision pursuant to section 22 of this act and NRS 607.215 revoking a certificate previously issued to the employer or subcontractor and the decision is not stayed and set aside on judicial review.] (Deleted by amendment.)~~

Sec. 21. ~~[NRS 408.020 is hereby amended to read as follows:~~

~~408.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 408.033 to 408.095, inclusive, and section 18 of this act have the meanings ascribed to them in those sections.]~~

(Deleted by amendment.)

Sec. 22. ~~[Chapter 607 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Except as otherwise provided in this section, the Labor Commissioner shall issue a certificate of pay equity compliance to an employer who submits an application to the Labor Commissioner in a form prescribed by the Labor Commissioner. The application must be accompanied by:~~

~~—(a) An affidavit of equity in compensation;~~

~~—(b) A description of the employer's program to ensure equity in compensation;~~

~~—(c) A workforce analysis; and~~

~~—(d) Any other information required by the Labor Commissioner.~~

~~➤ The application must be signed by the chief executive officer of the employer, affirming that to the best of his or her knowledge and belief the contents of the application and the accompanying documents are true, correct and complete.~~

~~2. An affidavit of equity in compensation submitted pursuant to subsection 1 must affirm that the employer is in compliance with all applicable federal and state laws and regulations and local ordinances concerning equity in compensation, including, without limitation:~~

~~(a) The Equal Pay Act of 1963, 29 U.S.C. § 206(d);~~

~~(b) Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq.;~~

~~(c) NRS 338.125;~~

~~(d) NRS 608.017; and~~

~~(e) NRS 613.310 to 613.435, inclusive.~~

~~3. A description of the employer's program to ensure equity in compensation submitted pursuant to subsection 1 must include a description or statement of the policies and procedures adopted by the employer to ensure:~~

~~(a) Equal employment opportunity for all employees and applicants regardless of sex; and~~

~~(b) That male and female employees receive equal pay for equal work.~~

~~4. Except as otherwise provided in this subsection, a workforce analysis submitted pursuant to subsection 1 must set forth:~~

~~(a) The total number of persons employed by the employer during the last preceding calendar year in each job category, disaggregated by the sex of the employees;~~

~~(b) The total amount of compensation paid during the last preceding calendar year to all the employees in each job category, disaggregated by the sex of the employees;~~

~~(c) The total number of hours worked during the last preceding calendar year by all the employees in each job category, disaggregated by the sex of the employees. For the purposes of this paragraph, an exempt employee shall be deemed to work 40 hours per week.~~

~~➤ Notwithstanding the provisions of paragraphs (a), (b) and (c), the Labor Commissioner may establish by regulation any 12-month period for reporting the information required by those paragraphs.~~

~~5. If, on the basis of the application and supporting documents and information submitted by an employer pursuant to this section, the Labor Commissioner determines that the employer provides equal employment opportunity for all employees and applicants regardless of sex and that male and female employees receive equal pay for equal work, the Labor Commissioner shall issue a certificate of pay equity compliance to the employer. Pending such a determination, the Labor Commissioner may issue a provisional certificate to the employer. If the Labor Commissioner is unable to make such a determination, the Labor Commissioner shall deny the certificate or cancel any provisional certificate previously issued~~

~~to the employer and notify the employer in writing of the basis for the denial or cancellation, as applicable. The denial or cancellation is not subject to judicial review.~~

~~6. An employer who has been issued a certificate of pay equity compliance pursuant to this section shall submit an updated workforce analysis to the Labor Commissioner on a schedule established by regulation of the Labor Commissioner, but not less frequently than once each year. If an employer fails or refuses to submit a workforce analysis to the Labor Commissioner as required by this subsection or the Labor Commissioner determines, on the basis of a workforce analysis, that the employer has failed during the period covered by the workforce analysis to provide equal employment opportunity for all employees and applicants regardless of sex or has failed to provide equal pay to male and female employees for equal work, the Labor Commissioner shall, after notice and an opportunity for hearing pursuant to NRS 607.205 to 607.215, inclusive, revoke the certificate of pay equity compliance previously issued to the employer.~~

~~7. An employer who receives a notice or decision from the Labor Commissioner pursuant to subsection 5 or 6 and is a party to a contract described in section 2, 6, 11 or 19 of this act shall, within 3 business days after receiving the notice or decision, transmit a copy of the notice or decision to each other party to the contract and to any subcontractor of the employer.~~

~~8. An employer is not disqualified from receiving a certificate of pay equity compliance pursuant to this section to the extent of any difference in wages between male and female employees that is the result of:~~

~~(a) A seniority system;~~

~~(b) A merit system;~~

~~(c) A compensation system under which wages are determined by the quality or quantity of production; or~~

~~(d) A wage differential that is based on factors other than sex.~~

~~9. Except as otherwise provided by specific statute, any person, including, without limitation, any officer, agent or employee of a public body who violates any provision of this section, section 2, 6, 11 or 19 of this act or any regulation adopted pursuant thereto is guilty of a misdemeanor.~~

~~10. The Labor Commissioner shall adopt regulations to carry out the provisions of this section. For the purpose of establishing the job categories required for a workforce analysis submitted:~~

~~(a) By an employer other than one described in paragraph (b), the Labor Commissioner may adopt the job categories set forth in the Employer Information Report (EEO-1); or~~

~~(b) By an employer that is a government, governmental agency or political subdivision of a government, the Labor Commissioner may adopt the job categories set forth in the State and Local Government Report (EEO-4),~~

~~in the form most recently approved by the United States Equal Employment Opportunity Commission as of the effective date of this act.~~

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

~~(a) "Compensation" means all wages, salary or other payments to an employee that are required to be reported to the Internal Revenue Service on Form W-2.~~

~~(b) "Employer" includes, without limitation, a government, governmental agency and political subdivision of a government.~~

~~(c) "Exempt employee" means an executive, administrative, professional or other employee who is classified as exempt in accordance with the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq. } (Deleted by amendment.)~~

Sec. 23. Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections 24 to 29, inclusive, of this act.

Sec. 24. 1. The Administrator shall, within the limits of available resources, establish by regulation a program to certify vendors that pay their employees equal pay for equal work without regard to gender.

2. The regulations adopted pursuant to subsection 1 must include, without limitation:

(a) A method for a vendor to self-certify that the vendor pays its employees equal pay for equal work without regard to gender; and

(b) Certification by the Administrator, without review, of a vendor that fulfills the requirements for self-certification.

3. In carrying out the provisions of this section, the Administrator may cooperate and coordinate with the Office of Economic Development, created by NRS 231.043, the Nevada Equal Rights Commission created by NRS 233.030, the Nevada Commission for Women created by NRS 233I.020 and any other office, department, board, commission, agency or institution of state government that has appropriate expertise.

Sec. 25. If the Administrator certifies a vendor pursuant to the regulations adopted pursuant to section 24 of this act:

1. The Purchasing Division shall include the certification in its information concerning the vendor that it maintains in its records or makes available on the Internet website of the Purchasing Division.

2. The vendor may include the certification in its advertising, marketing or other promotional materials.

Sec. 26. 1. If the Purchasing Division determines that a vendor has made a material misrepresentation or otherwise committed a fraudulent act in self-certifying pursuant to the regulations adopted by the Administrator pursuant to section 24 of this act that the vendor pays its employees equal pay for equal work without regard to gender, the vendor may be prohibited, for not more than 3 years, from:

(a) Self-certifying that the vendor pays its employees equal pay for equal work without regard to gender; and

(b) Submitting a bid or proposal to the Purchasing Division.

2. If the Purchasing Division determines, as described in subsection 1, that a vendor has made a material misrepresentation or otherwise committed a fraudulent act in self-certifying that the vendor pays its employees equal pay for equal work without regard to gender, the vendor may apply to the Administrator to review the decision pursuant to chapter 233B of NRS.

Sec. 27. The Administrator shall, on or before October 1 of each year, prepare and submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature an annual report which includes, for the immediately preceding fiscal year:

1. The number of vendors certified pursuant to the regulations adopted pursuant to section 24 of this act;

2. The number of certified vendors that submitted a bid or proposal to the Purchasing Division;

3. The number of certified vendors that were awarded a contract by the Purchasing Division; and

4. The number of certified vendors that were disciplined by the Purchasing Division pursuant to section 26 of this act.

Sec. 28. NRS 333.300 is hereby amended to read as follows:

333.300 1. Except as otherwise provided in NRS 333.375, the Administrator shall give reasonable notice, by advertising and by written notice provided to persons in a position to furnish the classes of commodities involved, as shown by its records, of all proposed purchases of supplies, materials and equipment to be purchased in accordance with a schedule prepared in conformity with the provisions of NRS 333.250.

2. All such materials, supplies and equipment, except as otherwise provided in this section, if the estimated cost thereof exceeds \$50,000, must be purchased by formal contract from the lowest responsible bidder after notice inviting the submission of sealed proposals to the Administrator of the Purchasing Division at the date, hour and location set forth in the proposal, and at that date, hour and location the proposals must be publicly opened. The Purchasing Division may reject any or all proposals, or may accept the proposal determined best for the interest of the State. The notice must be published as prescribed in NRS 333.310.

3. The Administrator may solicit the purchase of materials, supplies and equipment, if the estimated cost thereof is \$50,000 or less, by written contract from the lowest responsible bidder if notice of the proposed purchase is provided to:

(a) At least three persons in a position to furnish the materials, supplies or equipment; and

(b) The Office of Economic Development.

4. In case of emergencies caused by acts of God or the national defense or other unforeseeable circumstances, the provisions for advertisements on competitive bids may be waived by the Administrator, but every effort must be made to secure the maximum competitive bidding under the

circumstances. In no case may contracts be awarded until every possible effort has been made to secure at least three bona fide competitive bids.

5. ~~Has~~ **Except as otherwise provided in subsection 6, in** awarding contracts for the purchase of supplies, materials and equipment, if two or more lowest bids are identical, the Administrator shall:

(a) If the lowest bids are by bidders resident in the State of Nevada, accept the proposal which, in the discretion of the Administrator, is in the best interests of this State.

(b) If the lowest bids are by bidders resident outside the State of Nevada:

(1) Accept the proposal of the bidder who will furnish goods or commodities produced or manufactured in this State; or

(2) Accept the proposal of the bidder who will furnish goods or commodities supplied by a dealer resident in the State of Nevada.

6. In awarding contracts for the purchase of supplies, materials and equipment, if:

(a) Two or more lowest bids are within 5 percent of each other;

(b) None is by a bidder resident in the State of Nevada; and

(c) One or more lowest bids is by a bidder who is a vendor certified by the Administrator pursuant to the regulations adopted pursuant to section 24 of this act,

↪ the bid or proposal submitted by the bidder who is a certified vendor shall be deemed to be 5 percent lower than the bid or proposal actually submitted.

Sec. 29. NRS 333.340 is hereby amended to read as follows:

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

(a) Shall consider, if applicable:

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

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

(3) The certification described in section 24 of this act.

(b) May consider:

(1) The location of the using agency to be supplied.

(2) The qualities of the articles to be supplied.

(3) The total cost of ownership of the articles to be supplied.

(4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.

(5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:

(I) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(II) The purchase of the alternative article results in a lower price; and

(III) The Administrator deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(6) The purposes for which the articles to be supplied are required.

(7) The dates of delivery of the articles to be supplied.

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

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

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

~~{Sec. 23.}~~ **Sec. 30.** The provisions of this act do not apply to any contract that is advertised, bid, offered or awarded before January 1, 2018.

Sec. 31. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

~~{Sec. 24.}~~ **Sec. 32.** This act ~~becomes effective~~ :

1. 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 and on January 1, 2018, for all other purposes.

2. Expires by limitation on June 30, 2021.

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 109.

Bill read second time.

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

Amendment No. 546.

AN ACT relating to public utilities; requiring the Public Utilities Commission of Nevada to conduct a general consumer session in certain counties serviced by certain public utilities that furnish water; requiring the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General to intervene in certain proceedings concerning certain public utilities that furnish water; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Public Utilities Commission of Nevada is required to conduct at least one general consumer session annually to solicit comments on issues concerning public utilities from the public in the

counties with the largest and second largest populations in the State (currently Clark and Washoe Counties). (NRS 704.069) **Section 1** of this bill requires the Commission to also conduct a general consumer session in the county with the fifth largest population in the State (currently Elko County).

Under existing law, the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General is required to intervene and represent the public interest in certain proceedings conducted by the Public Utilities Commission. (NRS 228.360) **Section 2** of this bill requires the Consumer's Advocate also to intervene in proceedings in which a ~~public~~ **water** utility that ~~[furnishes water or sewage disposal services, or both,]~~ : **(1) is located in a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties);** and **(2)** which has an annual gross operating revenue of \$2,000,000 or more files a general rate application with the Commission.

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

Section 1. NRS 704.069 is hereby amended to read as follows:

704.069 1. Except as otherwise provided in subsections 9 and 11 of NRS 704.110, the Commission shall conduct a consumer session to solicit comments from the public in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which:

(a) A public utility has filed a general rate application, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale, an annual deferred energy accounting adjustment application pursuant to NRS 704.187 or an annual rate adjustment application; and

(b) The changes proposed in the application will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that will exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less.

2. In addition to the case-specific consumer sessions required by subsection 1, the Commission shall, during each calendar year, conduct at least one general consumer session in ~~the~~ :

(a) The county with the largest population in this State ~~and at least one general consumer session in the~~ ;

(b) The county with the second largest population in this State ~~[-]~~ ; and

(c) The county with the fifth largest population in this State.

➡ At each general consumer session, the Commission shall solicit comments from the public on issues concerning public utilities. Not later than 60 days after each general consumer session, the Commission shall submit the record from the general consumer session to the Legislative Commission.

Sec. 2. NRS 228.360 is hereby amended to read as follows:

228.360 1. The Consumer's Advocate:

(a) Shall intervene in and represent the public interest in:

(1) All proceedings conducted pursuant to NRS 704.7561 to 704.7595, inclusive; ~~and~~

(2) All proceedings conducted pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an annual deferred energy accounting adjustment application ~~}; and~~

(3) All proceedings conducted pursuant to paragraph (c) or (d) of subsection 3 of NRS 704.110 ~~}; in which a water utility in a county whose population is less than 100,000 has filed a general rate application.~~

(b) May, with respect to all public utilities except railroads and cooperative utilities, and except as otherwise provided in NRS 228.380:

(1) Conduct or contract for studies, surveys, research or expert testimony relating to matters affecting the public interest or the interests of utility customers.

(2) Examine any books, accounts, minutes, records or other papers or property of any public utility subject to the regulatory authority of the Public Utilities Commission of Nevada in the same manner and to the same extent as authorized by law for members of the Public Utilities Commission of Nevada and its staff.

(3) Except as otherwise provided in paragraph (a), petition for, request, initiate, appear or intervene in any proceeding concerning rates, charges, tariffs, modifications of service or any related matter before the Public Utilities Commission of Nevada or any court, regulatory body, board, commission or agency having jurisdiction over any matter which the Consumer's Advocate may bring before or has brought before the Public Utilities Commission of Nevada or in which the public interest or the interests of any particular class of utility customers are involved. The Consumer's Advocate may represent the public interest or the interests of any particular class of utility customers in any such proceeding, and the Consumer's Advocate is a real party in interest in the proceeding.

2. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 113.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 172.

SUMMARY—Requires ~~an employer~~ **certain employers** to make certain accommodations for a nursing mother. (BDR ~~40-7~~ **23-7**)

~~[CONTAINS UNFUNDED MANDATE (§§ 2, 4)~~

~~(Not Requested by Affected Local Government)~~

AN ACT relating to public health; requiring certain employers to provide ~~to~~ reasonable ~~time~~ **break times** and **a** place for an employee who is a nursing mother to express breast milk; prohibiting an employer from retaliating against an employee for certain actions relating to this requirement; authorizing a public employee who is aggrieved by an employer's failure to comply with this requirement or for retaliation by the employer to file a complaint; **requiring the Local Government Employee-Management Relations Board to provide for an expedited review of such complaints by local government employees;** exempting certain small employers **and contractors** from this requirement ~~; based on an undue hardship;~~ authorizing a local board of health to establish a voluntary mediation program to mediate disputes concerning a violation of this requirement; authorizing the Labor Commissioner to enforce the requirement against a private employer; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires employers to provide their employees with meal and rest periods, with certain exceptions. (NRS 608.019) Existing law also authorizes the Labor Commissioner to prosecute violations of this requirement and makes violation of this requirement a misdemeanor, subject to a civil penalty of \$5,000 per violation. (NRS 608.180, 608.195) Existing federal law also requires an employer to provide reasonable break time and a private place for employees to express breast milk for a nursing child for 1 year after the child's birth. (29 U.S.C. § 207(r))

Sections 2 and 5 of this bill require each public and private employer in this State, other than the Department of Corrections, **certain small employers and certain licensed contractors,** to provide **a** reasonable break time and a clean, private place for an employee who is a nursing mother to express breast milk. This break time may be provided with or without compensation ~~to~~, **except that section 5 requires the break time to be compensated if such break time is otherwise required to be compensated pursuant to a collective bargaining agreement between a private employer and an employee organization.** Additionally, **sections 2 and 5** prohibit employers from retaliating against an employee who: (1) takes such break time or uses the designated place to express breast milk; or (2) takes any action to enforce this requirement. **If a public or private employer would face an undue hardship relating to these requirements, sections 2 and 5 authorize the employer to meet with the employee to discuss potential alternatives. If no agreement is reached on such an alternative, sections 2 and 5 authorize the employer to require the employee to accept a reasonable alternative selected by the employer. Section 2 also authorizes a public employee to file a complaint against his or her public employer for certain violations of sections 2, 4 and 5 of this bill and**

require the Local Government Employee-Management Relations Board to create an expedited procedure to resolve such a complaint. Section 5 exempts a private employer ~~[which]~~ **from the requirements of section 5 if the employer: (1) has fewer than 50 employees [from the duty to provide these accommodations if doing so] and complying with the requirements** would cause an undue hardship.

~~Section 1 of this bill authorizes a local board of health to establish a voluntary mediation program to resolve disputes concerning the requirement to provide break time and a place for the employee to express breast milk. Section 2 authorizes a public employee to file a complaint against a public employer who fails to meet this requirement or who retaliates against an employee.] ; or (2) is a licensed contractor and the employee is performing work at a construction jobsite that is at least 3 miles from the regular place of business of the employer.~~ Section 6 of this bill authorizes the Labor Commissioner to enforce these requirements against private employers. Finally, **section 7** of this bill makes a private employer who violates these requirements guilty of a misdemeanor, subject to a civil penalty of \$5,000 per violation.

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

Section 1. ~~[Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. A local board of health may, by regulation, establish a program of voluntary mediation for disputes concerning complaints of violations of section 2 or 5 of this act.~~

~~2. Participation in a program of voluntary mediation must be voluntary and is not required as a condition to seeking enforcement pursuant to NRS 608.180, 608.195 or section 2 or 5 of this act.~~

~~3. Regulations establishing a program of voluntary mediation pursuant to subsection 1 may include, without limitation:~~

~~(a) Requirements for participation;~~

~~(b) The types of disputes that may be submitted for mediation;~~

~~(c) The manner in which the parties must submit information concerning the dispute;~~

~~(d) The manner in which any inspections may occur;~~

~~(e) The manner in which findings and recommendations will be made;~~

~~(f) Any required fee to cover the cost of the mediation; and~~

~~(g) Any other matters relevant to the mediation.~~

~~4. Upon completion of any mediation conducted pursuant to this section, the mediator shall provide the parties with his or her written findings and recommendations.~~

~~5. The local board of health shall not report any information to the Labor Commissioner or a court concerning a mediation conducted~~

~~pursuant to this section except the written findings and recommendations of the mediator.] (Deleted by amendment.)~~

Sec. 2. Chapter 281 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Except as otherwise provided in subsection 4,~~ subsections 2 and 5, a public body shall provide an employee who is the mother of a child under 1 year of age with:

(a) Reasonable break time, with or without compensation, for the employee to express breast milk as needed; and

(b) A ~~clean, private~~ place, other than a bathroom, ~~where the employee may express such milk,~~ that is reasonably free from dirt or pollution, protected from the view of others and free from intrusion by others where the employee may express breast milk.

2. If the public body determines that complying with the provisions of subsection 1 will cause an undue hardship considering the size, financial resources, nature and structure of the public body, the public body may meet with the employee to agree upon a reasonable alternative. If the parties are not able to reach an agreement, the public body may require the employee to accept a reasonable alternative selected by the public body and the employee may appeal the decision by filing a complaint in the manner set forth in subsection 4.

3. An officer or agent of a public body shall not retaliate, or direct or encourage another person to retaliate, against an employee of the public body because the employee has:

(a) Taken break time or used the space provided pursuant to subsection 1 ~~or 2~~ to express breast milk; or

(b) Taken any action to require the public body to comply with the requirements of this section, including, without limitation, filing a complaint, testifying, assisting or participating in any manner in an investigation, proceeding or hearing to enforce the provisions of this section.

~~3.4.~~ 4. An employee who is aggrieved by the failure of a public body to comply with the provisions of this section may:

(a) If the employee is employed by the Executive Department of ~~the~~ State Government and is not an employee of an entity described in NRS 284.013, file a complaint with the ~~Personnel Commission~~ Employee-Management Committee in accordance with the procedures provided pursuant to NRS 284.384;

(b) If the employee is employed by the Legislative Department of ~~the~~ State Government, file a complaint with the Director of the Legislative Counsel Bureau;

(c) If the employee is employed by the Judicial Department of ~~the~~ State Government, file a complaint with the Court Administrator; and

(d) If the employee is employed by a ~~municipality, county, school district or other type of district, or a city or town,~~ political subdivision of

this State or any public or quasi-public corporation organized under the laws of this State, file a complaint with the Local Government Employee-Management Relations Board ~~+~~

~~4.1~~ in the manner set forth in section 3.3 of this act.

5. The requirements of this section do not apply to the Department of Corrections. The Department is encouraged to comply with the provisions of this section to the extent practicable.

~~5.1~~ 6. As used in this section, "public body" means:

(a) The State of Nevada, or any agency, instrumentality or corporation thereof;

(b) The Nevada System of Higher Education; or

(c) Any ~~municipality, county, school district or other type of district, or a city or town, incorporated or unincorporated; or~~

~~(d) Any other body corporate and politic comprising a political subdivision of this State or acting on behalf thereof.~~ political subdivision of this State or any public or quasi-public corporation organized under the laws of this State, including, without limitation, counties, cities, unincorporated towns, school districts, charter schools, hospital districts, irrigation districts and other special districts.

Sec. 3. NRS 284.384 is hereby amended to read as follows:

284.384 1. The Commission shall adopt regulations which provide for the adjustment of grievances for which a hearing is not provided by federal law or NRS 284.165, 284.245, 284.3629, 284.376 or 284.390 ~~+~~ and complaints filed pursuant to section 2 of this act. Any grievance for which a hearing is not provided by NRS 284.165, 284.245, 284.3629, 284.376 or 284.390 , or any complaint filed pursuant to section 2 of this act, is subject to adjustment pursuant to this section.

2. The regulations must provide procedures for:

(a) Consideration and adjustment of the grievance **or complaint** within the agency in which it arose.

(b) Submission to the Employee-Management Committee for a final decision if the employee is still dissatisfied with the resolution of the dispute.

(c) If requested by an employee or agency, the use of a resolution conference to resolve a grievance ~~+~~ or complaint.

3. The regulations must include provisions for:

(a) Submitting each proposed resolution of a dispute which has a fiscal effect to the Budget Division of the Office of Finance for a determination by that Division whether the resolution is feasible on the basis of its fiscal effects; and

(b) Making the resolution binding.

4. Any grievance **or complaint** which is subject to adjustment pursuant to this section may be appealed to the Employee-Management Committee for a final decision. Except as otherwise provided in subsection 3, a final decision of the Committee is binding. The Committee or an employee may

petition a court of competent jurisdiction for enforcement of the Committee's binding decisions.

5. The employee may represent himself or herself at any hearing regarding a grievance **or complaint** which is subject to adjustment pursuant to this section or be represented by an attorney or other person of the employee's own choosing.

6. As used in this section, "grievance" means an act, omission or occurrence which an employee who has attained permanent status feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee, including, but not limited to, compensation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or disagreement.

Sec. 3.3. Chapter 288 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board shall provide for an expedited review of a complaint filed by an employee pursuant to subsection 4 of section 2 of this act. To facilitate such a review, the Board shall:

1. Create and make available a form to be used by an employee to file a complaint;

2. Authorize the Commissioner to resolve such a complaint without referring the matter to the Board;

3. Establish an expedited timeline for issuing a decision; and

4. Take any other action necessary to ensure the complaint is reviewed in a timely manner.

Sec. 3.7. NRS 288.110 is hereby amended to read as follows:

288.110 1. The Board may make rules governing:

- (a) Proceedings before it;
- (b) Procedures for fact-finding;
- (c) The recognition of employee organizations; and
- (d) The determination of bargaining units.

2. The Board may hear and determine any complaint arising out of the interpretation of, or performance under, the provisions of this chapter by any local government employer, local government employee or employee organization. Except as otherwise provided in this subsection and NRS 288.280, **and section 3.3 of this act,** the Board shall conduct a hearing within 180 days after it decides to hear a complaint. If a complaint alleges a violation of paragraph (e) of subsection 1 of NRS 288.270 or paragraph (b) of subsection 2 of that section, the Board shall conduct a hearing not later than 45 days after it decides to hear the complaint, unless the parties agree to waive this requirement. The Board, after a hearing, if it finds that the complaint is well taken, may order any person to refrain from the action complained of or to restore to the party aggrieved any benefit of which the party has been deprived by that action. ~~(The)~~ **Except when an expedited hearing is conducted pursuant to section 3.3 of this act, the** Board shall

issue its decision within 120 days after the hearing on the complaint is completed.

3. Any party aggrieved by the failure of any person to obey an order of the Board issued pursuant to subsection 2, or the Board at the request of such a party, may apply to a court of competent jurisdiction for a prohibitory or mandatory injunction to enforce the order.

4. The Board may not consider any complaint or appeal filed more than 6 months after the occurrence which is the subject of the complaint or appeal.

5. The Board may decide without a hearing a contested matter:

(a) In which all of the legal issues have been previously decided by the Board, if it adopts its previous decision or decisions as precedent; or

(b) Upon agreement of all the parties.

6. The Board may award reasonable costs, which may include attorneys' fees, to the prevailing party.

Sec. 4. NRS 288.270 is hereby amended to read as follows:

288.270 1. It is a prohibited practice for a local government employer or its designated representative willfully to:

(a) Interfere, restrain or coerce any employee in the exercise of any right guaranteed under this chapter.

(b) Dominate, interfere or assist in the formation or administration of any employee organization.

(c) Discriminate in regard to hiring, tenure or any term or condition of employment to encourage or discourage membership in any employee organization.

(d) Discharge or otherwise discriminate against any employee because the employee has signed or filed an affidavit, petition or complaint or given any information or testimony under this chapter, or because the employee has formed, joined or chosen to be represented by any employee organization.

(e) Refuse to bargain collectively in good faith with the exclusive representative as required in NRS 288.150. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter.

(f) Discriminate because of race, color, religion, sex, age, physical or visual handicap, national origin or because of political or personal reasons or affiliations.

(g) Fail to provide the information required by NRS 288.180.

(h) Fail to comply with the requirements of section 2 of this act.

2. It is a prohibited practice for a local government employee or for an employee organization or its designated agent willfully to:

(a) Interfere with, restrain or coerce any employee in the exercise of any right guaranteed under this chapter.

(b) Refuse to bargain collectively in good faith with the local government employer, if it is an exclusive representative, as required in NRS 288.150. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter.

(c) Discriminate because of race, color, religion, sex, age, physical or visual handicap, national origin or because of political or personal reasons or affiliations.

(d) Fail to provide the information required by NRS 288.180.

Sec. 5. Chapter 608 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in ~~subsection~~ subsections 3, 5 and 6, each employer shall provide an employee who is the mother of a child under 1 year of age with:

(a) Reasonable break time, with or without compensation, for the employee to express breast milk as needed; and

(b) A ~~clean, private~~ place, other than a bathroom, ~~where the employee may express such milk,~~ that is reasonably free from dirt or pollution, which is protected from the view of others and free from intrusion by others where the employee may express breast milk.

2. If break time is required to be compensated pursuant to a collective bargaining agreement entered into by an employer and an employee organization, any break time taken pursuant to subsection 1 by an employee which is covered by the collective bargaining agreement must be compensated.

3. If an employer determines that complying with the provisions of subsection 1 will cause an undue hardship considering the size, financial resources, nature and structure of the business of the employer, the employer may meet with the employee to agree upon a reasonable alternative. If the parties are not able to reach an agreement, the employer may require the employee to accept a reasonable alternative selected by the employer.

4. An employer shall not retaliate, or direct or encourage another person to retaliate, against any employee because that employee has:

(a) Taken break time or used the space provided pursuant to subsection 1 or 3 to express breast milk; or

(b) Taken any action to require the employer to comply with the requirements of this section, including, without limitation, filing a complaint, testifying, assisting or participating in any manner in an investigation, proceeding or hearing to enforce the provisions of this section.

~~3.4~~ 5. An employer who employs fewer than 50 employees is not subject to the requirements of this section if these requirements would impose an undue hardship on the employer, considering the size, financial resources, nature and structure of the business of the employer.

6. An employer who is a contractor licensed pursuant to chapter 624 of NRS is not subject to the requirements of this section with regard to an employee who is performing work at a construction jobsite that is located at least 3 miles from the regular place of business of the employer.

Sec. 6. NRS 608.180 is hereby amended to read as follows:

608.180 The Labor Commissioner or the representative of the Labor Commissioner shall cause the provisions of NRS 608.005 to 608.195, inclusive, **and section 5 of this act** to be enforced, and upon notice from the Labor Commissioner or the representative:

1. The district attorney of any county in which a violation of those sections has occurred;

2. The Deputy Labor Commissioner, as provided in NRS 607.050;

3. The Attorney General, as provided in NRS 607.160 or 607.220; or

4. The special counsel, as provided in NRS 607.065,

➔ shall prosecute the action for enforcement according to law.

Sec. 7. NRS 608.195 is hereby amended to read as follows:

608.195 1. Except as otherwise provided in NRS 608.0165, any person who violates any provision of NRS 608.005 to 608.195, inclusive, **and section 5 of this act**, or any regulation adopted pursuant thereto, is guilty of a misdemeanor.

2. In addition to any other remedy or penalty, the Labor Commissioner may impose against the person an administrative penalty of not more than \$5,000 for each such violation.

Sec. 8. ~~[The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.]~~
(Deleted by amendment.)

Sec. 9. This act becomes effective on July 1, 2017.

Assemblyman Sprinkle moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 122.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 264.

SUMMARY—Revises provisions related to the **manner in which the** State Board of Examiners ~~awarding~~ **awards** compensation to **certain** victims of crime. (BDR 16-305)

AN ACT relating to victims of crime; removing the prohibition on awarding compensation to certain victims of crime who do not meet certain citizenship or residency requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Board of Examiners to award compensation to certain victims of crime. (NRS 217.160, 217.180) Existing law prohibits compensation from being awarded to a victim who was not a citizen or lawful resident of the United States at the time of the crime or who is unable to provide proof of such citizenship or lawful residency. (NRS 217.220)

Section 2 of this bill removes that prohibition. **Section ~~1.1~~ 1.3** of this bill revises the definition of “resident” for the purposes of provisions relating to the compensation of victims of crime to remove the requirement that a person must be a citizen or lawful resident of the United States in order to be a resident.

Under existing law, a victim of a crime who is a resident of this State is eligible for compensation in certain circumstances when the crime occurs outside this State, including when it is an act of international terrorism which occurred outside the United States. (18 U.S.C. § 2331; NRS 217.035, 217.070, 217.102) Sections 1, 1.5 and 1.7 of this bill authorize compensation to be paid to a victim of a crime committed in this State even if the victim was not a resident of this State.

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

Section 1. NRS 217.035 is hereby amended to read as follows:

217.035 “Crime” means:

1. An act or omission committed within this state which, if committed by an adult, is forbidden by law and punishable upon conviction by death, imprisonment, fine or other penal discipline; or

2. An act of international terrorism as defined in 18 U.S.C. § 2331(1) against a ~~resident~~ **person**.

~~Section 1.1~~ **Sec. 1.3.** NRS 217.065 is hereby amended to read as follows:

217.065 “Resident” means a person who ~~is~~:

~~1. Is a citizen of the United States or who is lawfully entitled to reside in the United States; and~~

~~2. During~~ **during** the 6 weeks preceding the date of the crime, was ~~is~~:

~~(a) Domiciled~~ **domiciled** in this state ~~is~~ and

~~(b) Physically~~ **physically** present in this state, except for any temporary absence.

Sec. 1.5. NRS 217.070 is hereby amended to read as follows:

217.070 **1.** “Victim” means:

~~1.1~~ **(a)** A person who is physically injured or killed as the direct result of a criminal act;

~~1.2~~ **(b)** A minor who was involved in the production of pornography in violation of NRS 200.710, 200.720, 200.725 or 200.730;

~~1.3~~ **(c)** A minor who was sexually abused, as “sexual abuse” is defined in NRS 432B.100;

~~1.4~~ **(d)** A person who is physically injured or killed as the direct result of a violation of NRS 484C.110 or any act or neglect of duty punishable pursuant to NRS 484C.430 or 484C.440;

~~1.5~~ **(e)** A pedestrian who is physically injured or killed as the direct result of a driver of a motor vehicle who failed to stop at the scene of a crash involving the driver and the pedestrian in violation of NRS 484E.010;

~~{6.}~~ **(f)** An older person who is abused, neglected, exploited, isolated or abandoned in violation of NRS 200.5099 or 200.50995;

~~{7.}~~ **(g)** A ~~resident~~ **person** who is physically injured or killed as the direct result of an act of international terrorism as defined in 18 U.S.C. § 2331(1); or

~~{8.}~~ **(h)** A person who is trafficked in violation of subsection 2 of NRS 201.300.

~~{9.}~~

2. The term includes ~~any~~ **any** person who was harmed by ~~any of these acts whether the act was committed by an adult or a minor.~~ **an act listed in subsection 1, regardless of whether:**

(a) The person is a resident of this State, a citizen of the United States or is lawfully entitled to reside in the United States; or

(b) The act was committed by an adult or a minor.

Sec. 1.7. NRS 217.102 is hereby amended to read as follows:

217.102 **1.** A resident who is a victim of a crime that occurred in a state other than the State of Nevada may apply to the Board for compensation if:

~~{1.}~~ **(a)** The state in which the crime occurred does not have a program for compensating victims of crime for their injuries; or

~~{2.}~~ **(b)** The resident is ineligible to receive compensation under the program of the other state.

2. A victim of a crime that occurred in this State who is not a resident of this State may apply to the Board for compensation in the same manner as a resident of this State.

Sec. 2. NRS 217.220 is hereby amended to read as follows:

217.220 **1.** Except as otherwise provided in subsections 2 and 3, compensation must not be awarded if the victim:

(a) Was injured or killed as a result of the operation of a motor vehicle, boat or airplane unless the vehicle, boat or airplane was used as a weapon in a deliberate attempt to harm the victim or unless the driver of the vehicle injured a pedestrian, violated any of the provisions of NRS 484C.110 or the use of the vehicle was punishable pursuant to NRS 484C.430 or 484C.440;

~~(b) Was not a citizen of the United States or was not lawfully entitled to reside in the United States at the time the incident upon which the claim is based occurred or the victim is unable to provide proof that the victim was a citizen of the United States or was lawfully entitled to reside in the United States at that time;~~

~~(c)~~ Was a coconspirator, codefendant, accomplice or adult passenger of the offender whose crime caused the victim's injuries;

~~(d)~~ **(c)** Was injured or killed while serving a sentence of imprisonment in a prison or jail;

~~(e)~~ **(d)** Was injured or killed while living in a facility for the commitment or detention of children who are adjudicated delinquent pursuant to title 5 of NRS; or

~~[(e)]~~ (e) Fails to cooperate with law enforcement agencies. Such cooperation does not require prosecution of the offender.

2. Paragraph (a) of subsection 1 does not apply to a minor who was physically injured or killed while being a passenger in the vehicle of an offender who violated NRS 484C.110 or is punishable pursuant to NRS 484C.430 or 484C.440.

3. A victim who is a relative of the offender or who, at the time of the personal injury or death of the victim, was living with the offender in a continuing relationship may be awarded compensation if the offender would not profit by the compensation of the victim.

4. The compensation officer may deny an award if the compensation officer determines that the applicant will not suffer serious financial hardship. In determining whether an applicant will suffer serious financial hardship, the compensation officer shall not consider:

- (a) The value of the victim's dwelling;
- (b) The value of one motor vehicle owned by the victim; or
- (c) The savings and investments of the victim up to an amount equal to the victim's annual salary.

Sec. 3. This act becomes effective on July 1, 2017.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 123.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 388.

SUMMARY—Revises provisions governing a series created by a limited-liability company. (BDR 7-531)

AN ACT relating to business organizations; revising provisions ~~governing the powers of a limited liability company that has created~~ **relating to a series of members' interests with separate rights, powers or duties; created by a limited-liability company;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the articles of organization or operating agreement of a limited-liability company to create one or more series of members with separate rights, powers or duties with respect to the property or obligations of the company. (NRS 86.296) **Section 1.7 of this bill authorizes a series to be created by the adoption of an operating agreement by the members of the series. Section 1 of this bill provides that if the articles of organization or operating agreement of a limited-liability company authorizes the creation of a series, the registered agent of the limited-liability company shall be deemed to be the registered agent of any series of the company.**

~~Under existing law, the liabilities of [such] a series are enforceable only against the assets of that series and not against the assets of the company or any other series if: (1) the articles of organization or an amendment to those articles contain certain statements indicating that the company is to have one or more such series; and (2) separate and distinct records are maintained for each series and the assets associated with each series are held, directly or indirectly, and accounted for separately from the other assets of the company and any other series. (NRS 86.161, 86.296) Existing law further provides that property owned or purchased by a limited-liability company must be held, owned and conveyed in the name of the company. (NRS 86.311)~~

~~[This] Section 2 of this bill clarifies that a series may purchase, own and convey property in the name of the series, as [the] an asset of the series. [Section 2 of this bill authorizes the articles of organization or operating agreement of a limited liability company to include a provision authorizing property to be owned, purchased and conveyed in the name of the series.] Section 2 [further] also specifies the persons who are authorized to bind a series to an instrument or record providing for the acquisition, mortgage or disposition of property by the series. Section [1 of this bill] 1.7 expands the powers of a series to authorize a series to sue and be sued in its own name, make contracts in its own name and purchase, own and convey property. [in accordance with section 2.]~~

Existing law requires that a person doing business in this State under an assumed or fictitious name which is different from the legal name of each person who owns an interest in the business must file a certificate with the county clerk of each county in which the business is being conducted. (NRS 602.010) Section 3 of this bill provides that a series shall be deemed to be doing business under an assumed name if the name of the series does not indicate: (1) that it is a series; and (2) the name of the limited-liability company which created the series. Section 4 of this bill requires a series to provide certain information in the certificate required to be filed pursuant to section 3.

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

Section 1. Chapter 86 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the articles of organization or operating agreement of a limited-liability company authorizes the creation of a series, the registered agent of the company shall be deemed to be the registered agent for each series of the limited-liability company.

2. Each series may be served with any legal process, notice or demand required or authorized by law by serving the registered agent of the limited-liability company which authorized the creation of the series.

Sec. 1.3. NRS 86.061 is hereby amended to read as follows:

86.061 “Limited-liability company” or “company” means a limited-liability company organized **by filing articles of organization with the Secretary of State** and existing under this chapter, including a restricted limited-liability company.

Sec. 1.5. NRS 86.1255 is hereby amended to read as follows:

86.1255 “Series” and “series of members” are synonymous terms and, unless the context otherwise requires, ~~mean a series of members’ interests having separate rights, powers or duties with respect to property, obligations or profits and losses associated with property or obligations, which are specified in the articles of organization or operating agreement or specified by one or more members or managers or other persons as provided in the articles of organization or operating agreement.~~ **means a limited-liability company whose creation has been authorized pursuant to subsection 2 of NRS 86.296 by a limited-liability company formed by filing articles of organization with the Secretary of State pursuant to NRS 86.151.**

~~{Section 1.}~~ **Sec. 1.7.** NRS 86.296 is hereby amended to read as follows:

86.296 1. The articles of organization or operating agreement of a limited-liability company may create classes of members or managers, define their relative rights, powers and duties, and may authorize the creation, in the manner provided in the operating agreement, of additional classes of members or managers with the relative rights, powers and duties as may from time to time be established, including, without limitation, rights, powers and duties senior to existing classes of members or managers. The articles of organization or operating agreement may provide that any member, or class or group of members, has voting rights that differ from other classes or groups.

2. The articles of organization or operating agreement of a limited-liability company may ~~create~~ **authorize the creation of** one or more series of members, or vest authority in one or more members or managers of the company or in other persons to create one or more series of members, including, without limitation, rights, powers and duties senior to existing series of members. **A series may be created as a limited-liability company, without the filing of articles of organization with the Secretary of State, by the adoption of an operating agreement by the members of the series.** The ~~articles of organization or~~ operating agreement **of the series** may provide that any member associated with ~~the~~ **the** series has voting rights that differ from other members or series, or no voting rights at all. A series may ~~have~~ :

(a) **Have** separate powers, rights or duties with respect to specified property or obligations of the company or profits and losses associated with specified property or obligations ~~and any series may have~~ ;

(b) **Have** a separate business purpose or investment objective ~~and~~ ;

(c) **Sue and be sued, complain and defend, in its own name;**

(d) **Make contracts in its own name; and**

~~(e) If authorized by the articles of organization or operating agreement of the company pursuant to subsection 2 of NRS 86.311:~~

~~(1) Purchase, take, receive, lease or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or an interest in it, wherever situated; and~~

~~(2) (f) Sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.~~

3. The debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a particular series are enforceable against the assets of that series only, and not against the assets of the company generally or any other series, if:

(a) Separate and distinct records are maintained for the series and the assets associated with the series are held, directly or indirectly, including through a nominee or otherwise, and accounted for separately from the other assets of the company and any other series; and

(b) The articles of organization comply, or an amendment to the articles complies, with the provisions of paragraph (e) of subsection 1 of NRS 86.161.

➔ Unless otherwise provided in the articles of organization or operating agreement, no debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the company generally or any other series are enforceable against the assets of the series.

4. The articles of organization or operating agreement may provide that the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a particular series are enforceable against the assets of that series only, and not against the assets of the company generally or any other series.

5. Unless otherwise provided in the articles of organization or operating agreement, any event described in this chapter or in the articles of organization or operating agreement that causes a manager to cease to be a manager with respect to a series does not, in itself, cause the manager to cease to be a manager with respect to the company or with respect to any other series. Unless otherwise provided in the articles of organization or operating agreement, any event described in this chapter or in the articles of organization or operating agreement that causes a manager to cease to be associated with a series does not, in itself, cause the member to cease to be associated with any other series, terminate the continued membership of a member in the company or cause the termination of the series, regardless of whether the member was the last remaining member associated with the series.

Sec. 2. NRS 86.311 is hereby amended to read as follows:

86.311 ~~{Real}~~

1. Except as otherwise provided in subsection 2, real and personal property owned or purchased by a company must be held and owned, and conveyance made, in the name of the company. Except as otherwise provided

in the company's articles of organization or operating agreement, instruments and records providing for the acquisition, mortgage or disposition of property of the company are valid and binding upon the company if signed by:

~~{1.}~~ (a) One or more managers of a company which is managed by a manager or managers;

~~{2.}~~ (b) Any member of a company which is managed by its members;

~~{3.}~~ (c) Any agent, officer, employee or other representative of the company authorized in the operating agreement or in another writing by a manager or managers, if the company is managed by a manager or managers; or

~~{4.}~~ (d) Any agent, officer, employee or other representative of the company authorized in the operating agreement or in another writing by a member, if the company is managed by its members.

2. ~~{The articles of organization or operating agreement of a company may provide that real}~~ ***Real and personal property may be purchased, owned and conveyed by a series separately in the name of the series, as the asset of the series only. Except as otherwise provided in the articles of organization or operating agreement of the ~~company,~~ series, instruments and records providing for the acquisition, mortgage or disposition of property ~~of~~ by a series are valid and binding upon the series if signed by:***

(a) One or more managers of the series, if the series is managed by a manager or managers;

(b) Any member associated with the series, if the series is managed by the members associated with the series;

(c) Any agent, officer, employee or other representative of the series authorized in the operating agreement or in another writing by a manager or managers of the series, if the series is managed by a manager or managers; or

(d) Any agent, officer, employee or other representative of the series authorized in the operating agreement or in another writing by a member associated with the series, if the series is managed by its members.

Sec. 3. NRS 602.010 is hereby amended to read as follows:

602.010 1. Every person doing business in this state under an assumed or fictitious name that is in any way different from the legal name of each person who owns an interest in the business must file with the county clerk of each county in which the business is being conducted a certificate containing the information required by NRS 602.020.

2. A person intending to conduct a business under an assumed or fictitious name may, before initiating the conduct of the business, file a certificate with the county clerk of each county in which the business is intended to be conducted.

3. A series created pursuant to NRS 86.296 and doing business in this State shall be deemed to be doing business in this State under an assumed or fictitious name that is different from the legal name of each person who owns an interest in the business, if the name of the series does not indicate:

(a) That it is a series; and
(b) The name of the limited-liability company which authorized the creation of the series pursuant to NRS 86.296.

Sec. 4. NRS 602.020 is hereby amended to read as follows:

602.020 1. A certificate filed pursuant to NRS 602.010 or a renewal certificate filed pursuant to NRS 602.035 must state the assumed or fictitious name under which the business is being conducted or is intended to be conducted, and if conducted by:

(a) A natural person:

- (1) His or her full name;
- (2) The street address of his or her residence or business; and
- (3) If the mailing address is different from the street address, the mailing address of his or her residence or business;

(b) An artificial person:

- (1) Its name; and
- (2) Its mailing address;

(c) A general partnership:

- (1) The full name of each partner who is a natural person;
- (2) The street address of the residence or business of each partner who is a natural person;
- (3) If the mailing address is different from the street address, the mailing address of the residence or business of each partner who is a natural person; and

(4) If one or more of the partners is an artificial person described in paragraph (b), the information required by paragraph (b) for each such partner; ~~or~~

(d) A trust:

- (1) The full name of each trustee of the trust;
- (2) The street address of the residence or business of each trustee of the trust; and
- (3) If the mailing address is different from the street address, the mailing address of the residence or business of each trustee of the trust. ~~It~~;

or

(e) A series created pursuant to NRS 86.296:

(1) The name of the limited-liability company which authorized the creation of the series;

(2) The street address of the limited-liability company which authorized the creation of the series; and

(3) If the mailing address is different from the street address, the mailing address of the limited-liability company which authorized the creation of the series.

2. The certificate must be:

(a) Signed:

(1) In the case of a natural person, by that natural person;

(2) In the case of an artificial person, by an officer, director, manager, general partner, trustee or other natural person having the authority to bind the artificial person to a contract;

(3) In the case of a general partnership, by each of the partners who is a natural person and, if one or more of the partners is an artificial person described in subparagraph (2), by the person described in subparagraph (2); ~~for~~

(4) In the case of a trust, by each of the trustees; ~~and~~ or

(5) In the case of a series created pursuant to NRS 86.296, by:

(I) One or more managers of the series, if the series is managed by a manager or managers;

(II) Any member associated with the series, if the series is managed by the members associated with the series;

(III) Any agent, officer, employee or other representative of the series authorized in the operating agreement or in another writing by a manager or managers of the series, if the series is managed by a manager or managers; or

(IV) Any agent, officer, employee or other representative of the series authorized in the operating agreement or in another writing by a member associated with the series, if the series is managed by its members; and

(b) Notarized, unless the board of county commissioners of the county adopts an ordinance providing that the certificate may be filed without being notarized.

3. As used in this section:

(a) “Artificial person” means any organization organized under the law of the United States, any foreign country, or a state, province, territory, possession, commonwealth or dependency of the United States or any foreign country, and as to which the government, state, province, territory, possession, commonwealth or dependency must maintain a record showing the organization to have been organized.

(b) “Record” means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

~~{Sec. 3.}~~ **Sec. 5.** The amendatory provisions of ~~this act~~

~~1. Are a legislative pronouncement of already existing law and are intended to clarify rather than change such existing law;~~

~~2. sections 1 to 2, inclusive, of this act;~~

1. Apply to any transfer or conveyance of property occurring before, on or after October 1, 2017; and

~~{2.}~~ **2.** Apply to any administrative or judicial proceedings:

(a) Commenced on or after October 1, 2017; or

(b) Commenced before October 1, 2017, if the proceedings are pending or otherwise unresolved on October 1, 2017.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 130.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 335.

AN ACT relating to guardianships; authorizing a court to require a proposed guardian to file a proposed preliminary care plan and budget; establishing the process by which an attorney may obtain the approval of the court to receive compensation from the assets of a ward for certain services; establishing the ~~{Office of the} State {Public Guardian;}~~ **Guardianship Compliance Office;** replacing the term “incompetent” with the term “incapacitated” for purposes of guardianships and revising the definition thereof; revising various provisions relating to notice given to certain persons; revising provisions concerning the sale of real and personal property of a ward; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law defines the term “incompetent” for purposes of the provisions of law governing guardianships. (NRS 159.019) **Section 7** of this bill replaces the term “incompetent” with the term “incapacitated” and revises the definition thereof. **Sections 5, 6, 11-17, 20, 22 and 35-43** of this bill make conforming changes.

Existing law generally requires a petitioner in a guardianship proceeding to give notice of the time and place of the hearing on any petition filed in the guardianship proceeding to certain persons, including any minor ward who is 14 years of age or older. (NRS 159.034) **Section 8** of this bill revises this requirement and requires that notice be given to any ward who is 14 years of age or older, regardless of whether the ward is considered to have the capacity to understand or appreciate the contents of the petition.

Existing law provides that after the filing of a petition in a guardianship proceeding, the clerk is required to issue a citation setting forth a time and place for the hearing and directing certain persons to appear and show cause why a guardian should not be appointed for the proposed ward. (NRS 159.047) **Section 9** of this bill requires a copy of the petition to be served together with the citation on certain persons, including a proposed ward who is 14 years of age or older, regardless of whether the ward is considered to have the capacity to understand or appreciate the contents of the petition, and **section 10** of this bill requires that the proposed ward be served by personal service. **Section 9** also requires a person who serves notice upon the proposed ward to file with the court an affidavit stating that notice was served.

Existing law requires a guardian of the person to file with the court a written report on the condition of the ward and the exercise of authority and

performance of duties by the guardian at certain specified times. (NRS 159.081) **Section 18** of this bill requires that such a report be served on the ward.

Section 21 of this bill requires the guardian of the estate and the guardian of the person to be notified if the ward is a party to any criminal action. **Section 23** of this bill requires that notice be given to a ward upon the filing of certain petitions or any account.

Existing law establishes various provisions concerning transactions involving real and personal property of a ward, including the sale of such property. (NRS 159.127-159.175) **Sections 24-31** of this bill revise certain provisions concerning the sale of real property of a ward, and **section 44** of this bill repeals provisions of law relating to a public auction for the sale of real property. **Sections 32-34** of this bill revise provisions concerning the sale of personal property of a ward. **Section 32 of this bill authorizes a guardian to: (1) sell or dispose of personal property of a ward that has a total value of less than \$10,000 if certain notice is given and no objection to the sale or disposal is received; and (2) authorize the immediate destruction of personal property of a ward without notice in certain circumstances.** **Section 33** of this bill requires that notice of ~~such~~ a sale **of the personal property of a ward** be given to a ward who is 14 years of age or older and certain other persons **and, if the gross value of the estate of the ward is \$10,000 or more, published in a newspaper** before a guardian may sell the personal property of a ward.

Section 2 of this bill specifies that upon the filing of a petition for the appointment of a guardian, the court may require a proposed guardian to file a proposed preliminary care plan and budget, the format of which and the timing of the filing thereof must be specified by a court rule approved by the Supreme Court.

Section 3 of this bill provides that an attorney is entitled to receive just, reasonable and necessary compensation for services associated with the commencement and administration of a guardianship, but prohibits such compensation from being paid from the assets of a ward without court approval. **Section 3** establishes the process by which an attorney is able to obtain the approval of the court.

Section 4 of this bill establishes the ~~{Office of the} State {Public Guardian}~~ **Guardianship Compliance Office.** **Section 4** provides that the State ~~{Public Guardian}~~ **Guardianship Compliance Officer** is appointed by the Supreme Court and serves at the pleasure of the Court. **Section 4** also authorizes the State ~~{Public Guardian}~~ **Guardianship Compliance Officer** to hire two accountants and two investigators to provide auditing and investigative services to the district courts during the administration of guardian proceedings.

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

Section 1. Chapter 159 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *Upon the filing of a petition for the appointment of a guardian, the court may require a proposed guardian to file a proposed preliminary care plan and budget. The format of such a proposed preliminary care plan and budget and the timing of the filing thereof must be specified by a rule approved by the Supreme Court.*

Sec. 3. 1. *An attorney is entitled to just, reasonable and necessary compensation for services associated with the commencement and administration of a guardianship. Such compensation must not be paid from the assets of a ward unless and until the court allows the payment to occur pursuant to this section.*

2. *When an attorney who intends to seek compensation from the estate of a ward first appears in the guardianship proceeding, the attorney shall give written*

notice of the basis of the compensation by filing with the court a written agreement between the attorney and the ward. The agreement:

(a) Must provide a general explanation of the compensation arrangement and how compensation will be computed;

(b) Must include the hourly billing rates of all timekeepers, including, without limitation, attorneys, law clerks and paralegals;

(c) Must be served by the attorney on all persons entitled to notice pursuant to NRS 159.034 and 159.047; and

(d) Is subject to approval by the court after a hearing.

3. *An attorney may file with the court a petition requesting compensation, which must include the following information:*

(a) A detailed statement as to the nature and extent of the services performed by the attorney;

(b) An itemization of each task performed by the attorney, with reference to the time spent on each task in an increment to the nearest one-tenth of an hour and with no minimum billing unit in excess of one-tenth of an hour;

(c) An indication of whether any time billed, including, without limitation, any time spent traveling or waiting, benefited any clients of the attorney other than the ward and, if so, how many other clients benefited from such time; and

(d) Any other information considered relevant to a determination of entitlement to compensation.

↪ Absent approval from all interested persons, any supplemental requests for fees by the attorney cannot be augmented in open court and must be properly noticed in the same manner as the underlying petition requesting compensation.

4. *In determining whether compensation is just, reasonable and necessary, the court may consider all the following factors:*

(a) *The written agreement approved by the court between the attorney and the ward which sets forth the manner in which compensation is to be calculated.*

(b) *Whether the services actually advanced or attempted to advance the best interests of the ward.*

(c) *The qualities of the attorney, including, without limitation, his or her ability, training, education, experience, professional standing and skill.*

(d) *The character of the work to be done, including, without limitation, the difficulty, intricacy and importance of the work, the time and skill required to complete the work, the responsibility imposed and the nature of the proceedings.*

(e) *The work actually performed by the attorney, including, without limitation, the skill, time and attention given to the work.*

(f) *The result of the work, including, without limitation, whether the attorney was successful and any benefits that were derived.*

(g) *The usual and customary fees charged in the relevant professional communities for each task performed, regardless of who actually performed the task. An attorney may be awarded:*

(1) *Compensation at an attorney rate for time spent performing services that require an attorney;*

(2) *Compensation at a paralegal rate for time spent performing paralegal services;*

(3) *Compensation at a fiduciary rate for time spent performing fiduciary services; and*

(4) *No compensation for time spent performing secretarial or clerical services.*

(h) *The appropriate apportionment among multiple clients of any billed time that benefited multiple clients of the attorney.*

(i) *The extent to which the services were provided in a reasonable, efficient and cost-effective manner, including, without limitation, whether there was appropriate and prudent delegation of services to others.*

(j) *The ability of the ward to pay, including, without limitation:*

(1) *The value of the estate under guardianship;*

(2) *The nature, extent and liquidity of the assets of the ward;*

(3) *The disposable net income of the ward;*

(4) *The anticipated future needs and income of the ward;*

(5) *Any other foreseeable expenses; and*

(6) *Any other factors that are relevant to the duties of the guardian pursuant to NRS 159.079 or 159.083.*

(k) *The efforts made by the attorney to reduce and minimize any issues.*

(l) *Any actions by the attorney that unnecessarily expanded issues or delayed or hindered the efficient administration of the estate.*

(m) Any other factor that is relevant in determining whether compensation is just, reasonable and necessary.

5. The court shall not approve compensation for an attorney for:

(a) Time spent on internal business activities of the attorney, including, without limitation, clerical or secretarial support; or

(b) Time reported as a total amount of time spent on multiple tasks, rather than an itemization of the time spent on each task.

6. Any fees paid by a third party, including, without limitation, a trust of which the estate is a beneficiary, must be disclosed to and approved by the court.

7. In addition to the compensation for ordinary services of an attorney that are set forth in this section, an attorney is entitled to receive compensation for ordinary costs and expenses incurred in the scope of his or her representation of the ward.

Sec. 4. 1. ~~The [Office of the] State [Public Guardian] Guardianship Compliance Office is hereby created.~~

2. ~~The State [Public Guardian] Guardianship Compliance Officer is:~~

(a) ~~Appointed by the Supreme Court and serves at the pleasure of the Court; and~~

(b) ~~Entitled to receive an annual salary set by the Supreme Court within the limits of legislative appropriations.~~

3. ~~The State [Public Guardian] Guardianship Compliance Officer may hire two accountants and two investigators to provide auditing and investigative services to the district courts during the administration of guardianship proceedings.~~

4. The State Guardianship Compliance Officer shall not act as a guardian for any ward.

Sec. 5. NRS 159.014 is hereby amended to read as follows:

159.014 "Care provider" includes any public or private institution located within or outside this state which provides facilities for the care or maintenance of ~~incompetents,~~ **persons who are incapacitated**, persons of limited capacity or minors.

Sec. 6. NRS 159.015 is hereby amended to read as follows:

159.015 "Court" means any court or judge having jurisdiction of the persons and estates of minors, ~~incompetent~~ persons ~~[-] who are~~ **incapacitated** or persons of limited capacity.

Sec. 7. NRS 159.019 is hereby amended to read as follows:

159.019 ~~["Incompetent" means an adult] A person [who, by reason of mental illness, mental deficiency, disease, weakness of mind or any other cause,] is "incapacitated" if he or she, for reasons other than being a minor, is unable [-] without assistance, properly to manage and take care of himself or herself or his or her property, or both. The term includes a person who is mentally incapacitated.~~ **to receive and evaluate information or make or communicate decisions to such an extent that the person lacks the**

ability to meet essential requirements for physical health, safety or self-care without appropriate assistance.

Sec. 8. NRS 159.034 is hereby amended to read as follows:

159.034 1. Except as otherwise provided in this section, by specific statute or as ordered by the court, a petitioner in a guardianship proceeding shall give notice of the time and place of the hearing on any petition filed in the guardianship proceeding to:

(a) Any ~~minor~~ ward who is 14 years of age or older ~~14~~, ***regardless of whether the ward is considered to have the capacity to understand or appreciate the contents of the petition.***

(b) The parent or legal guardian of any minor ward who is less than 14 years of age.

(c) The spouse of the ward and all other known relatives of the ward who are within the second degree of consanguinity.

(d) Any other interested person or the person's attorney who has filed a request for notice in the guardianship proceedings and has served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the request and the person's name and address, or that of his or her attorney.

(e) The guardian, if the petitioner is not the guardian.

(f) Any person or care provider who is providing care for the ward, except that if the person or care provider is not related to the ward, such person or care provider must not receive copies of any inventory or accounting.

(g) Any office of the Department of Veterans Affairs in this State if the ward is receiving any payments or benefits through the Department of Veterans Affairs.

(h) The Director of the Department of Health and Human Services if the ward has received or is receiving benefits from Medicaid.

(i) Those persons entitled to notice if a proceeding were brought in the ward's home state.

2. The petitioner shall give notice not later than 10 days before the date set for the hearing:

(a) By mailing a copy of the notice by certified, registered or ordinary first-class mail to the residence, office or post office address of each person required to be notified pursuant to this section;

(b) By personal service; or

(c) In any other manner ordered by the court, upon a showing of good cause.

3. Except as otherwise provided in this subsection, if none of the persons entitled to notice of a hearing on a petition pursuant to this section can, after due diligence, be served by certified mail or personal service and this fact is proven by affidavit to the satisfaction of the court, service of the notice must be made by publication in the manner provided by N.R.C.P. 4(e). In all such cases, the notice must be published not later than 10 days before the date set for the hearing. If, after the appointment of a guardian, a search for relatives

of the ward listed in paragraph (c) of subsection 1 fails to find any such relative, the court may waive the notice by publication required by this subsection.

4. For good cause shown, the court may waive the requirement of giving notice.

5. A person entitled to notice pursuant to this section may waive such notice. Such a waiver must be in writing and filed with the court.

6. On or before the date set for the hearing, the petitioner shall file with the court proof of giving notice to each person entitled to notice pursuant to this section.

Sec. 9. NRS 159.047 is hereby amended to read as follows:

159.047 1. Except as otherwise provided in NRS 159.0475 and 159.049 to 159.0525, inclusive, upon the filing of a petition under NRS 159.044, the clerk shall issue a citation setting forth a time and place for the hearing and directing the persons or care provider referred to in subsection 2 to appear and show cause why a guardian should not be appointed for the proposed ward.

2. A citation issued under subsection 1 , ***together with a copy of the petition filed under NRS 159.044,*** must be served upon:

(a) A proposed ward who is 14 years of age or older ~~{;}~~ , ***regardless of whether the proposed ward is considered to have the capacity to understand or appreciate the contents of the citation and petition;***

(b) The spouse of the proposed ward and all other known relatives of the proposed ward who are:

(1) Fourteen years of age or older; and

(2) Within the second degree of consanguinity;

(c) The parents and custodian of the proposed ward;

(d) Any person or officer of a care provider having the care, custody or control of the proposed ward;

(e) The proposed guardian, if the petitioner is not the proposed guardian;

(f) Any office of the Department of Veterans Affairs in this State if the proposed ward is receiving any payments or benefits through the Department of Veterans Affairs; and

(g) The Director of the Department of Health and Human Services if the proposed ward has received or is receiving any benefits from Medicaid.

3. ***A person who serves notice upon a proposed ward pursuant to paragraph (a) of subsection 2 shall file with the court an affidavit stating that he or she served notice upon the proposed ward in accordance with the provisions of NRS 159.0475.***

Sec. 10. NRS 159.0475 is hereby amended to read as follows:

159.0475 1. A copy of the citation issued pursuant to NRS 159.047 , ***together with a copy of the petition filed under NRS 159.044,*** must be served : ~~{by:}~~

(a) ***Except as otherwise ordered by the court, on a proposed ward who is 14 years of age or older by personal service in the manner provided***

pursuant to N.R.C.P. 4(d) at least 10 days before the date set for the hearing; and

(b) On each person required to be served pursuant to NRS 159.047 other than a proposed ward by:

(1) Certified mail, with a return receipt requested, ~~for each person required to be served pursuant to NRS 159.047~~ at least 20 days before the hearing; or

~~[(b)]~~ *(2) Personal service in the manner provided pursuant to N.R.C.P. 4(d) at least 10 days before the date set for the hearing . ~~for each person required to be served pursuant to NRS 159.047.~~*

2. If none of the persons on whom the citation **and petition** is to be served can, after due diligence, be served by certified mail or personal service , **as applicable**, and this fact is proven ~~[(b)]~~ by affidavit ~~[(b)]~~ to the satisfaction of the court, service of the citation **and petition** must be made by publication in the manner provided by N.R.C.P. 4(e). In all such cases, the citation **and petition** must be published at least 20 days before the date set for the hearing.

3. A citation **and petition** need not be served on a person or an officer of the care provider who has signed the petition or a written waiver of service of **the citation and petition** or who makes a general appearance.

4. The court may find that notice is sufficient if:

(a) The citation and petition have been served by personal service on the proposed ward and an affidavit of such service has been filed with the court pursuant to subsection 3 of NRS 159.047;

(b) The citation ~~has~~ and petition have been served by certified mail, with a return receipt requested, or by personal service on the ~~proposed ward,~~ care provider or public guardian required to be served pursuant to NRS 159.047; and

~~[(b)]~~ *(c) At least one relative of the proposed ward who is required to be served pursuant to NRS 159.047 has been served, as evidenced by the return receipt or the certificate of service. If the court finds that at least one relative of the proposed ward has not received notice that is sufficient, the court will require the citation **and petition** to be published pursuant to subsection 2.*

Sec. 11. NRS 159.048 is hereby amended to read as follows:

159.048 The citation issued pursuant to NRS 159.047 must state that the:

1. Proposed ward may be adjudged to be ~~incompetent~~ **incapacitated** or of limited capacity and a guardian may be appointed for the proposed ward;

2. Proposed ward's rights may be affected as specified in the petition;

3. Proposed ward has the right to appear at the hearing and to oppose the petition; and

4. Proposed ward has the right to be represented by an attorney, who may be appointed for the proposed ward by the court if the proposed ward is unable to retain one.

Sec. 12. NRS 159.0487 is hereby amended to read as follows:

159.0487 Any court of competent jurisdiction may appoint:

1. Guardians of the person, of the estate, or of the person and estate for ~~incompetents~~ **persons who are incapacitated** or minors whose home state is this State.

2. Guardians of the person or of the person and estate for ~~incompetents~~ **persons who are incapacitated** or minors who, although not residents of this State, are physically present in this State and whose welfare requires such an appointment.

3. Guardians of the estate for nonresident ~~incompetents~~ **persons who are incapacitated** or nonresident minors who have property within this State.

4. Special guardians.

5. Guardians ad litem.

Sec. 13. NRS 159.054 is hereby amended to read as follows:

159.054 1. If the court finds **that** the proposed ward ~~competent~~ **is not incapacitated** and **is** not in need of a guardian, the court shall dismiss the petition.

2. If the court finds **that** the proposed ward ~~to be~~ **is** of limited capacity and **is** in need of a special guardian, the court shall enter an order accordingly and specify the powers and duties of the special guardian.

3. If the court finds that appointment of a general guardian is required, the court shall appoint a general guardian of the ward's person, estate, or person and estate.

Sec. 14. NRS 159.0593 is hereby amended to read as follows:

159.0593 1. If the court orders a general guardian appointed for a proposed ward, the court shall determine, by clear and convincing evidence, whether the proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(d)(4) or (g)(4). If a court makes a finding pursuant to this section that the proposed ward is a person with a mental defect, the court shall include the finding in the order appointing the guardian and cause, within 5 business days after issuing the order, a record of the order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

2. As used in this section:

(a) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

(b) "Person with a mental defect" means a person who, as a result of marked subnormal intelligence, mental illness, ~~incompetence,~~ **incapacitation**, condition or disease, is:

(1) A danger to himself or herself or others; or

(2) Lacks the capacity to contract or manage his or her own affairs.

Sec. 15. NRS 159.0613 is hereby amended to read as follows:

159.0613 1. Except as otherwise provided in subsection 3, in a proceeding to appoint a guardian for an adult, the court shall give preference to a nominated person or relative, in that order of preference:

(a) Whether or not the nominated person or relative is a resident of this State; and

(b) If the court determines that the nominated person or relative is qualified and suitable to be appointed as guardian for the adult.

2. In determining whether any nominated person, relative or other person listed in subsection 4 is qualified and suitable to be appointed as guardian for an adult, the court shall consider, if applicable and without limitation:

(a) The ability of the nominated person, relative or other person to provide for the basic needs of the adult, including, without limitation, food, shelter, clothing and medical care;

(b) Whether the nominated person, relative or other person has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS;

(c) Whether the nominated person, relative or other person has been judicially determined to have committed abuse, neglect, exploitation, isolation or abandonment of a child, his or her spouse, his or her parent or any other adult, unless the court finds that it is in the best interests of the ward to appoint the person as guardian for the adult;

(d) Whether the nominated person, relative or other person is ~~incompetent~~ **incapacitated** or has a disability; and

(e) Whether the nominated person, relative or other person has been convicted in this State or any other jurisdiction of a felony, unless the court determines that any such conviction should not disqualify the person from serving as guardian for the adult.

3. If the court finds that two or more nominated persons are qualified and suitable to be appointed as guardian for an adult, the court may appoint two or more nominated persons as co-guardians or shall give preference among them in the following order of preference:

(a) A person whom the adult nominated for the appointment as guardian for the adult in a will, trust or other written instrument that is part of the adult's established estate plan and was executed by the adult while ~~competent~~ **he or she was not incapacitated**.

(b) A person whom the adult requested for the appointment as guardian for the adult in a written instrument that is not part of the adult's established estate plan and was executed by the adult while ~~competent~~ **he or she was not incapacitated**.

4. Subject to the preferences set forth in subsections 1 and 3, the court shall appoint as guardian the qualified person who is most suitable and is willing to serve. In determining which qualified person is most suitable, the court shall, in addition to considering any applicable factors set forth in subsection 2, give consideration, among other factors, to:

(a) Any nomination or request for the appointment as guardian by the adult.

(b) Any nomination or request for the appointment as guardian by a relative.

(c) The relationship by blood, adoption, marriage or domestic partnership of the proposed guardian to the adult. In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the whole blood. The court may consider any relative in the following order of preference:

(1) A spouse or domestic partner.

(2) A child.

(3) A parent.

(4) Any relative with whom the adult has resided for more than 6 months before the filing of the petition or any relative who has a power of attorney executed by the adult while ~~competent.~~ **he or she was not incapacitated.**

(5) Any relative currently acting as agent.

(6) A sibling.

(7) A grandparent or grandchild.

(8) An uncle, aunt, niece, nephew or cousin.

(9) Any other person recognized to be in a familial relationship with the adult.

(d) Any recommendation made by a master of the court or special master pursuant to NRS 159.0615.

(e) Any request for the appointment of any other interested person that the court deems appropriate, including, without limitation, a person who is not a relative and who has a power of attorney executed by the adult while ~~competent.~~ **he or she was not incapacitated.**

5. The court may appoint as guardian any nominated person, relative or other person listed in subsection 4 who is not a resident of this State. The court shall not give preference to a resident of this State over a nonresident if the court determines that:

(a) The nonresident is more qualified and suitable to serve as guardian; and

(b) The distance from the proposed guardian's place of residence and the adult's place of residence will not affect the quality of the guardianship or the ability of the proposed guardian to make decisions and respond quickly to the needs of the adult because:

(1) A person or care provider in this State is providing continuing care and supervision for the adult;

(2) The adult is in a secured residential long-term care facility in this State; or

(3) Within 30 days after the appointment of the proposed guardian, the proposed guardian will move to this State or the adult will move to the proposed guardian's state of residence.

6. If the court appoints a nonresident as guardian for the adult:

(a) The jurisdictional requirements of NRS 159.1991 to 159.2029, inclusive, must be met;

(b) The court shall order the guardian to designate a registered agent in this State in the same manner as a represented entity pursuant to chapter 77 of NRS; and

(c) The court may require the guardian to complete any available training concerning guardianships pursuant to NRS 159.0592, in this State or in the state of residence of the guardian, regarding:

(1) The legal duties and responsibilities of the guardian pursuant to this chapter;

(2) The preparation of records and the filing of annual reports regarding the finances and well-being of the adult required pursuant to NRS 159.073;

(3) The rights of the adult;

(4) The availability of local resources to aid the adult; and

(5) Any other matter the court deems necessary or prudent.

7. If the court finds that there is not any suitable nominated person, relative or other person listed in subsection 4 to appoint as guardian, the court may appoint as guardian:

(a) The public guardian of the county where the adult resides if:

(1) There is a public guardian in the county where the adult resides; and

(2) The adult qualifies for a public guardian pursuant to chapter 253 of NRS;

(b) A private fiduciary who may obtain a bond in this State and who is a resident of this State, if the court finds that the interests of the adult will be served appropriately by the appointment of a private fiduciary; or

(c) A private professional guardian who meets the requirements of NRS 159.0595.

8. A person is not qualified to be appointed as guardian for an adult if the person has been suspended for misconduct or disbarred from any of the professions listed in this subsection, but the disqualification applies only during the period of the suspension or disbarment. This subsection applies to:

(a) The practice of law;

(b) The practice of accounting; or

(c) Any other profession that:

(1) Involves or may involve the management or sale of money, investments, securities or real property; and

(2) Requires licensure in this State or any other state in which the person practices his or her profession.

9. As used in this section:

(a) “Adult” means a person who is a ward or a proposed ward and who is not a minor.

(b) “Domestic partner” means a person in a domestic partnership.

(c) “Domestic partnership” means:

(1) A domestic partnership as defined in NRS 122A.040; or

(2) A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in NRS 122A.040, regardless of whether it bears the name of a domestic partnership or is registered in this State.

(d) “Nominated person” means a person, whether or not a relative, whom an adult:

(1) Nominates for the appointment as guardian for the adult in a will, trust or other written instrument that is part of the adult’s established estate plan and was executed by the adult while ~~competent.~~ **he or she was not incapacitated.**

(2) Requests for the appointment as guardian for the adult in a written instrument that is not part of the adult’s established estate plan and was executed by the adult while ~~competent.~~ **he or she was not incapacitated.**

(e) “Relative” means a person who is 18 years of age or older and who is related to the adult by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity.

Sec. 16. NRS 159.062 is hereby amended to read as follows:

159.062 A parent or spouse of ~~an incompetent,~~ **a minor, person who is incapacitated** or person of limited capacity may by will nominate a guardian. The person nominated must file a petition and obtain an appointment from the court before exercising the powers of a guardian.

Sec. 17. NRS 159.078 is hereby amended to read as follows:

159.078 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Make or change the last will and testament of the ward.

(b) Except as otherwise provided in this paragraph, make or change the designation of a beneficiary in a will, trust, insurance policy, bank account or any other type of asset of the ward which includes the designation of a beneficiary. The guardian is not required to petition the court for an order authorizing the guardian to utilize an asset which has a designated beneficiary, including the closure or discontinuance of the asset, for the benefit of a ward if:

(1) The asset is the only liquid asset available with which to pay for the proper care, maintenance, education and support of the ward;

(2) The asset, or the aggregate amount of all the assets if there is more than one type of asset, has a value that does not exceed \$5,000; or

(3) The asset is a bank account, investment fund or insurance policy and is required to be closed or discontinued in order for the ward to qualify for a federal program of public assistance.

(c) Create for the benefit of the ward or others a revocable or irrevocable trust of the property of the estate.

(d) Except as otherwise provided in this paragraph, exercise the right of the ward to revoke or modify a revocable trust or to surrender the right to revoke or modify a revocable trust. The court shall not authorize or require

the guardian to exercise the right to revoke or modify a revocable trust if the instrument governing the trust:

(1) Evidences an intent of the ward to reserve the right of revocation or modification exclusively to the ward;

(2) Provides expressly that a guardian may not revoke or modify the trust; or

(3) Otherwise evidences an intent that would be inconsistent with authorizing or requiring the guardian to exercise the right to revoke or modify the trust.

2. Any other interested person may also petition the court for an order authorizing or directing the guardian to take any action described in subsection 1.

3. The court may authorize the guardian to take any action described in subsection 1 if, after notice to any person who is adversely affected by the proposed action and an opportunity for a hearing, the court finds by clear and convincing evidence that:

(a) A reasonably prudent person or the ward, if ~~competent,~~ **not incapacitated**, would take the proposed action and that a person has committed or is about to commit any act, practice or course of conduct which operates or would operate as a fraud or act of exploitation upon the ward or estate of the ward and that person:

(1) Is designated as a beneficiary in or otherwise stands to gain from an instrument which was executed by or on behalf of the ward; or

(2) Will benefit from the lack of such an instrument; or

(b) The proposed action is otherwise in the best interests of the ward for any other reason not listed in this section.

4. The petition must contain, to the extent known by the petitioner:

(a) The name, date of birth and current address of the ward;

(b) A concise statement as to the condition of the ward's estate; and

(c) A concise statement as to the necessity for the proposed action.

5. As used in this section:

(a) "Exploitation" means any act taken by a person who has the trust and confidence of a ward or any use of the power of attorney of a ward to:

(1) Obtain control, through deception, intimidation or undue influence, over the money, assets or property of the ward with the intention of permanently depriving the ward of the ownership, use, benefit or possession of the ward's money, assets or property.

(2) Convert money, assets or property of the ward with the intention of permanently depriving the ward of the ownership, use, benefit or possession of the ward's money, assets or property.

➡ As used in this paragraph, "undue influence" does not include the normal influence that one member of a family has over another.

(b) "Fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the person with the intent to deprive the ward of the ward's rights or property or to otherwise injure the ward.

(c) “Interested person” has the meaning ascribed to it in NRS 132.185 and also includes a named beneficiary under a trust or other instrument if the validity of the trust or other instrument may be in question.

Sec. 18. NRS 159.081 is hereby amended to read as follows:

159.081 1. A guardian of the person shall make and file in the guardianship proceeding for review of the court a written report on the condition of the ward and the exercise of authority and performance of duties by the guardian:

(a) Annually, not later than 60 days after the anniversary date of the appointment of the guardian;

(b) Within 10 days of moving a ward to a secured residential long-term care facility; and

(c) At such other times as the court may order.

2. A report filed pursuant to paragraph (b) of subsection 1 must:

(a) Include a copy of the written recommendation upon which the transfer was made; and

(b) Be served, without limitation, on the **ward and any** attorney for the ward. ~~if any.~~

3. The court may prescribe the form and contents for filing a report described in subsection 1.

4. The guardian of the person shall give to the guardian of the estate, if any, a copy of each report not later than 30 days after the date the report is filed with the court.

5. The court is not required to hold a hearing or enter an order regarding the report.

Sec. 19. NRS 159.085 is hereby amended to read as follows:

159.085 1. Not later than 60 days after the date of the appointment of a general or special guardian of the estate or, if necessary, such further time as the court may allow, the guardian shall make and file in the guardianship proceeding a verified inventory of all of the property of the ward which comes to the possession or knowledge of the guardian.

2. A temporary guardian of the estate who is not appointed as the general or special guardian shall file an inventory with the court by not later than the date on which the temporary guardian files a final accounting as required pursuant to NRS 159.177.

3. The guardian shall take and subscribe an oath, which must be endorsed or attached to the inventory, before any person authorized to administer oaths, that the inventory contains a true statement of:

(a) All of the estate of the ward which has come into the possession of the guardian;

(b) All of the money that belongs to the ward; and

(c) All of the just claims of the ward against the guardian.

4. ***A copy of the inventory filed with the court and a notice of the filing must be served on the ward, his or her attorney and any guardian ad litem representing the ward.***

5. Whenever any property of the ward not mentioned in the inventory comes to the possession or knowledge of a guardian of the estate, the guardian shall:

(a) Make and file in the proceeding a verified supplemental inventory not later than 30 days after the date the property comes to the possession or knowledge of the guardian; or

(b) Include the property in the next accounting.

~~{5-}~~ 6. The court may order which of the two methods described in subsection ~~{4}~~ 5 the guardian shall follow.

~~{6-}~~ 7. The court may order all or any part of the property of the ward appraised as provided in NRS 159.0865 and 159.305.

~~{7-}~~ 8. If the guardian neglects or refuses to file the inventory within the time required pursuant to subsection 1, the court may, for good cause shown and upon such notice as the court deems appropriate:

(a) Revoke the letters of guardianship and the guardian shall be liable on the bond for any loss or injury to the estate caused by the neglect of the guardian; or

(b) Enter a judgment for any loss or injury to the estate caused by the neglect of the guardian.

Sec. 20. NRS 159.0893 is hereby amended to read as follows:

159.0893 1. A guardian shall present a copy of the court order appointing the guardian and letters of guardianship to a bank or other financial institution that holds any account or other assets of the ward before the guardian may access the account or other assets.

2. The bank or other financial institution shall accept the copy of the court order appointing the guardian and letters of guardianship as proof of guardianship and allow the guardian access to the account or other assets of the ward, subject to any limitations set forth in the court order.

3. Unless the bank or other financial institution is a party to the guardianship proceeding, the bank or other financial institution is not entitled to a copy of any:

(a) ~~{Competency}~~ **Capacity** evaluation of the ward or any other confidential information concerning the medical condition or the placement of the ward; or

(b) Inventory or accounting of the estate of the ward.

Sec. 21. NRS 159.095 is hereby amended to read as follows:

159.095 1. A guardian of the estate shall appear for and represent the ward in all actions, suits or proceedings to which the ward is a party, unless the court finds that the interests of the guardian conflict with the interests of the ward or it is otherwise appropriate to appoint a guardian ad litem in the action, suit or proceeding.

2. Upon final resolution of the action, suit or proceeding, the guardian of the estate or the guardian ad litem shall notify the court of the outcome of the action, suit or proceeding.

3. If the person of the ward would be affected by the outcome of any action, suit or proceeding, the guardian of the person, if any, should be joined to represent the ward in the action, suit or proceeding.

4. If the ward is a party to any criminal action, the guardian of the estate and the guardian of the person must be notified of the action.

Sec. 22. NRS 159.097 is hereby amended to read as follows:

159.097 Any contract, except to the extent of the reasonable value of necessities, and any transaction with respect to the property of a ward made by the ward are voidable by the guardian of the estate if such contract or transaction was made at any time by the ward while ~~an incompetent~~ **he or she was incapacitated** or a minor.

Sec. 23. NRS 159.115 is hereby amended to read as follows:

159.115 1. ~~Upon~~ **Except as otherwise ordered by the court, upon** the filing of any petition under NRS 159.078 or 159.113, or any account, notice must be given **to the ward and the persons specified in NRS 159.034** in the manner prescribed by ~~NRS 159.034~~ **that section**.

2. The notice must:

- (a) Give the name of the ward.
- (b) Give the name of the petitioner.
- (c) Give the date, time and place of the hearing.
- (d) State the nature of the petition.

(e) Refer to the petition for further particulars, and notify all persons interested to appear at the time and place mentioned in the notice and show cause why the court order should not be made.

Sec. 24. NRS 159.134 is hereby amended to read as follows:

159.134 1. All sales of real property of a ward must be ~~reported to the court, and~~ **confirmed** by the court **pursuant to NRS 159.146** before **escrow closes for the sale and** title to the real property passes to the purchaser.

2. ~~The report and a~~ **A** petition for confirmation of the sale must be filed with the court not later than 30 days after the date of ~~each~~ **the sale** ~~),~~ **which is the date on which the contract for the sale was signed.**

3. The court shall set the date of the hearing **for confirmation of the sale** and give notice of the hearing in the manner required pursuant to NRS 159.115 or as the court may order.

4. An interested person may file written objections to the confirmation of the **sale before the hearing for confirmation of the sale**. If such objections are filed, the court shall conduct a hearing regarding those objections during which the interested person may offer witnesses in support of the objections. **The court may, in its discretion, allow oral objections to the confirmation of the sale on the date of the hearing for confirmation of the sale.**

5. Before the court confirms a sale, the court must find that notice of the sale was given in the manner required pursuant to NRS 159.1425 ~~),~~

~~159.1435~~ and 159.144, unless the sale was exempt from notice pursuant to NRS 159.123.

Sec. 25. NRS 159.1385 is hereby amended to read as follows:

159.1385 1. ~~{A}~~ ***After the court has granted authority to sell real property of a ward, a*** guardian may enter into a written contract with any bona fide agent, broker or multiple agents or brokers to secure a purchaser for ~~{any real}~~ ***such*** property . ~~{of the estate.}~~ Such a contract may grant an exclusive right to sell the property to the agent, broker or multiple agents or brokers.

2. The guardian shall provide for the payment of a commission upon the sale of the real property which:

(a) Must be paid from the proceeds of the sale;

(b) Must be fixed in an amount not to exceed:

(1) Ten percent for unimproved real property; or

(2) Seven percent for ~~{improved}~~ real property ~~{;}~~ ***with any type of improvement;*** and

(c) Must be authorized by the court by confirmation of the sale.

3. Upon confirmation of the sale by the court, the contract for the sale becomes binding and enforceable against the estate.

4. A guardian may not be held personally liable and the estate is not liable for the payment of any commission set forth in a contract entered into with an agent or broker pursuant to this section until the sale is confirmed by the court, and then is liable only for the amount set forth in the contract.

Sec. 26. NRS 159.1415 is hereby amended to read as follows:

159.1415 1. ~~{When an offer}~~ ***Except as otherwise provided in subsection 10 of NRS 159.146, if a contract of sale*** to purchase real property of a guardianship estate is presented to the court for confirmation:

(a) Other persons may submit higher bids ~~{to the}~~ ***in open*** court; and

(b) The court may confirm the highest bid.

2. Upon confirmation of a sale of real property by the court, the commission for the sale must be divided between the listing agent or broker and the agent or broker who secured the purchaser to whom the sale was confirmed, if any, in accordance with the contract with the listing agent or broker.

Sec. 27. NRS 159.142 is hereby amended to read as follows:

159.142 1. If a ward owns real property jointly with one or more other persons, ***after the court grants authority to sell the property,*** the interest owned by the ward may be sold to one or more joint owners of the property only if:

(a) ***All joint owners of the property have been given notice that the court has granted the authority to sell the property;***

(b) The guardian files a petition with the court to confirm the sale pursuant to NRS 159.134; and

~~{(b)}~~ (c) The court confirms the sale.

2. The court shall confirm the sale only if:

(a) The net amount of the proceeds from the sale to the estate of the ward is not less than 90 percent of the fair market value of the portion of the property to be sold; and

(b) Upon confirmation, the estate of the ward will be released from all liability for any mortgage or lien on the property.

Sec. 28. NRS 159.1425 is hereby amended to read as follows:

159.1425 1. Except as otherwise provided in this section and except for a sale pursuant to NRS 159.123 or 159.142, a guardian may sell the real property of a ward only after ***the court grants authority for the sale pursuant to NRS 159.113 and*** notice of the sale is published : ~~in:~~

(a) ~~{A}~~ ***In*** a newspaper that is published in the county in which the property, or some portion of the property, is located; ~~for~~

(b) If a newspaper is not published in ~~{that}~~ ***the*** county ~~{:}~~ ***in which the property, or some portion of the property, is located:***

(1) In a newspaper of general circulation in the county; or

(2) In such other newspaper as the court orders ~~{:}~~ ; ***or***

(c) ***On a ~~{Multiple Listing Service}~~ public property listing service for a period of not less than 30 days.***

2. Except as otherwise provided in this section and except for a sale of real property pursuant to NRS 159.123 or 159.142 ~~{:~~

~~—(a) The notice of a public auction for the sale of real property must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.~~

~~—(b) The~~ , ***the*** notice of a ~~{private}~~ sale must be published ***pursuant to paragraph (a) or (b) of subsection 1*** not less than three times before the date on which ~~{offers will}~~ ***the sale may be {accepted,} made,*** over a period of 14 days and 7 days apart.

3. For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

4. The court may waive the requirement of publication pursuant to this section if:

(a) The guardian is the sole devisee or heir of the estate; or

(b) All devisees or heirs of the estate consent to the waiver in writing.

5. Publication for the sale of real property is not required pursuant to this section if the property to be sold is reasonably believed to have a ***net*** value of \$10,000 or less. In lieu of publication, the guardian shall post notice of the sale in three of the most public places in the county in which the property, or some portion of the property, is located for at least 14 days before ~~{:~~

~~—(a) The date of the sale at public auction; or~~

~~—(b) The~~ ***the*** date on ***or after*** which ~~{offers}~~ ***an offer*** will be accepted for a ~~{private}~~ sale.

6. Any notice published or posted pursuant to this section must include, without limitation:

(a) ~~{For a public auction:~~

~~— (1) A description of the real property which reasonably identifies the property to be sold; and~~

~~— (2) The date, time and location of the auction.~~

~~— (b) For a private sale:~~

~~— (1)}~~ A description of the real property which reasonably identifies the property to be sold; and

~~{(2)}~~ **(b)** The date, time and location ~~{that offers}~~ **on or after which an offer** will be accepted.

Sec. 29. NRS 159.144 is hereby amended to read as follows:

159.144 1. Except for the sale of real property pursuant to NRS 159.123 or 159.142, a sale of real property of a guardianship estate : ~~at a private sale;~~

(a) Must not occur before the date stated in the notice.

(b) Except as otherwise provided in this paragraph, must not occur sooner than 14 days after the date of the first publication or posting of the notice. For good cause shown, the court may shorten the time in which the sale may occur to not sooner than 8 days after the date of the first publication or posting of the notice. If the court so orders, the notice of the sale and the sale may be made to correspond with the court order.

(c) Must occur not later than 1 year after the date stated in the notice.

2. The offers made in a ~~private~~ sale:

(a) Must be in writing; and

(b) May be delivered to the place designated in the notice or to the guardian at any time ~~;~~

~~— (1) After} after~~ the date of the first publication or posting of the notice . ~~;~~ and

~~— (2) Before the date on which the sale is to occur.}~~

Sec. 30. NRS 159.1455 is hereby amended to read as follows:

159.1455 1. Except as otherwise provided in subsection 2, the court shall not confirm a sale of real property of a guardianship estate ~~at a private sale;~~ unless:

(a) The court is satisfied that the amount offered represents the fair market value of the property to be sold; and

(b) Except for a sale of real property pursuant to NRS 159.123, the real property has been appraised within 1 year before the date of the sale. If the real property has not been appraised within this period, a new appraisal must be conducted pursuant to NRS 159.086 and 159.0865 at any time before the sale or confirmation by the court of the sale.

2. The court may waive the requirement of an appraisal ~~and allow the guardian to rely on the assessed value of the real property for purposes of taxation in obtaining confirmation by the court of the sale.}~~ **upon a showing to and specific findings by the court on the record that:**

(a) An additional appraisal will unduly delay the sale; and

(b) The delay will impair the estate of the ward.

Sec. 31. NRS 159.146 is hereby amended to read as follows:

159.146 1. At the hearing to confirm the sale of real property, the court shall:

(a) Consider whether the sale is necessary or in the best interest of the estate of the ward; and

(b) Examine the return on the investment and the evidence submitted in relation to the sale.

2. The court shall confirm the sale and order conveyances to be executed if it appears to the court that:

(a) Good reason existed for the sale;

(b) The sale was conducted in a legal and fair manner;

(c) The amount of the offer ~~for bid~~ is not disproportionate to the value of the property; and

(d) It is unlikely that ~~an offer or~~ a bid would be made which exceeds the original offer : ~~for bid~~;

(1) By at least 5 percent if the offer ~~for bid~~ is less than \$100,000; or

(2) By at least \$5,000 if the offer ~~for bid~~ is \$100,000 or more.

3. The court shall not confirm the sale if the conditions in this section are not satisfied.

4. If the court does not confirm the sale, the court:

(a) May order a new sale; **or**

(b) May conduct a public auction in open court . ~~;~~ ~~or~~

~~—(c) May accept a written offer or bid from a responsible person and confirm the sale to the person if the written offer complies with the laws of this state and exceeds the original bid:~~

~~—(1) By at least 5 percent if the bid is less than \$100,000; or~~

~~—(2) By at least \$5,000 if the bid is \$100,000 or more.]~~

5. If the court ~~does not confirm the sale and~~ orders a new sale:

(a) Notice must be given in the manner set forth in NRS 159.1425; and

(b) The sale must be conducted in all other respects as though no previous sale has taken place.

6. If a higher offer ~~for bid~~ is received by the court during the hearing to confirm the sale, the court may continue the hearing ~~rather than accept the offer or bid as set forth in paragraph (c) of subsection 4)~~ if the court determines that the person who made the ~~original~~ offer ~~for bid~~ **being confirmed** was not notified of the hearing and ~~that the person who made the original offer or bid~~ may wish to increase **the price of** his or her ~~bid~~ **offer**. This subsection does not grant a right to a person to have a continuance granted and may not be used as a ground to set aside an order confirming a sale.

7. Except as otherwise provided in this ~~subsection, if a higher offer or bid is received by the court during the hearing to confirm the sale and the court does not accept that offer or bid, each successive bid must be for not less than:~~

~~—(a) An additional \$5,000, if the original offer is for \$100,000 or more; or~~

~~—(b) An additional \$250 if the original offer is less than \$100,000.~~

~~→ Upon the request of the guardian during the hearing to confirm the sale, the court may set other incremental bid amounts.]~~ **section, only the name of the buyer and the price of the sale may be changed at a public auction in open court. An order confirming the sale is sufficient as an addendum to the original contract to allow escrow to close.**

8. The title company may be changed at a public auction in open court if the estate and the buyer have mutually agreed to the change in writing.

9. The date of the close of escrow must be at least 10 judicial days after the date that the notice of the entry of order confirming the sale is filed with the clerk of the court unless the contract specifies a later date. The parties to the sale may extend the date of the close of escrow by mutual agreement in writing.

10. If the estate owes more than the value of the property and the estate has made an agreement with all lienholders to accept the sale price and waive any deficiency between the sale price and the amount owed to all lienholders, the sale must be confirmed without the potential for bidding in court. All other portions of the confirmation of sale must be adhered to. The valuation by the bank shall be deemed to be sufficient to meet the appraisal requirement for the sale, and the date of the sale is the date on which the bank approves the sale.

Sec. 32. NRS 159.1515 is hereby amended to read as follows:

159.1515 1. ~~{A} Except as otherwise provided in subsection 2, a guardian may sell {perishable property and other} or dispose of~~ personal property of the ward ~~{without}~~ **that has a total value of less than ~~{ \$100} \$10,000~~ if:**

(a) A notice ~~{ and title to} of intent to sell or dispose of~~ the property ~~{passes without confirmation by the court if the property:~~

~~—(a) Will depreciate in value if not disposed of promptly; or~~

~~—(b) Will incur loss or expense by being kept.~~

~~—2. The} is mailed by certified mail or delivered personally to the ward, his or her attorney and the persons specified in NRS 159.034; and~~

(b) No objection to the sale or disposal is made within 15 days after such notice is received.

2. A guardian ~~{is responsible for the actual value} may authorize the immediate destruction~~ of the personal property ~~{unless the guardian obtains confirmation by the court of the sale.} of a ward without notice if:~~

(a) The guardian determines that the property has been contaminated by vermin or biological or chemical agents;

(b) The expenses related to the decontamination of the property cause salvage to be impractical;

(c) The property constitutes an immediate threat to public health or safety;

(d) The handling, transfer or storage of the property might endanger public health or safety or exacerbate contamination; and

(e) The value of the property is less than \$100 or, if the value of the property is \$100 or more, a state or local health officer has endorsed the destruction of the property.

Sec. 33. NRS 159.1535 is hereby amended to read as follows:

159.1535 1. Except as otherwise provided in this section and NRS 159.1515 and 159.152, a guardian may sell the personal property of the ward only after notice of the sale is ~~published~~ :

(a) Given to the:

(1) Ward if he or she is 14 years of age or older;

(2) Parent or legal guardian of the ward, if the ward is a minor who is less than 14 years of age; and

(3) Spouse of the ward and all other known relatives of the ward who are within the second degree of consanguinity; and

(b) Published in:

~~{{(a)}} (1)~~ A newspaper that is published in the county in which the property, or some portion of the property, is located; or

~~{{(b)}} (2)~~ If a newspaper is not published in ~~that~~ the county ~~in which the property, or some portion of the property, is located:~~

~~{{(1)}} (I)~~ In a newspaper of general circulation in the county; or

~~{{(2)}} (II)~~ In such other newspaper as the court orders.

2. Except as otherwise provided in this section ~~the~~:

~~—(a) The notice of a public sale must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.~~

~~—(b) The , the~~ notice of a ~~private~~ sale must be published not less than three times before the date on which offers will be accepted, over a period of 14 days and 7 days apart.

3. For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

4. The notice must include, without limitation:

~~(a) For a public sale:~~

~~—(1) A description of the personal property to be sold; and~~

~~—(2) The date, time and location of the sale.~~

~~—(b) For a private sale ~~the~~ other than a sale described in paragraph (b):~~

~~(1) A description of the personal property to be sold; and~~

~~(2) The date, time and location that offers will be ~~accepted~~.~~

~~—(c) received.~~

(b) For a sale on an appropriate auction website on the Internet:

(1) A description of the personal property to be sold;

(2) The date the personal property will be listed; and

(3) The Internet address of the website on which the sale will be posted.

5. Notice of a sale is not required to be published pursuant to this section if the gross value of the estate of the ward is less than \$10,000.

Sec. 34. NRS 159.154 is hereby amended to read as follows:

159.154 1. The guardian may sell the personal property of a ward ~~by public sale~~ at:

- (a) The residence of the ward; or
- (b) Any other location designated by the guardian.

2. The guardian may sell the personal property ~~by public sale~~ only if the property is made available for inspection at the time of the sale or photographs of the personal property are posted on an appropriate auction website on the Internet.

3. Personal property may be sold ~~at a public or private sale~~ for cash or upon credit.

4. Except as otherwise provided in NRS 159.1515, a sale or disposition of any personal property of the ward must not be commenced until 30 days after an inventory of the property is filed with the court and a copy thereof is sent by regular mail to the persons specified in NRS 159.034. An affidavit of mailing must be filed with the court.

5. The guardian is responsible for the actual value of the personal property unless the guardian makes a report to the court, not later than 90 days after the conclusion of the sale, showing that good cause existed for the sale and that the property was sold for a price that was not disproportionate to the value of the property.

6. The family members of the ward and any interested persons must be offered the first right of refusal to acquire the personal property of the ward at fair market value.

Sec. 35. NRS 159.173 is hereby amended to read as follows:

159.173 If a guardian of the estate sells or transfers any real or personal property that is specifically devised or bequeathed by the ward or which is held by the ward as a joint tenancy, designated as being held by the ward in trust for another person or held by the ward as a revocable trust and the ward ~~was competent~~ **had the capacity** to make a will or create the interest at the time the will or interest was created, but ~~was not competent~~ **did not have the capacity** to make a will or create the interest at the time of the sale or transfer and never executed a valid later will or changed the manner in which the ward held the interest, the devisee, beneficiary or legatee may elect to take the proceeds of the sale or other transfer of the interest, specific devise or bequest.

Sec. 36. NRS 159.185 is hereby amended to read as follows:

159.185 1. The court may remove a guardian if the court determines that:

(a) The guardian has become mentally ~~incompetent~~, **incapacitated**, unsuitable or otherwise incapable of exercising the authority and performing the duties of a guardian as provided by law;

(b) The guardian is no longer qualified to act as a guardian pursuant to NRS 159.0613 if the ward is an adult or NRS 159.061 if the ward is a minor;

(c) The guardian has filed for bankruptcy within the previous 5 years;

- (d) The guardian of the estate has mismanaged the estate of the ward;
- (e) The guardian has negligently failed to perform any duty as provided by law or by any order of the court and:
 - (1) The negligence resulted in injury to the ward or the estate of the ward; or
 - (2) There was a substantial likelihood that the negligence would result in injury to the ward or the estate of the ward;
- (f) The guardian has intentionally failed to perform any duty as provided by law or by any lawful order of the court, regardless of injury;
- (g) The best interests of the ward will be served by the appointment of another person as guardian; or
- (h) The guardian is a private professional guardian who is no longer qualified as a private professional guardian pursuant to NRS 159.0595.

2. A guardian may not be removed if the sole reason for removal is the lack of money to pay the compensation and expenses of the guardian.

Sec. 37. NRS 159.1995 is hereby amended to read as follows:

159.1995 1. In a guardianship proceeding in this State, a court of this State may request the appropriate court of another state to do any of the following:

- (a) Hold an evidentiary hearing;
- (b) Order a person in that state to produce evidence or give testimony pursuant to the procedures of that state;
- (c) Order that an evaluation or assessment be made of the ward;
- (d) Order any appropriate investigation of a person involved in a proceeding;
- (e) Forward to the court of this State a certified copy of the transcript or other record of a hearing under paragraph (a) or any other proceeding, any evidence otherwise produced under paragraph (b), and any evaluation or assessment prepared in compliance with an order under paragraph (c) or (d);
- (f) Issue any order necessary to ensure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the proposed ward, the ward or the ~~incompetent~~ **person who is incapacitated**; and
- (g) Issue an order authorizing the release of medical, financial, criminal or other relevant information in that state relating to the ward or proposed ward, including protected health information as defined in 45 C.F.R. § 160.103.

2. If a court of another state in which a guardianship or conservatorship proceeding is pending requests assistance of the kind provided in subsection 1, a court of this State has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

Sec. 38. NRS 159.215 is hereby amended to read as follows:

159.215 1. A member of the Armed Forces of the United States, a reserve component thereof or the National Guard may, by written instrument and without the approval of a court, appoint any ~~competent~~ adult residing in

this State ***who is not incapacitated*** as the guardian of the person of a minor child who is a dependent of that member. The instrument must be:

(a) Executed by both parents if living, not divorced and having legal custody of the child, otherwise by the parent having legal custody; and

(b) Acknowledged in the same manner as a deed.

➔ If both parents do not execute the instrument, the executing parent shall send by certified mail, return receipt requested, to the other parent at his or her last known address, a copy of the instrument and a notice of the provisions of subsection 3.

2. The instrument must contain a provision setting forth the:

(a) Branch of the Armed Forces;

(b) Unit of current assignment;

(c) Current rank or grade; and

(d) Social security number or service number,

➔ of the parent who is the member.

3. The appointment of a guardian pursuant to this section:

(a) May be terminated by a written instrument signed by either parent of the child if that parent has not been deprived of his or her parental rights to the child; and

(b) Is terminated by any order of a court.

Sec. 39. NRS 449.6922 is hereby amended to read as follows:

449.6922 ~~["Incompetent"]~~ ***"Incapacitated"*** has the meaning ascribed to it in NRS 159.019.

Sec. 40. NRS 449.6942 is hereby amended to read as follows:

449.6942 1. A physician shall take the actions described in subsection 2:

(a) If the physician diagnoses a patient with a terminal condition;

(b) If the physician determines, for any reason, that a patient has a life expectancy of less than 5 years; or

(c) At the request of a patient.

2. Upon the occurrence of any of the events specified in subsection 1, the physician shall explain to the patient:

(a) The existence and availability of the Physician Order for Life-Sustaining Treatment form;

(b) The features of and procedures offered by way of the POLST form; and

(c) The differences between a POLST form and the other types of advance directives.

3. Upon the request of the patient, the physician shall complete the POLST form based on the preferences and medical indications of the patient.

4. A POLST form is valid upon execution by a physician and:

(a) If the patient is 18 years of age or older and of sound mind, the patient;

(b) If the patient is 18 years of age or older and ~~incompetent,~~ ***incapacitated,*** the representative of the patient; or

(c) If the patient is less than 18 years of age, the patient and a parent or legal guardian of the patient.

5. As used in this section, “terminal condition” has the meaning ascribed to it in NRS 449.590.

Sec. 41. NRS 449.6944 is hereby amended to read as follows:

449.6944 1. A Physician Order for Life-Sustaining Treatment form may be revoked at any time and in any manner by:

(a) The patient who executed it, if ~~incompetent,~~ **not incapacitated**, without regard to his or her age or physical condition;

(b) If the patient is ~~incompetent,~~ **incapacitated**, the representative of the patient; or

(c) If the patient is less than 18 years of age, a parent or legal guardian of the patient.

2. The revocation of a POLST form is effective upon the communication to a provider of health care, by the patient or a witness to the revocation, of the desire to revoke the form. The provider of health care to whom the revocation is communicated shall:

(a) Make the revocation a part of the medical record of the patient; or

(b) Cause the revocation to be made a part of the medical record of the patient.

Sec. 42. NRS 449.695 is hereby amended to read as follows:

449.695 1. Except as otherwise provided in this section and NRS 449.6946, a provider of health care shall comply with a valid Physician Order for Life-Sustaining Treatment form, regardless of whether the provider of health care is employed by a health care facility or other entity affiliated with the physician who executed the POLST form.

2. A physician may medically evaluate the patient and, based upon the evaluation, may recommend new orders consistent with the most current information available about the patient’s health status and goals of care. Before making a modification to a valid POLST form, the physician shall consult the patient or, if the patient is ~~incompetent,~~ **incapacitated**, shall make a reasonable attempt to consult the representative of the patient and the patient’s attending physician.

3. Except as otherwise provided in subsection 4, a provider of health care who is unwilling or unable to comply with a valid POLST form shall take all reasonable measures to transfer the patient to a physician or health care facility so that the POLST form will be followed.

4. Life-sustaining treatment must not be withheld or withdrawn pursuant to a POLST form of a patient known to the attending physician to be pregnant, so long as it is probable that the fetus will develop to the point of live birth with the continued application of life-sustaining treatment.

5. Nothing in this section requires a provider of health care to comply with a valid POLST form if the provider of health care does not have actual knowledge of the existence of the form.

Sec. 43. NRS 616C.505 is hereby amended to read as follows:

616C.505 If an injury by accident arising out of and in the course of employment causes the death of an employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, the compensation is known as a death benefit and is payable as follows:

1. In addition to any other compensation payable pursuant to chapters 616A to 616D, inclusive, of NRS, burial expenses are payable in an amount not to exceed \$10,000, plus the cost of transporting the remains of the deceased employee. When the remains of the deceased employee and the person accompanying the remains are to be transported to a mortuary or mortuaries, the charge of transportation must be borne by the insurer.

2. Except as otherwise provided in subsection 3, to the surviving spouse of the deceased employee, $66\frac{2}{3}$ percent of the average monthly wage is payable until the death of the surviving spouse.

3. If there is a surviving spouse and any surviving children of the deceased employee who are not the children of the surviving spouse, the compensation otherwise payable pursuant to subsection 2 must be paid as follows until the entitlement of all children of the deceased employee to receive compensation pursuant to this subsection ceases:

(a) To the surviving spouse, 50 percent of the death benefit is payable until the death of the surviving spouse; and

(b) To each child of the deceased employee, regardless of whether the child is the child of the surviving spouse, the child's proportionate share of 50 percent of the death benefit and, except as otherwise provided in subsection 11, if the child has a guardian, the compensation the child is entitled to receive may be paid to the guardian.

4. In the event of the subsequent death of the surviving spouse:

(a) Each surviving child of the deceased employee, in addition to any amount the child may be entitled to pursuant to subsection 3, must share equally the compensation theretofore paid to the surviving spouse but not in excess thereof, and it is payable until the youngest child reaches the age of 18 years.

(b) Except as otherwise provided in subsection 11, if the children have a guardian, the compensation they are entitled to receive may be paid to the guardian.

5. If there are any surviving children of the deceased employee under the age of 18 years, but no surviving spouse, then each such child is entitled to his or her proportionate share of $66\frac{2}{3}$ percent of the average monthly wage for the support of the child.

6. Except as otherwise provided in subsection 7, if there is no surviving spouse or child under the age of 18 years, there must be paid:

(a) To a parent, if wholly dependent for support upon the deceased employee at the time of the injury causing the death of the deceased employee, $33\frac{1}{3}$ percent of the average monthly wage.

(b) To both parents, if wholly dependent for support upon the deceased employee at the time of the injury causing the death of the deceased employee, 66 2/3 percent of the average monthly wage.

(c) To each brother or sister until he or she reaches the age of 18 years, if wholly dependent for support upon the deceased employee at the time of the injury causing the death of the deceased employee, his or her proportionate share of 66 2/3 percent of the average monthly wage.

7. The aggregate compensation payable pursuant to subsection 6 must not exceed 66 2/3 percent of the average monthly wage.

8. In all other cases involving a question of total or partial dependency:

(a) The extent of the dependency must be determined in accordance with the facts existing at the time of the injury.

(b) If the deceased employee leaves dependents only partially dependent upon the earnings of the deceased employee for support at the time of the injury causing his or her death, the monthly compensation to be paid must be equal to the same proportion of the monthly payments for the benefit of persons totally dependent as the amount contributed by the deceased employee to the partial dependents bears to the average monthly wage of the deceased employee at the time of the injury resulting in his or her death.

(c) The duration of compensation to partial dependents must be fixed in accordance with the facts shown, but may not exceed compensation for 100 months.

9. Compensation payable to a surviving spouse is for the use and benefit of the surviving spouse and the dependent children, and the insurer may, from time to time, apportion such compensation between them in such a way as it deems best for the interest of all dependents.

10. In the event of the death of any dependent specified in this section before the expiration of the time during which compensation is payable to the dependent, funeral expenses are payable in an amount not to exceed \$10,000.

11. If a dependent is entitled to receive a death benefit pursuant to this section and is less than 18 years of age or ~~incompetent,~~ **incapacitated**, the legal representative of the dependent shall petition for a guardian to be appointed for that dependent pursuant to NRS 159.044. An insurer shall not pay any compensation in excess of \$3,000, other than burial expenses, to the dependent until a guardian is appointed and legally qualified. Upon receipt of a certified letter of guardianship, the insurer shall make all payments required by this section to the guardian of the dependent until the dependent is emancipated, the guardianship terminates or the dependent reaches the age of 18 years, whichever occurs first, unless paragraph (a) of subsection 12 is applicable. The fees and costs related to the guardianship must be paid from the estate of the dependent. A guardianship established pursuant to this subsection must be administered in accordance with chapter 159 of NRS, except that after the first annual review required pursuant to NRS 159.176, a court may elect not to review the guardianship annually. The court shall review the guardianship at least once every 3 years. As used in this

subsection, ~~“incompetent”~~ **“incapacitated”** has the meaning ascribed to it in NRS 159.019.

12. Except as otherwise provided in paragraphs (a) and (b), the entitlement of any child to receive his or her proportionate share of compensation pursuant to this section ceases when the child dies, marries or reaches the age of 18 years. A child is entitled to continue to receive compensation pursuant to this section if the child is:

(a) Over 18 years of age and incapable of supporting himself or herself, until such time as the child becomes capable of supporting himself or herself; or

(b) Over 18 years of age and enrolled as a full-time student in an accredited vocational or educational institution, until the child reaches the age of 22 years.

13. As used in this section, “surviving spouse” means a surviving husband or wife who was married to the employee at the time of the employee’s death.

Sec. 44. NRS 159.1435 is hereby repealed.

Sec. 45. This act becomes effective on January 1, 2018.

TEXT OF REPEALED SECTION

159.1435 Public auction for sale of real property: Where held; postponement.

1. Except for a sale pursuant to NRS 159.123 or 159.142, a public auction for the sale of real property must be held:

(a) In the county in which the property is located or, if the real property is located in two or more counties, in either county;

(b) Between the hours of 9 a.m. and 5 p.m.; and

(c) On the date specified in the notice, unless the sale is postponed.

2. If, on or before the date and time set for the public auction, the guardian determines that the auction should be postponed:

(a) The auction may be postponed for not more than 3 months after the date first set for the auction; and

(b) Notice of the postponement must be given by a public declaration at the place first set for the sale on the date and time that was set for the sale.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblyman Yeager:

Amendment No. 336.

AN ACT relating to guardianships; authorizing a court to require a proposed guardian to file a proposed preliminary care plan and budget; establishing the process by which ~~an attorney~~ **a person** may obtain the approval of the court ~~to receive compensation~~ **for the payment of attorney’s fees and costs** from the assets of a ward ~~; for certain services;~~

establishing the Office of the State Public Guardian; replacing the term “incompetent” with the term “incapacitated” for purposes of guardianships and revising the definition thereof; revising various provisions relating to notice given to certain persons; revising provisions concerning the sale of real and personal property of a ward; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law defines the term “incompetent” for purposes of the provisions of law governing guardianships. (NRS 159.019) **Section 7** of this bill replaces the term “incompetent” with the term “incapacitated” and revises the definition thereof. **Sections 5, 6, ~~11-17,~~ 11, 12-17, 20, 22, ~~and 35-43~~ 35 and 36-43** of this bill make conforming changes.

Existing law generally requires a petitioner in a guardianship proceeding to give notice of the time and place of the hearing on any petition filed in the guardianship proceeding to certain persons, including any minor ward who is 14 years of age or older. (NRS 159.034) **Section 8** of this bill revises this requirement and requires that notice be given to any ward who is 14 years of age or older, regardless of whether the ward is considered to have the capacity to understand or appreciate the contents of the petition.

Existing law provides that after the filing of a petition in a guardianship proceeding, the clerk is required to issue a citation setting forth a time and place for the hearing and directing certain persons to appear and show cause why a guardian should not be appointed for the proposed ward. (NRS 159.047) **Section 9** of this bill requires a copy of the petition to be served together with the citation on certain persons, including a proposed ward who is 14 years of age or older, regardless of whether the ward is considered to have the capacity to understand or appreciate the contents of the petition, and **section 10** of this bill requires that the proposed ward be served by personal service. **Section 9** also requires a person who serves notice upon the proposed ward to file with the court an affidavit stating that notice was served.

Existing law requires a guardian of the person to file with the court a written report on the condition of the ward and the exercise of authority and performance of duties by the guardian at certain specified times. (NRS 159.081) **Section 18** of this bill requires that such a report be served on the ward.

Section 21 of this bill requires the guardian of the estate and the guardian of the person to be notified if the ward is a party to any criminal action. **Section 23** of this bill requires that notice be given to a ward upon the filing of certain petitions or any account.

Existing law establishes various provisions concerning transactions involving real and personal property of a ward, including the sale of such property. (NRS 159.127-159.175) **Sections 24-31** of this bill revise certain provisions concerning the sale of real property of a ward, and **section 44** of this bill repeals provisions of law relating to a public auction for the sale of

real property. **Sections 32-34** of this bill revise provisions concerning the sale of personal property of a ward. **Section 33** of this bill requires that notice of such a sale be given to a ward who is 14 years of age or older and certain other persons before a guardian may sell the personal property of a ward.

Section 2 of this bill specifies that upon the filing of a petition for the appointment of a guardian, the court may require a proposed guardian to file a proposed preliminary care plan and budget, the format of which and the timing of the filing thereof must be specified by a court rule approved by the Supreme Court.

Section 3 of this bill provides that any person who retains an attorney ~~is~~ entitled to receive just, reasonable and necessary compensation for services associated with the commencement and administration **for the purposes of representing a party in a guardianship ~~proceeding~~ proceeding is personally liable for any attorney's fees and costs incurred, but authorizes such a person to petition the court for an order authorizing the payment of such attorney's fees and costs from the estate of the ward.** **Section 3** prohibits such ~~compensation~~ **attorney's fees and costs** from being paid from the ~~assets~~ **estate of the ward** without court approval ~~Section 3~~ **and** establishes the process by which ~~an attorney~~ **a person** is able to obtain the approval of the court. **Section 3 also authorizes an attorney who is appointed by the court to seek compensation for his or her services from the guardianship estate in accordance with the established process.** **Section 3 additionally provides that if two or more parties in a guardianship proceeding file competing petitions for the appointment of a guardian or otherwise litigate any contested issue in the guardianship proceeding, only the prevailing party may petition the court for the payment of attorney's fees and costs. If the court determines that there is no prevailing party, the court may authorize a portion of each party's attorney's fees and costs to be paid.**

Section 4 of this bill establishes the Office of the State Public Guardian. **Section 4** provides that the State Public Guardian is appointed by the Supreme Court and serves at the pleasure of the Court. **Section 4** also authorizes the State Public Guardian to hire two accountants and two investigators to provide auditing and investigative services to the district courts during the administration of guardian proceedings.

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

Section 1. Chapter 159 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *Upon the filing of a petition for the appointment of a guardian, the court may require a proposed guardian to file a proposed preliminary care plan and budget. The format of such a proposed preliminary care plan and budget and the timing of the filing thereof must be specified by a rule approved by the Supreme Court.*

Sec. 3. 1. ~~{An}~~ Any person, including, without limitation, a guardian or proposed guardian, who retains an attorney is entitled to just, reasonable and necessary compensation for services associated with the commencement and administration of ~~for the purposes of representing a party in a guardianship {.~~ Such compensation must ~~proceeding is personally liable for any attorney's fees and costs incurred as a result of such representation.~~

2. Notwithstanding the provisions of subsection 1 and except as otherwise provided in subsection 5 of NRS 159.183, a person who is personally liable for attorney's fees and costs may petition the court for an order authorizing such attorney's fees and costs to be paid from the estate of the ward in accordance with this section. Any such attorney's fees and costs must not be paid from the {assets of a ward} guardianship estate unless and until the court {allows} authorizes the payment {to occur} pursuant to this section.

~~{2.}~~ 3. ~~When {an attorney} a person who intends to {seek compensation} petition the court for payment of attorney's fees and costs from the guardianship estate {of a ward} first appears in the guardianship proceeding, the {attorney shall give} person must file written notice of {the basis of the compensation by filing with the court a written agreement between the attorney and the ward} his or her intent to seek payment of attorney's fees and costs from the guardianship estate. The {agreement} written notice:~~

(a) Must provide a general explanation of the compensation arrangement and how compensation will be computed;

(b) Must include the hourly billing rates of all timekeepers, including, without limitation, attorneys, law clerks and paralegals;

(c) Must provide a general explanation of the reasons why the services of the attorney are necessary to further the best interests of the ward;

(d) Must be served by the {attorney} person on all persons entitled to notice pursuant to NRS 159.034 and 159.047; and

~~{(d)}~~ (e) Is subject to approval by the court after a hearing.

~~{3. An attorney}~~

4. If written notice was filed and approved by the court pursuant to subsection 3, a person may file with the court a petition requesting {compensation, which} payment of attorney's fees and costs from the guardianship estate. Such a petition must include the following information:

(a) A detailed statement as to the nature and extent of the services performed by the attorney;

(b) An itemization of each task performed by the attorney, with reference to the time spent on each task in an increment to the nearest one-tenth of an hour and with no minimum billing unit in excess of one-tenth of an hour;

(c) An indication of whether any time billed, including, without limitation, any time spent traveling or waiting, benefited any clients of the attorney other than the ward and, if so, how many other clients benefited from such time; and

(d) Any other information considered relevant to a determination of ~~[entitlement to compensation]~~ whether attorney's fees are just, reasonable and necessary.

↪ Absent approval from all ~~[interested persons]~~ parties who have appeared in the proceeding, any supplemental requests for the payment of attorney's fees [by the attorney] and costs cannot be augmented in open court and must be properly noticed in the same manner as the underlying petition requesting ~~[compensation]~~.

~~4.]~~ payment.

5. In determining whether ~~[compensation is]~~ attorney's fees are just, reasonable and necessary, the court may consider all the following factors:

(a) The written ~~[agreement]~~ notice approved by the court [between the attorney and the ward which sets forth the manner in which compensation is to be calculated.] pursuant to subsection 3.

(b) Whether the services ~~[actually advanced]~~ conferred any actual benefit upon the ward or attempted to advance the best interests of the ward.

(c) The qualities of the attorney, including, without limitation, his or her ability, training, education, experience, professional standing and skill.

(d) The character of the work ~~[to be done]~~ performed, including, without limitation, the difficulty, intricacy and importance of the work, the time and skill required to complete the work, the responsibility imposed and the nature of the proceedings.

(e) The work actually performed by the attorney, including, without limitation, the skill, time and attention given to the work.

(f) The result of the work, including, without limitation, whether the attorney was successful and any benefits that were derived.

(g) The usual and customary fees charged in the relevant professional communities for each task performed, regardless of who actually performed the task. ~~[An attorney]~~ The court may [be awarded] only award:

(1) Compensation at an attorney rate for time spent performing services that require an attorney;

(2) Compensation at a paralegal rate for time spent performing paralegal services;

(3) Compensation at a fiduciary rate for time spent performing fiduciary services; and

(4) No compensation for time spent performing secretarial or clerical services.

(h) The appropriate apportionment among multiple clients of any billed time that benefited multiple clients of the attorney.

(i) The extent to which the services were provided in a reasonable, efficient and cost-effective manner, including, without limitation, whether there was appropriate and prudent delegation of services to others.

(j) The ability of the estate of the ward to pay, including, without limitation:

- (1) The value of the estate ; ~~under guardianship;~~
- (2) The nature, extent and liquidity of the assets of the ~~ward;~~ estate;
- (3) The disposable net income of the ~~ward;~~ estate;
- (4) The anticipated future needs ~~and income~~ of the ward; and
- (5) Any other foreseeable expenses . ~~it and~~
- ~~(6) Any other factors that are relevant to the duties of the guardian pursuant to NRS 159.079 or 159.082.~~

(k) The efforts made by the person and attorney to reduce and minimize any issues.

(l) Any actions by the person or attorney that unnecessarily expanded issues or delayed or hindered the efficient administration of the estate.

(m) Whether any actions taken by the person or attorney were taken for the purpose of advancing or protecting the interests of the person as opposed to the interests of the ward.

~~(n) Any other factor that is relevant in determining whether compensation is~~ attorney's fees are just, reasonable and necessary ~~5.~~ , including, without limitation, any other factor that is relevant in determining whether the person was acting in good faith and was actually pursuing the best interests of the ward.

6. The court shall not approve compensation for an attorney for:

(a) Time spent on internal business activities of the attorney, including, without limitation, clerical or secretarial support; or

(b) Time reported as a total amount of time spent on multiple tasks, rather than an itemization of the time spent on each task.

~~6.~~ 7. Any fees paid by a third party, including, without limitation, a trust of which the estate is a beneficiary, must be disclosed to and approved by the court.

~~7.~~ 8. In addition to ~~the compensation for ordinary~~ any payment provided to a person pursuant to this section for the services of an attorney ~~that are set forth in this section, an attorney is entitled to~~ , a person may receive ~~compensation~~ payment for ordinary costs and expenses incurred in the scope of ~~this or her~~ the attorney's representation . ~~for the ward.~~

9. If two or more parties in a guardianship proceeding file competing petitions for the appointment of a guardian or otherwise litigate any contested issue in the guardianship proceeding, only the prevailing party may petition the court for payment of attorney's fees and costs from the guardianship estate pursuant to this section. If the court determines that there is no prevailing party, the court may authorize a portion of each party's attorney's fees and costs to be paid from the guardianship estate if

the court determines that such fees and costs are just, reasonable and necessary given the nature of any issues in dispute.

10. If an attorney is appointed by the court in a guardianship proceeding, he or she may petition the court for compensation for his or her services from the guardianship estate in accordance with the procedure set forth in this section.

Sec. 4. 1. *The Office of the State Public Guardian is hereby created.*

2. *The State Public Guardian is:*

(a) *Appointed by the Supreme Court and serves at the pleasure of the Court; and*

(b) *Entitled to receive an annual salary set by the Supreme Court within the limits of legislative appropriations.*

3. *The State Public Guardian may hire two accountants and two investigators to provide auditing and investigative services to the district courts during the administration of guardianship proceedings.*

Sec. 5. NRS 159.014 is hereby amended to read as follows:

159.014 “Care provider” includes any public or private institution located within or outside this state which provides facilities for the care or maintenance of ~~incompetents,~~ **persons who are incapacitated**, persons of limited capacity or minors.

Sec. 6. NRS 159.015 is hereby amended to read as follows:

159.015 “Court” means any court or judge having jurisdiction of the persons and estates of minors, ~~incompetent~~ persons ~~;~~ **who are incapacitated** or persons of limited capacity.

Sec. 7. NRS 159.019 is hereby amended to read as follows:

159.019 ~~“Incompetent” means an adult. A person who, by reason of mental illness, mental deficiency, disease, weakness of mind or any other cause, is~~ **“incapacitated” if he or she, for reasons other than being a minor, is unable to, without assistance, properly to manage and take care of himself or herself or his or her property, or both. The term includes a person who is mentally incapacitated.** **to receive and evaluate information or make or communicate decisions to such an extent that the person lacks the ability to meet essential requirements for physical health, safety or self-care without appropriate assistance.**

Sec. 8. NRS 159.034 is hereby amended to read as follows:

159.034 1. Except as otherwise provided in this section, by specific statute or as ordered by the court, a petitioner in a guardianship proceeding shall give notice of the time and place of the hearing on any petition filed in the guardianship proceeding to:

(a) Any ~~minor~~ ward who is 14 years of age or older ~~;~~ **, regardless of whether the ward is considered to have the capacity to understand or appreciate the contents of the petition.**

(b) The parent or legal guardian of any minor ward who is less than 14 years of age.

(c) The spouse of the ward and all other known relatives of the ward who are within the second degree of consanguinity.

(d) Any other interested person or the person's attorney who has filed a request for notice in the guardianship proceedings and has served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the request and the person's name and address, or that of his or her attorney.

(e) The guardian, if the petitioner is not the guardian.

(f) Any person or care provider who is providing care for the ward, except that if the person or care provider is not related to the ward, such person or care provider must not receive copies of any inventory or accounting.

(g) Any office of the Department of Veterans Affairs in this State if the ward is receiving any payments or benefits through the Department of Veterans Affairs.

(h) The Director of the Department of Health and Human Services if the ward has received or is receiving benefits from Medicaid.

(i) Those persons entitled to notice if a proceeding were brought in the ward's home state.

2. The petitioner shall give notice not later than 10 days before the date set for the hearing:

(a) By mailing a copy of the notice by certified, registered or ordinary first-class mail to the residence, office or post office address of each person required to be notified pursuant to this section;

(b) By personal service; or

(c) In any other manner ordered by the court, upon a showing of good cause.

3. Except as otherwise provided in this subsection, if none of the persons entitled to notice of a hearing on a petition pursuant to this section can, after due diligence, be served by certified mail or personal service and this fact is proven by affidavit to the satisfaction of the court, service of the notice must be made by publication in the manner provided by N.R.C.P. 4(e). In all such cases, the notice must be published not later than 10 days before the date set for the hearing. If, after the appointment of a guardian, a search for relatives of the ward listed in paragraph (c) of subsection 1 fails to find any such relative, the court may waive the notice by publication required by this subsection.

4. For good cause shown, the court may waive the requirement of giving notice.

5. A person entitled to notice pursuant to this section may waive such notice. Such a waiver must be in writing and filed with the court.

6. On or before the date set for the hearing, the petitioner shall file with the court proof of giving notice to each person entitled to notice pursuant to this section.

Sec. 9. NRS 159.047 is hereby amended to read as follows:

159.047 1. Except as otherwise provided in NRS 159.0475 and 159.049 to 159.0525, inclusive, upon the filing of a petition under NRS 159.044, the clerk shall issue a citation setting forth a time and place for the hearing and directing the persons or care provider referred to in subsection 2 to appear and show cause why a guardian should not be appointed for the proposed ward.

2. A citation issued under subsection 1 , ***together with a copy of the petition filed under NRS 159.044,*** must be served upon:

(a) A proposed ward who is 14 years of age or older ~~14~~ , ***regardless of whether the proposed ward is considered to have the capacity to understand or appreciate the contents of the citation and petition;***

(b) The spouse of the proposed ward and all other known relatives of the proposed ward who are:

(1) Fourteen years of age or older; and

(2) Within the second degree of consanguinity;

(c) The parents and custodian of the proposed ward;

(d) Any person or officer of a care provider having the care, custody or control of the proposed ward;

(e) The proposed guardian, if the petitioner is not the proposed guardian;

(f) Any office of the Department of Veterans Affairs in this State if the proposed ward is receiving any payments or benefits through the Department of Veterans Affairs; and

(g) The Director of the Department of Health and Human Services if the proposed ward has received or is receiving any benefits from Medicaid.

3. ***A person who serves notice upon a proposed ward pursuant to paragraph (a) of subsection 2 shall file with the court an affidavit stating that he or she served notice upon the proposed ward in accordance with the provisions of NRS 159.0475.***

Sec. 10. NRS 159.0475 is hereby amended to read as follows:

159.0475 1. A copy of the citation issued pursuant to NRS 159.047 , ***together with a copy of the petition filed under NRS 159.044,*** must be served : ~~by:~~

(a) ***Except as otherwise ordered by the court, on a proposed ward who is 14 years of age or older by personal service in the manner provided pursuant to N.R.C.P. 4(d) at least 10 days before the date set for the hearing; and***

(b) ***On each person required to be served pursuant to NRS 159.047 other than a proposed ward by:***

(1) Certified mail, with a return receipt requested, ~~for each person required to be served pursuant to NRS 159.047~~ at least 20 days before the hearing; or

~~for each person~~ (2) Personal service in the manner provided pursuant to N.R.C.P. 4(d) at least 10 days before the date set for the hearing . ~~for each person required to be served pursuant to NRS 159.047.~~

2. If none of the persons on whom the citation *and petition* is to be served can, after due diligence, be served by certified mail or personal service, *as applicable*, and this fact is proven ~~{}~~ by affidavit ~~{}~~ to the satisfaction of the court, service of the citation *and petition* must be made by publication in the manner provided by N.R.C.P. 4(e). In all such cases, the citation *and petition* must be published at least 20 days before the date set for the hearing.

3. A citation *and petition* need not be served on a person or an officer of the care provider who has signed the petition or a written waiver of service of *the* citation *and petition* or who makes a general appearance.

4. The court may find that notice is sufficient if:

(a) *The citation and petition have been served by personal service on the proposed ward and an affidavit of such service has been filed with the court pursuant to subsection 3 of NRS 159.047;*

(b) The citation ~~has~~ *and petition have* been served by certified mail, with a return receipt requested, or by personal service on the ~~proposed ward,~~ care provider or public guardian required to be served pursuant to NRS 159.047; and

~~{(b)}~~ (c) At least one relative of the proposed ward who is required to be served pursuant to NRS 159.047 has been served, as evidenced by the return receipt or the certificate of service. If the court finds that at least one relative of the proposed ward has not received notice that is sufficient, the court will require the citation *and petition* to be published pursuant to subsection 2.

Sec. 11. NRS 159.048 is hereby amended to read as follows:

159.048 The citation issued pursuant to NRS 159.047 must state that the:

1. Proposed ward may be adjudged to be ~~incompetent~~ *incapacitated* or of limited capacity and a guardian may be appointed for the proposed ward;

2. Proposed ward's rights may be affected as specified in the petition;

3. Proposed ward has the right to appear at the hearing and to oppose the petition; and

4. Proposed ward has the right to be represented by an attorney, who may be appointed for the proposed ward by the court if the proposed ward is unable to retain one.

Sec. 11.5. NRS 159.0485 is hereby amended to read as follows:

159.0485 1. At the first hearing for the appointment of a guardian for a proposed adult ward, the court shall advise the proposed adult ward who is in attendance at the hearing or who is appearing by videoconference at the hearing of his or her right to counsel and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding. If the proposed adult ward is not in attendance at the hearing because the proposed adult ward has been excused pursuant to NRS 159.0535 and is not appearing by videoconference at the hearing, the proposed adult ward must be advised of his or her right to counsel pursuant to subsection 2 of NRS 159.0535.

2. If an adult ward or proposed adult ward is unable to retain legal counsel and requests the appointment of counsel at any stage in a guardianship proceeding and whether or not the adult ward or proposed adult ward lacks or appears to lack capacity, the court shall, at or before the time of the next hearing, appoint an attorney who works for legal aid services, if available, or a private attorney to represent the adult ward or proposed adult ward. The appointed attorney shall represent the adult ward or proposed adult ward until relieved of the duty by court order.

3. Subject to the discretion and approval of the court, the attorney for the adult ward or proposed adult ward is entitled to reasonable compensation and expenses. Unless the court determines that the adult ward or proposed adult ward does not have the ability to pay such compensation and expenses or the court shifts the responsibility of payment to a third party, the compensation and expenses must be paid from the estate of the adult ward or proposed adult ward, unless the compensation and expenses are provided for or paid by another person or entity. If the court finds that a person has unnecessarily or unreasonably caused the appointment of an attorney, the court may order the person to pay to the estate of the adult ward or proposed adult ward all or part of the expenses associated with the appointment of the attorney. **Any attorney who intends to seek compensation from the estate of the adult ward or proposed adult ward must follow the procedure established in section 3 of this act.**

Sec. 12. NRS 159.0487 is hereby amended to read as follows:

159.0487 Any court of competent jurisdiction may appoint:

1. Guardians of the person, of the estate, or of the person and estate for ~~incompetents~~ **persons who are incapacitated** or minors whose home state is this State.

2. Guardians of the person or of the person and estate for ~~incompetents~~ **persons who are incapacitated** or minors who, although not residents of this State, are physically present in this State and whose welfare requires such an appointment.

3. Guardians of the estate for nonresident ~~incompetents~~ **persons who are incapacitated** or nonresident minors who have property within this State.

4. Special guardians.

5. Guardians ad litem.

Sec. 13. NRS 159.054 is hereby amended to read as follows:

159.054 1. If the court finds **that** the proposed ward ~~competent~~ **is not incapacitated** and **is** not in need of a guardian, the court shall dismiss the petition.

2. If the court finds **that** the proposed ward ~~to be~~ **is** of limited capacity and **is** in need of a special guardian, the court shall enter an order accordingly and specify the powers and duties of the special guardian.

3. If the court finds that appointment of a general guardian is required, the court shall appoint a general guardian of the ward's person, estate, or person and estate.

Sec. 14. NRS 159.0593 is hereby amended to read as follows:

159.0593 1. If the court orders a general guardian appointed for a proposed ward, the court shall determine, by clear and convincing evidence, whether the proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(d)(4) or (g)(4). If a court makes a finding pursuant to this section that the proposed ward is a person with a mental defect, the court shall include the finding in the order appointing the guardian and cause, within 5 business days after issuing the order, a record of the order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

2. As used in this section:

(a) “National Instant Criminal Background Check System” has the meaning ascribed to it in NRS 179A.062.

(b) “Person with a mental defect” means a person who, as a result of marked subnormal intelligence, mental illness, ~~incompetence,~~ **incapacitation**, condition or disease, is:

(1) A danger to himself or herself or others; or

(2) Lacks the capacity to contract or manage his or her own affairs.

Sec. 15. NRS 159.0613 is hereby amended to read as follows:

159.0613 1. Except as otherwise provided in subsection 3, in a proceeding to appoint a guardian for an adult, the court shall give preference to a nominated person or relative, in that order of preference:

(a) Whether or not the nominated person or relative is a resident of this State; and

(b) If the court determines that the nominated person or relative is qualified and suitable to be appointed as guardian for the adult.

2. In determining whether any nominated person, relative or other person listed in subsection 4 is qualified and suitable to be appointed as guardian for an adult, the court shall consider, if applicable and without limitation:

(a) The ability of the nominated person, relative or other person to provide for the basic needs of the adult, including, without limitation, food, shelter, clothing and medical care;

(b) Whether the nominated person, relative or other person has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS;

(c) Whether the nominated person, relative or other person has been judicially determined to have committed abuse, neglect, exploitation, isolation or abandonment of a child, his or her spouse, his or her parent or any other adult, unless the court finds that it is in the best interests of the ward to appoint the person as guardian for the adult;

(d) Whether the nominated person, relative or other person is ~~incompetent~~ **incapacitated** or has a disability; and

(e) Whether the nominated person, relative or other person has been convicted in this State or any other jurisdiction of a felony, unless the court determines that any such conviction should not disqualify the person from serving as guardian for the adult.

3. If the court finds that two or more nominated persons are qualified and suitable to be appointed as guardian for an adult, the court may appoint two or more nominated persons as co-guardians or shall give preference among them in the following order of preference:

(a) A person whom the adult nominated for the appointment as guardian for the adult in a will, trust or other written instrument that is part of the adult's established estate plan and was executed by the adult while ~~competent.~~ **he or she was not incapacitated.**

(b) A person whom the adult requested for the appointment as guardian for the adult in a written instrument that is not part of the adult's established estate plan and was executed by the adult while ~~competent.~~ **he or she was not incapacitated.**

4. Subject to the preferences set forth in subsections 1 and 3, the court shall appoint as guardian the qualified person who is most suitable and is willing to serve. In determining which qualified person is most suitable, the court shall, in addition to considering any applicable factors set forth in subsection 2, give consideration, among other factors, to:

(a) Any nomination or request for the appointment as guardian by the adult.

(b) Any nomination or request for the appointment as guardian by a relative.

(c) The relationship by blood, adoption, marriage or domestic partnership of the proposed guardian to the adult. In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the whole blood. The court may consider any relative in the following order of preference:

(1) A spouse or domestic partner.

(2) A child.

(3) A parent.

(4) Any relative with whom the adult has resided for more than 6 months before the filing of the petition or any relative who has a power of attorney executed by the adult while ~~competent.~~ **he or she was not incapacitated.**

(5) Any relative currently acting as agent.

(6) A sibling.

(7) A grandparent or grandchild.

(8) An uncle, aunt, niece, nephew or cousin.

(9) Any other person recognized to be in a familial relationship with the adult.

(d) Any recommendation made by a master of the court or special master pursuant to NRS 159.0615.

(e) Any request for the appointment of any other interested person that the court deems appropriate, including, without limitation, a person who is not a relative and who has a power of attorney executed by the adult while ~~competent.~~ **he or she was not incapacitated.**

5. The court may appoint as guardian any nominated person, relative or other person listed in subsection 4 who is not a resident of this State. The court shall not give preference to a resident of this State over a nonresident if the court determines that:

(a) The nonresident is more qualified and suitable to serve as guardian; and

(b) The distance from the proposed guardian's place of residence and the adult's place of residence will not affect the quality of the guardianship or the ability of the proposed guardian to make decisions and respond quickly to the needs of the adult because:

(1) A person or care provider in this State is providing continuing care and supervision for the adult;

(2) The adult is in a secured residential long-term care facility in this State; or

(3) Within 30 days after the appointment of the proposed guardian, the proposed guardian will move to this State or the adult will move to the proposed guardian's state of residence.

6. If the court appoints a nonresident as guardian for the adult:

(a) The jurisdictional requirements of NRS 159.1991 to 159.2029, inclusive, must be met;

(b) The court shall order the guardian to designate a registered agent in this State in the same manner as a represented entity pursuant to chapter 77 of NRS; and

(c) The court may require the guardian to complete any available training concerning guardianships pursuant to NRS 159.0592, in this State or in the state of residence of the guardian, regarding:

(1) The legal duties and responsibilities of the guardian pursuant to this chapter;

(2) The preparation of records and the filing of annual reports regarding the finances and well-being of the adult required pursuant to NRS 159.073;

(3) The rights of the adult;

(4) The availability of local resources to aid the adult; and

(5) Any other matter the court deems necessary or prudent.

7. If the court finds that there is not any suitable nominated person, relative or other person listed in subsection 4 to appoint as guardian, the court may appoint as guardian:

(a) The public guardian of the county where the adult resides if:

(1) There is a public guardian in the county where the adult resides; and

(2) The adult qualifies for a public guardian pursuant to chapter 253 of NRS;

(b) A private fiduciary who may obtain a bond in this State and who is a resident of this State, if the court finds that the interests of the adult will be served appropriately by the appointment of a private fiduciary; or

(c) A private professional guardian who meets the requirements of NRS 159.0595.

8. A person is not qualified to be appointed as guardian for an adult if the person has been suspended for misconduct or disbarred from any of the professions listed in this subsection, but the disqualification applies only during the period of the suspension or disbarment. This subsection applies to:

- (a) The practice of law;
- (b) The practice of accounting; or
- (c) Any other profession that:

(1) Involves or may involve the management or sale of money, investments, securities or real property; and

(2) Requires licensure in this State or any other state in which the person practices his or her profession.

9. As used in this section:

(a) “Adult” means a person who is a ward or a proposed ward and who is not a minor.

(b) “Domestic partner” means a person in a domestic partnership.

(c) “Domestic partnership” means:

(1) A domestic partnership as defined in NRS 122A.040; or

(2) A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in NRS 122A.040, regardless of whether it bears the name of a domestic partnership or is registered in this State.

(d) “Nominated person” means a person, whether or not a relative, whom an adult:

(1) Nominates for the appointment as guardian for the adult in a will, trust or other written instrument that is part of the adult’s established estate plan and was executed by the adult while ~~he or she was not~~ **he or she was not incapacitated.**

(2) Requests for the appointment as guardian for the adult in a written instrument that is not part of the adult’s established estate plan and was executed by the adult while ~~he or she was not~~ **he or she was not incapacitated.**

(e) “Relative” means a person who is 18 years of age or older and who is related to the adult by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity.

Sec. 16. NRS 159.062 is hereby amended to read as follows:

159.062 A parent or spouse of ~~an incompetent,~~ **a minor, person who is incapacitated** or person of limited capacity may by will nominate a guardian. The person nominated must file a petition and obtain an appointment from the court before exercising the powers of a guardian.

Sec. 17. NRS 159.078 is hereby amended to read as follows:

159.078 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Make or change the last will and testament of the ward.

(b) Except as otherwise provided in this paragraph, make or change the designation of a beneficiary in a will, trust, insurance policy, bank account or any other type of asset of the ward which includes the designation of a beneficiary. The guardian is not required to petition the court for an order authorizing the guardian to utilize an asset which has a designated beneficiary, including the closure or discontinuance of the asset, for the benefit of a ward if:

(1) The asset is the only liquid asset available with which to pay for the proper care, maintenance, education and support of the ward;

(2) The asset, or the aggregate amount of all the assets if there is more than one type of asset, has a value that does not exceed \$5,000; or

(3) The asset is a bank account, investment fund or insurance policy and is required to be closed or discontinued in order for the ward to qualify for a federal program of public assistance.

(c) Create for the benefit of the ward or others a revocable or irrevocable trust of the property of the estate.

(d) Except as otherwise provided in this paragraph, exercise the right of the ward to revoke or modify a revocable trust or to surrender the right to revoke or modify a revocable trust. The court shall not authorize or require the guardian to exercise the right to revoke or modify a revocable trust if the instrument governing the trust:

(1) Evidences an intent of the ward to reserve the right of revocation or modification exclusively to the ward;

(2) Provides expressly that a guardian may not revoke or modify the trust; or

(3) Otherwise evidences an intent that would be inconsistent with authorizing or requiring the guardian to exercise the right to revoke or modify the trust.

2. Any other interested person may also petition the court for an order authorizing or directing the guardian to take any action described in subsection 1.

3. The court may authorize the guardian to take any action described in subsection 1 if, after notice to any person who is adversely affected by the proposed action and an opportunity for a hearing, the court finds by clear and convincing evidence that:

(a) A reasonably prudent person or the ward, if ~~competent,~~ **not incapacitated**, would take the proposed action and that a person has committed or is about to commit any act, practice or course of conduct which operates or would operate as a fraud or act of exploitation upon the ward or estate of the ward and that person:

(1) Is designated as a beneficiary in or otherwise stands to gain from an instrument which was executed by or on behalf of the ward; or

(2) Will benefit from the lack of such an instrument; or

(b) The proposed action is otherwise in the best interests of the ward for any other reason not listed in this section.

4. The petition must contain, to the extent known by the petitioner:

(a) The name, date of birth and current address of the ward;

(b) A concise statement as to the condition of the ward's estate; and

(c) A concise statement as to the necessity for the proposed action.

5. As used in this section:

(a) "Exploitation" means any act taken by a person who has the trust and confidence of a ward or any use of the power of attorney of a ward to:

(1) Obtain control, through deception, intimidation or undue influence, over the money, assets or property of the ward with the intention of permanently depriving the ward of the ownership, use, benefit or possession of the ward's money, assets or property.

(2) Convert money, assets or property of the ward with the intention of permanently depriving the ward of the ownership, use, benefit or possession of the ward's money, assets or property.

➡ As used in this paragraph, "undue influence" does not include the normal influence that one member of a family has over another.

(b) "Fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the person with the intent to deprive the ward of the ward's rights or property or to otherwise injure the ward.

(c) "Interested person" has the meaning ascribed to it in NRS 132.185 and also includes a named beneficiary under a trust or other instrument if the validity of the trust or other instrument may be in question.

Sec. 18. NRS 159.081 is hereby amended to read as follows:

159.081 1. A guardian of the person shall make and file in the guardianship proceeding for review of the court a written report on the condition of the ward and the exercise of authority and performance of duties by the guardian:

(a) Annually, not later than 60 days after the anniversary date of the appointment of the guardian;

(b) Within 10 days of moving a ward to a secured residential long-term care facility; and

(c) At such other times as the court may order.

2. A report filed pursuant to paragraph (b) of subsection 1 must:

(a) Include a copy of the written recommendation upon which the transfer was made; and

(b) Be served, without limitation, on the **ward and any** attorney for the ward. ~~[- if any.]~~

3. The court may prescribe the form and contents for filing a report described in subsection 1.

4. The guardian of the person shall give to the guardian of the estate, if any, a copy of each report not later than 30 days after the date the report is filed with the court.

5. The court is not required to hold a hearing or enter an order regarding the report.

Sec. 19. NRS 159.085 is hereby amended to read as follows:

159.085 1. Not later than 60 days after the date of the appointment of a general or special guardian of the estate or, if necessary, such further time as the court may allow, the guardian shall make and file in the guardianship proceeding a verified inventory of all of the property of the ward which comes to the possession or knowledge of the guardian.

2. A temporary guardian of the estate who is not appointed as the general or special guardian shall file an inventory with the court by not later than the date on which the temporary guardian files a final accounting as required pursuant to NRS 159.177.

3. The guardian shall take and subscribe an oath, which must be endorsed or attached to the inventory, before any person authorized to administer oaths, that the inventory contains a true statement of:

(a) All of the estate of the ward which has come into the possession of the guardian;

(b) All of the money that belongs to the ward; and

(c) All of the just claims of the ward against the guardian.

4. ***A copy of the inventory filed with the court and a notice of the filing must be served on the ward, his or her attorney and any guardian ad litem representing the ward.***

5. Whenever any property of the ward not mentioned in the inventory comes to the possession or knowledge of a guardian of the estate, the guardian shall:

(a) Make and file in the proceeding a verified supplemental inventory not later than 30 days after the date the property comes to the possession or knowledge of the guardian; or

(b) Include the property in the next accounting.

~~{5-}~~ 6. The court may order which of the two methods described in subsection ~~{4}~~ 5 the guardian shall follow.

~~{6-}~~ 7. The court may order all or any part of the property of the ward appraised as provided in NRS 159.0865 and 159.305.

~~{7-}~~ 8. If the guardian neglects or refuses to file the inventory within the time required pursuant to subsection 1, the court may, for good cause shown and upon such notice as the court deems appropriate:

(a) Revoke the letters of guardianship and the guardian shall be liable on the bond for any loss or injury to the estate caused by the neglect of the guardian; or

(b) Enter a judgment for any loss or injury to the estate caused by the neglect of the guardian.

Sec. 20. NRS 159.0893 is hereby amended to read as follows:

159.0893 1. A guardian shall present a copy of the court order appointing the guardian and letters of guardianship to a bank or other financial institution that holds any account or other assets of the ward before the guardian may access the account or other assets.

2. The bank or other financial institution shall accept the copy of the court order appointing the guardian and letters of guardianship as proof of guardianship and allow the guardian access to the account or other assets of the ward, subject to any limitations set forth in the court order.

3. Unless the bank or other financial institution is a party to the guardianship proceeding, the bank or other financial institution is not entitled to a copy of any:

(a) ~~{Competency}~~ **Capacity** evaluation of the ward or any other confidential information concerning the medical condition or the placement of the ward; or

(b) Inventory or accounting of the estate of the ward.

Sec. 21. NRS 159.095 is hereby amended to read as follows:

159.095 1. A guardian of the estate shall appear for and represent the ward in all actions, suits or proceedings to which the ward is a party, unless the court finds that the interests of the guardian conflict with the interests of the ward or it is otherwise appropriate to appoint a guardian ad litem in the action, suit or proceeding.

2. Upon final resolution of the action, suit or proceeding, the guardian of the estate or the guardian ad litem shall notify the court of the outcome of the action, suit or proceeding.

3. If the person of the ward would be affected by the outcome of any action, suit or proceeding, the guardian of the person, if any, should be joined to represent the ward in the action, suit or proceeding.

4. *If the ward is a party to any criminal action, the guardian of the estate and the guardian of the person must be notified of the action.*

Sec. 22. NRS 159.097 is hereby amended to read as follows:

159.097 Any contract, except to the extent of the reasonable value of necessities, and any transaction with respect to the property of a ward made by the ward are voidable by the guardian of the estate if such contract or transaction was made at any time by the ward while ~~{an incompetent}~~ **he or she was incapacitated** or a minor.

Sec. 22.5. NRS 159.105 is hereby amended to read as follows:

159.105 1. ~~{Other than claims for attorney's fees that are subject to the provisions of subsection 3, a}~~ **A** guardian of the estate may pay from the guardianship estate the following claims without complying with the provisions of this section and NRS 159.107 and 159.109:

(a) The guardian's claims against the ward or the estate; and

(b) Any claims accruing after the appointment of the guardian which arise from contracts entered into by the guardian on behalf of the ward.

2. The guardian shall report all claims and the payment of claims made pursuant to subsection 1 in the account that the guardian makes and files in the guardianship proceeding following each payment.

~~{3. Claims for attorney's fees which are associated with the commencement and administration of the guardianship of the estate:~~

~~—(a) May be made at the time of the appointment of the guardian of the estate or any time thereafter; and~~

~~—(b) May not be paid from the guardianship estate unless the payment is made in compliance with the provisions of this section and NRS 159.107 and 159.109.}~~

Sec. 23. NRS 159.115 is hereby amended to read as follows:

159.115 1. ~~{Upon}~~ **Except as otherwise ordered by the court, upon** the filing of any petition under NRS 159.078 or 159.113, or any account, notice must be given **to the ward and the persons specified in NRS 159.034** in the manner prescribed by ~~[NRS 159.034.]~~ **that section.**

2. The notice must:

(a) Give the name of the ward.

(b) Give the name of the petitioner.

(c) Give the date, time and place of the hearing.

(d) State the nature of the petition.

(e) Refer to the petition for further particulars, and notify all persons interested to appear at the time and place mentioned in the notice and show cause why the court order should not be made.

Sec. 24. NRS 159.134 is hereby amended to read as follows:

159.134 1. All sales of real property of a ward must be ~~{~~

~~—(a) Reported to the court; and~~

~~—(b) Confirmed}~~ **confirmed** by the court **pursuant to NRS 159.146** before **escrow closes for the sale and** title to the real property passes to the purchaser.

2. ~~{The report and a}~~ **A** petition for confirmation of the sale must be filed with the court not later than 30 days after the date of ~~each~~ **the sale** ~~{}~~ , **which is the date on which the contract for the sale was signed.**

3. The court shall set the date of the hearing **for confirmation of the sale** and give notice of the hearing in the manner required pursuant to NRS 159.115 or as the court may order.

4. An interested person may file written objections to the confirmation of the **sale before the hearing for confirmation of the** sale. If such objections are filed, the court shall conduct a hearing regarding those objections during which the interested person may offer witnesses in support of the objections. **The court may, in its discretion, allow oral objections to the confirmation of the sale on the date of the hearing for confirmation of the sale.**

5. Before the court confirms a sale, the court must find that notice of the sale was given in the manner required pursuant to NRS 159.1425 ~~{~~ **159.1435} and 159.144, unless the sale was exempt from notice pursuant to NRS 159.123.**

Sec. 25. NRS 159.1385 is hereby amended to read as follows:

159.1385 1. ~~{A}~~ ***After the court has granted authority to sell real property of a ward, a*** guardian may enter into a written contract with any bona fide agent, broker or multiple agents or brokers to secure a purchaser for ~~any real~~ ***such*** property . ~~{of the estate.}~~ Such a contract may grant an exclusive right to sell the property to the agent, broker or multiple agents or brokers.

2. The guardian shall provide for the payment of a commission upon the sale of the real property which:

(a) Must be paid from the proceeds of the sale;

(b) Must be fixed in an amount not to exceed:

(1) Ten percent for unimproved real property; or

(2) Seven percent for ~~improved~~ real property ~~{;}~~ ***with any type of improvement;*** and

(c) Must be authorized by the court by confirmation of the sale.

3. Upon confirmation of the sale by the court, the contract for the sale becomes binding and enforceable against the estate.

4. A guardian may not be held personally liable and the estate is not liable for the payment of any commission set forth in a contract entered into with an agent or broker pursuant to this section until the sale is confirmed by the court, and then is liable only for the amount set forth in the contract.

Sec. 26. NRS 159.1415 is hereby amended to read as follows:

159.1415 1. ~~{When an offer}~~ ***Except as otherwise provided in subsection 10 of NRS 159.146, if a contract of sale*** to purchase real property of a guardianship estate is presented to the court for confirmation:

(a) Other persons may submit higher bids ~~{to the}~~ ***in open*** court; and

(b) The court may confirm the highest bid.

2. Upon confirmation of a sale of real property by the court, the commission for the sale must be divided between the listing agent or broker and the agent or broker who secured the purchaser to whom the sale was confirmed, if any, in accordance with the contract with the listing agent or broker.

Sec. 27. NRS 159.142 is hereby amended to read as follows:

159.142 1. If a ward owns real property jointly with one or more other persons, ***after the court grants authority to sell the property,*** the interest owned by the ward may be sold to one or more joint owners of the property only if:

(a) ***All joint owners of the property have been given notice that the court has granted the authority to sell the property;***

(b) The guardian files a petition with the court to confirm the sale pursuant to NRS 159.134; and

~~{(b)}~~ (c) The court confirms the sale.

2. The court shall confirm the sale only if:

(a) The net amount of the proceeds from the sale to the estate of the ward is not less than 90 percent of the fair market value of the portion of the property to be sold; and

(b) Upon confirmation, the estate of the ward will be released from all liability for any mortgage or lien on the property.

Sec. 28. NRS 159.1425 is hereby amended to read as follows:

159.1425 1. Except as otherwise provided in this section and except for a sale pursuant to NRS 159.123 or 159.142, a guardian may sell the real property of a ward only after ***the court grants authority for the sale pursuant to NRS 159.113 and*** notice of the sale is published : ~~in:~~

(a) ~~{A}~~ ***In a*** newspaper that is published in the county in which the property, or some portion of the property, is located; ~~for~~

(b) If a newspaper is not published in ~~that~~ ***the*** county ~~in which the property, or some portion of the property, is located:~~

(1) In a newspaper of general circulation in the county; or

(2) In such other newspaper as the court orders ~~it~~ ; ***or***

(c) On a Multiple Listing Service.

2. Except as otherwise provided in this section and except for a sale of real property pursuant to NRS 159.123 or 159.142 ~~it~~

~~—(a) The notice of a public auction for the sale of real property must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.~~

~~—(b) The~~ , ***the*** notice of a ~~{private}~~ sale must be published not less than three times before the date on which ~~{offers will}~~ ***the sale may*** be ~~{accepted}~~ ***made,*** over a period of 14 days and 7 days apart.

3. For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

4. The court may waive the requirement of publication pursuant to this section if:

(a) The guardian is the sole devisee or heir of the estate; or

(b) All devisees or heirs of the estate consent to the waiver in writing.

5. Publication for the sale of real property is not required pursuant to this section if the property to be sold is reasonably believed to have a ***net*** value of \$10,000 or less. In lieu of publication, the guardian shall post notice of the sale in three of the most public places in the county in which the property, or some portion of the property, is located for at least 14 days before ~~it~~

~~—(a) The date of the sale at public auction; or~~

~~—(b) The~~ ***the*** date on ***or after*** which ~~{offers}~~ ***an offer*** will be accepted for a ~~{private}~~ sale.

6. Any notice published or posted pursuant to this section must include, without limitation:

(a) ~~{For a public auction:~~

~~—(1) A description of the real property which reasonably identifies the property to be sold; and~~

~~—(2) The date, time and location of the auction.~~

~~—(b) For a private sale:~~

~~—(1) A description of the real property which reasonably identifies the property to be sold; and~~

~~{(2)}~~ **(b)** The date, time and location ~~{that offers}~~ **on or after which an offer** will be accepted.

Sec. 29. NRS 159.144 is hereby amended to read as follows:

159.144 1. Except for the sale of real property pursuant to NRS 159.123 or 159.142, a sale of real property of a guardianship estate : ~~{at a private sale:}~~

(a) Must not occur before the date stated in the notice.

(b) Except as otherwise provided in this paragraph, must not occur sooner than 14 days after the date of the first publication or posting of the notice. For good cause shown, the court may shorten the time in which the sale may occur to not sooner than 8 days after the date of the first publication or posting of the notice. If the court so orders, the notice of the sale and the sale may be made to correspond with the court order.

(c) Must occur not later than 1 year after the date stated in the notice.

2. The offers made in a ~~{private}~~ sale:

(a) Must be in writing; and

(b) May be delivered to the place designated in the notice or to the guardian at any time ~~{:~~

~~—(1) After} after~~ the date of the first publication or posting of the notice . ~~{; and~~

~~—(2) Before the date on which the sale is to occur.}~~

Sec. 30. NRS 159.1455 is hereby amended to read as follows:

159.1455 1. Except as otherwise provided in subsection 2, the court shall not confirm a sale of real property of a guardianship estate ~~{at a private sale}~~ unless:

(a) The court is satisfied that the amount offered represents the fair market value of the property to be sold; and

(b) Except for a sale of real property pursuant to NRS 159.123, the real property has been appraised within 1 year before the date of the sale. If the real property has not been appraised within this period, a new appraisal must be conducted pursuant to NRS 159.086 and 159.0865 at any time before the sale or confirmation by the court of the sale.

2. The court may waive the requirement of an appraisal ~~{and allow the guardian to rely on the assessed value of the real property for purposes of taxation in obtaining confirmation by the court of the sale.}~~ **upon a showing to and specific findings by the court on the record that:**

(a) An additional appraisal will unduly delay the sale; and

(b) The delay will impair the estate of the ward.

Sec. 31. NRS 159.146 is hereby amended to read as follows:

159.146 1. At the hearing to confirm the sale of real property, the court shall:

(a) Consider whether the sale is necessary or in the best interest of the estate of the ward; and

(b) Examine the return on the investment and the evidence submitted in relation to the sale.

2. The court shall confirm the sale and order conveyances to be executed if it appears to the court that:

(a) Good reason existed for the sale;

(b) The sale was conducted in a legal and fair manner;

(c) The amount of the offer ~~for bid~~ is not disproportionate to the value of the property; and

(d) It is unlikely that ~~an offer or~~ a bid would be made which exceeds the original offer : ~~for bid;~~

(1) By at least 5 percent if the offer ~~for bid~~ is less than \$100,000; or

(2) By at least \$5,000 if the offer ~~for bid~~ is \$100,000 or more.

3. The court shall not confirm the sale if the conditions in this section are not satisfied.

4. If the court does not confirm the sale, the court:

(a) May order a new sale; **or**

(b) May conduct a public auction in open court . ~~;~~~~or~~

~~(c) May accept a written offer or bid from a responsible person and confirm the sale to the person if the written offer complies with the laws of this state and exceeds the original bid:~~

~~—(1) By at least 5 percent if the bid is less than \$100,000; or~~

~~—(2) By at least \$5,000 if the bid is \$100,000 or more.]~~

5. If the court ~~does not confirm the sale and~~ orders a new sale:

(a) Notice must be given in the manner set forth in NRS 159.1425; and

(b) The sale must be conducted in all other respects as though no previous sale has taken place.

6. If a higher offer ~~for bid~~ is received by the court during the hearing to confirm the sale, the court may continue the hearing ~~rather than accept the offer or bid as set forth in paragraph (c) of subsection 4]~~ if the court determines that the person who made the ~~original~~ offer ~~for bid~~ **being confirmed** was not notified of the hearing and ~~that the person who made the original offer or bid~~ may wish to increase **the price of** his or her ~~bid.] offer.~~ This subsection does not grant a right to a person to have a continuance granted and may not be used as a ground to set aside an order confirming a sale.

7. Except as otherwise provided in this ~~subsection, if a higher offer or bid is received by the court during the hearing to confirm the sale and the court does not accept that offer or bid, each successive bid must be for not less than:~~

~~—(a) An additional \$5,000, if the original offer is for \$100,000 or more; or~~

~~—(b) An additional \$250 if the original offer is less than \$100,000.~~

~~→ Upon the request of the guardian during the hearing to confirm the sale, the court may set other incremental bid amounts.] section, only the name of~~

the buyer and the price of the sale may be changed at a public auction in open court. An order confirming the sale is sufficient as an addendum to the original contract to allow escrow to close.

8. The title company may be changed at a public auction in open court if the estate and the buyer have mutually agreed to the change in writing.

9. The date of the close of escrow must be at least 10 judicial days after the date that the notice of the entry of order confirming the sale is filed with the clerk of the court unless the contract specifies a later date. The parties to the sale may extend the date of the close of escrow by mutual agreement in writing.

10. If the estate owes more than the value of the property and the estate has made an agreement with all lienholders to accept the sale price and waive any deficiency between the sale price and the amount owed to all lienholders, the sale must be confirmed without the potential for bidding in court. All other portions of the confirmation of sale must be adhered to. The valuation by the bank shall be deemed to be sufficient to meet the appraisal requirement for the sale, and the date of the sale is the date on which the bank approves the sale.

Sec. 32. NRS 159.1515 is hereby amended to read as follows:

159.1515 1. ~~{A}~~ **Except as otherwise provided in subsection 2, a guardian may sell ~~{perishable property and other}~~ or dispose of** personal property of the ward ~~{without}~~ **that has a value of less than \$100 if:**

(a) A notice ~~{, and title to}~~ of intent to sell or dispose of the property ~~{passes without confirmation by the court if the property:~~

~~—(a) Will depreciate in value if not disposed of promptly; or~~

~~—(b) Will incur loss or expense by being kept.~~

~~2. The~~ **is mailed by certified mail or delivered personally to the ward, his or her attorney and the persons specified in NRS 159.034; and**

(b) No objection to the sale or disposal is made within 15 days after such notice is received.

2. A guardian ~~{is responsible for the actual value}~~ **may authorize the immediate destruction** of the personal property ~~{unless the guardian obtains confirmation by the court of the sale.}~~ **of a ward without notice if:**

(a) The guardian determines that the property has been contaminated by vermin or biological or chemical agents;

(b) The expenses related to the decontamination of the property cause salvage to be impractical;

(c) The property constitutes an immediate threat to public health or safety;

(d) The handling, transfer or storage of the property might endanger public health or safety or exacerbate contamination; and

(e) The value of the property is less than \$100 or, if the value of the property is \$100 or more, a state or local health officer has endorsed the destruction of the property.

Sec. 33. NRS 159.1535 is hereby amended to read as follows:

159.1535 1. Except as otherwise provided in NRS 159.1515 and 159.152, a guardian may sell the personal property of the ward only after notice of the sale is ~~published~~ :

(a) *Given to the:*

(1) *Ward if he or she is 14 years of age or older;*

(2) *Parent or legal guardian of the ward, if the ward is a minor who is less than 14 years of age; and*

(3) *Spouse of the ward and all other known relatives of the ward who are within the second degree of consanguinity; and*

(b) *Published in:*

~~[(a)]~~ (1) A newspaper that is published in the county in which the property, or some portion of the property, is located; or

~~[(b)]~~ (2) If a newspaper is not published in ~~that~~ **the** county ~~[-] in which the property, or some portion of the property, is located:~~

~~[(1)]~~ (I) In a newspaper of general circulation in the county; or

~~[(2)]~~ (II) In such other newspaper as the court orders.

2. Except as otherwise provided in this section ~~[-]~~

~~—(a) The notice of a public sale must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.~~

~~—(b) The~~ , **the** notice of a ~~private~~ sale must be published not less than three times before the date on which offers will be accepted, over a period of 14 days and 7 days apart.

3. For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

4. The notice must include, without limitation:

(a) ~~For a public sale:~~

~~—(1) A description of the personal property to be sold; and~~

~~—(2) The date, time and location of the sale.~~

~~—(b)]~~ For a ~~private~~ sale ~~[-]~~ **other than a sale described in paragraph (b):**

(1) A description of the personal property to be sold; and

(2) The date, time and location that offers will be ~~accepted.~~

~~—(c)] received.~~

(b) For a sale on an appropriate auction website on the Internet:

(1) A description of the personal property to be sold;

(2) The date the personal property will be listed; and

(3) The Internet address of the website on which the sale will be posted.

Sec. 34. NRS 159.154 is hereby amended to read as follows:

159.154 1. The guardian may sell the personal property of a ward ~~by public sale~~ at:

(a) The residence of the ward; or

(b) Any other location designated by the guardian.

2. The guardian may sell the personal property ~~by public sale~~ only if the property is made available for inspection at the time of the sale or

photographs of the personal property are posted on an appropriate auction website on the Internet.

3. Personal property may be sold ~~for a public or private sale~~ for cash or upon credit.

4. ***Except as otherwise provided in NRS 159.1515, a sale or disposition of any personal property of the ward must not be commenced until 30 days after an inventory of the property is filed with the court and a copy thereof is sent by regular mail to the persons specified in NRS 159.034. An affidavit of mailing must be filed with the court.***

5. ***The guardian is responsible for the actual value of the personal property unless the guardian makes a report to the court, not later than 90 days after the conclusion of the sale, showing that good cause existed for the sale and that the property was sold for a price that was not disproportionate to the value of the property.***

6. ***The family members of the ward and any interested persons must be offered the first right of refusal to acquire the personal property of the ward at fair market value.***

Sec. 35. NRS 159.173 is hereby amended to read as follows:

159.173 If a guardian of the estate sells or transfers any real or personal property that is specifically devised or bequeathed by the ward or which is held by the ward as a joint tenancy, designated as being held by the ward in trust for another person or held by the ward as a revocable trust and the ward ~~was competent~~ **had the capacity** to make a will or create the interest at the time the will or interest was created, but ~~was not competent~~ **did not have the capacity** to make a will or create the interest at the time of the sale or transfer and never executed a valid later will or changed the manner in which the ward held the interest, the devisee, beneficiary or legatee may elect to take the proceeds of the sale or other transfer of the interest, specific devise or bequest.

Sec. 35.5. NRS 159.183 is hereby amended to read as follows:

159.183 1. Subject to the discretion and approval of the court and except as otherwise provided in subsection ~~4~~, 5, a guardian must be allowed:

- (a) Reasonable compensation for the guardian's services;
- (b) Necessary and reasonable expenses incurred in exercising the authority and performing the duties of a guardian; and
- (c) Reasonable expenses incurred in retaining accountants, attorneys, appraisers or other professional services.

2. Reasonable compensation and services must be based upon similar services performed for persons who are not under a legal disability. In determining whether compensation is reasonable, the court may consider:

- (a) The nature of the guardianship;
- (b) The type, duration and complexity of the services required; and
- (c) Any other relevant factors.

3. In the absence of an order of the court pursuant to this chapter shifting the responsibility of the payment of compensation and expenses, the payment of compensation and expenses must be paid from the estate of the ward. In evaluating the ability of a ward to pay such compensation and expenses, the court may consider:

- (a) The nature, extent and liquidity of the ward's assets;
- (b) The disposable net income of the ward;
- (c) Any foreseeable expenses; and
- (d) Any other factors that are relevant to the duties of the guardian pursuant to NRS 159.079 or 159.083.

4. **Any compensation or expenses, including, without limitation, attorney's fees, must not be paid from the estate of the ward unless and until the payment of such fees is approved by the court pursuant to this section or section 3 of this act, as applicable.**

5. A ~~{private professional}~~ guardian is not allowed compensation or expenses **, including, without limitation, attorney's fees,** for services incurred by the ~~{private professional}~~ guardian as a result of a petition to have him or her removed as guardian if the court removes the ~~{private professional}~~ guardian. ~~{pursuant to the provisions of paragraph (b), (d), (e), (f) or (h) of subsection 1 of NRS 159.185.}~~

Sec. 36. NRS 159.185 is hereby amended to read as follows:

159.185 1. The court may remove a guardian if the court determines that:

(a) The guardian has become mentally ~~{incompetent,}~~ **incapacitated**, unsuitable or otherwise incapable of exercising the authority and performing the duties of a guardian as provided by law;

(b) The guardian is no longer qualified to act as a guardian pursuant to NRS 159.0613 if the ward is an adult or NRS 159.061 if the ward is a minor;

(c) The guardian has filed for bankruptcy within the previous 5 years;

(d) The guardian of the estate has mismanaged the estate of the ward;

(e) The guardian has negligently failed to perform any duty as provided by law or by any order of the court and:

(1) The negligence resulted in injury to the ward or the estate of the ward; or

(2) There was a substantial likelihood that the negligence would result in injury to the ward or the estate of the ward;

(f) The guardian has intentionally failed to perform any duty as provided by law or by any lawful order of the court, regardless of injury;

(g) The best interests of the ward will be served by the appointment of another person as guardian; or

(h) The guardian is a private professional guardian who is no longer qualified as a private professional guardian pursuant to NRS 159.0595.

2. A guardian may not be removed if the sole reason for removal is the lack of money to pay the compensation and expenses of the guardian.

Sec. 37. NRS 159.1995 is hereby amended to read as follows:

159.1995 1. In a guardianship proceeding in this State, a court of this State may request the appropriate court of another state to do any of the following:

- (a) Hold an evidentiary hearing;
- (b) Order a person in that state to produce evidence or give testimony pursuant to the procedures of that state;
- (c) Order that an evaluation or assessment be made of the ward;
- (d) Order any appropriate investigation of a person involved in a proceeding;
- (e) Forward to the court of this State a certified copy of the transcript or other record of a hearing under paragraph (a) or any other proceeding, any evidence otherwise produced under paragraph (b), and any evaluation or assessment prepared in compliance with an order under paragraph (c) or (d);
- (f) Issue any order necessary to ensure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the proposed ward, the ward or the ~~incompetent~~ **person who is incapacitated**; and
- (g) Issue an order authorizing the release of medical, financial, criminal or other relevant information in that state relating to the ward or proposed ward, including protected health information as defined in 45 C.F.R. § 160.103.

2. If a court of another state in which a guardianship or conservatorship proceeding is pending requests assistance of the kind provided in subsection 1, a court of this State has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

Sec. 38. NRS 159.215 is hereby amended to read as follows:

159.215 1. A member of the Armed Forces of the United States, a reserve component thereof or the National Guard may, by written instrument and without the approval of a court, appoint any ~~competent~~ adult residing in this State **who is not incapacitated** as the guardian of the person of a minor child who is a dependent of that member. The instrument must be:

- (a) Executed by both parents if living, not divorced and having legal custody of the child, otherwise by the parent having legal custody; and
- (b) Acknowledged in the same manner as a deed.

➡ If both parents do not execute the instrument, the executing parent shall send by certified mail, return receipt requested, to the other parent at his or her last known address, a copy of the instrument and a notice of the provisions of subsection 3.

2. The instrument must contain a provision setting forth the:

- (a) Branch of the Armed Forces;
 - (b) Unit of current assignment;
 - (c) Current rank or grade; and
 - (d) Social security number or service number,
- ➡ of the parent who is the member.

3. The appointment of a guardian pursuant to this section:

(a) May be terminated by a written instrument signed by either parent of the child if that parent has not been deprived of his or her parental rights to the child; and

(b) Is terminated by any order of a court.

Sec. 39. NRS 449.6922 is hereby amended to read as follows:

449.6922 ~~["Incompetent"]~~ **"Incapacitated"** has the meaning ascribed to it in NRS 159.019.

Sec. 40. NRS 449.6942 is hereby amended to read as follows:

449.6942 1. A physician shall take the actions described in subsection 2:

(a) If the physician diagnoses a patient with a terminal condition;

(b) If the physician determines, for any reason, that a patient has a life expectancy of less than 5 years; or

(c) At the request of a patient.

2. Upon the occurrence of any of the events specified in subsection 1, the physician shall explain to the patient:

(a) The existence and availability of the Physician Order for Life-Sustaining Treatment form;

(b) The features of and procedures offered by way of the POLST form; and

(c) The differences between a POLST form and the other types of advance directives.

3. Upon the request of the patient, the physician shall complete the POLST form based on the preferences and medical indications of the patient.

4. A POLST form is valid upon execution by a physician and:

(a) If the patient is 18 years of age or older and of sound mind, the patient;

(b) If the patient is 18 years of age or older and ~~["incompetent,"]~~ **incapacitated**, the representative of the patient; or

(c) If the patient is less than 18 years of age, the patient and a parent or legal guardian of the patient.

5. As used in this section, "terminal condition" has the meaning ascribed to it in NRS 449.590.

Sec. 41. NRS 449.6944 is hereby amended to read as follows:

449.6944 1. A Physician Order for Life-Sustaining Treatment form may be revoked at any time and in any manner by:

(a) The patient who executed it, if ~~["competent,"]~~ **not incapacitated**, without regard to his or her age or physical condition;

(b) If the patient is ~~["incompetent,"]~~ **incapacitated**, the representative of the patient; or

(c) If the patient is less than 18 years of age, a parent or legal guardian of the patient.

2. The revocation of a POLST form is effective upon the communication to a provider of health care, by the patient or a witness to the revocation, of the desire to revoke the form. The provider of health care to whom the revocation is communicated shall:

- (a) Make the revocation a part of the medical record of the patient; or
- (b) Cause the revocation to be made a part of the medical record of the patient.

Sec. 42. NRS 449.695 is hereby amended to read as follows:

449.695 1. Except as otherwise provided in this section and NRS 449.6946, a provider of health care shall comply with a valid Physician Order for Life-Sustaining Treatment form, regardless of whether the provider of health care is employed by a health care facility or other entity affiliated with the physician who executed the POLST form.

2. A physician may medically evaluate the patient and, based upon the evaluation, may recommend new orders consistent with the most current information available about the patient's health status and goals of care. Before making a modification to a valid POLST form, the physician shall consult the patient or, if the patient is ~~incompetent,~~ **incapacitated**, shall make a reasonable attempt to consult the representative of the patient and the patient's attending physician.

3. Except as otherwise provided in subsection 4, a provider of health care who is unwilling or unable to comply with a valid POLST form shall take all reasonable measures to transfer the patient to a physician or health care facility so that the POLST form will be followed.

4. Life-sustaining treatment must not be withheld or withdrawn pursuant to a POLST form of a patient known to the attending physician to be pregnant, so long as it is probable that the fetus will develop to the point of live birth with the continued application of life-sustaining treatment.

5. Nothing in this section requires a provider of health care to comply with a valid POLST form if the provider of health care does not have actual knowledge of the existence of the form.

Sec. 43. NRS 616C.505 is hereby amended to read as follows:

616C.505 If an injury by accident arising out of and in the course of employment causes the death of an employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, the compensation is known as a death benefit and is payable as follows:

1. In addition to any other compensation payable pursuant to chapters 616A to 616D, inclusive, of NRS, burial expenses are payable in an amount not to exceed \$10,000, plus the cost of transporting the remains of the deceased employee. When the remains of the deceased employee and the person accompanying the remains are to be transported to a mortuary or mortuaries, the charge of transportation must be borne by the insurer.

2. Except as otherwise provided in subsection 3, to the surviving spouse of the deceased employee, $66\frac{2}{3}$ percent of the average monthly wage is payable until the death of the surviving spouse.

3. If there is a surviving spouse and any surviving children of the deceased employee who are not the children of the surviving spouse, the compensation otherwise payable pursuant to subsection 2 must be paid as

follows until the entitlement of all children of the deceased employee to receive compensation pursuant to this subsection ceases:

(a) To the surviving spouse, 50 percent of the death benefit is payable until the death of the surviving spouse; and

(b) To each child of the deceased employee, regardless of whether the child is the child of the surviving spouse, the child's proportionate share of 50 percent of the death benefit and, except as otherwise provided in subsection 11, if the child has a guardian, the compensation the child is entitled to receive may be paid to the guardian.

4. In the event of the subsequent death of the surviving spouse:

(a) Each surviving child of the deceased employee, in addition to any amount the child may be entitled to pursuant to subsection 3, must share equally the compensation theretofore paid to the surviving spouse but not in excess thereof, and it is payable until the youngest child reaches the age of 18 years.

(b) Except as otherwise provided in subsection 11, if the children have a guardian, the compensation they are entitled to receive may be paid to the guardian.

5. If there are any surviving children of the deceased employee under the age of 18 years, but no surviving spouse, then each such child is entitled to his or her proportionate share of $66\frac{2}{3}$ percent of the average monthly wage for the support of the child.

6. Except as otherwise provided in subsection 7, if there is no surviving spouse or child under the age of 18 years, there must be paid:

(a) To a parent, if wholly dependent for support upon the deceased employee at the time of the injury causing the death of the deceased employee, $33\frac{1}{3}$ percent of the average monthly wage.

(b) To both parents, if wholly dependent for support upon the deceased employee at the time of the injury causing the death of the deceased employee, $66\frac{2}{3}$ percent of the average monthly wage.

(c) To each brother or sister until he or she reaches the age of 18 years, if wholly dependent for support upon the deceased employee at the time of the injury causing the death of the deceased employee, his or her proportionate share of $66\frac{2}{3}$ percent of the average monthly wage.

7. The aggregate compensation payable pursuant to subsection 6 must not exceed $66\frac{2}{3}$ percent of the average monthly wage.

8. In all other cases involving a question of total or partial dependency:

(a) The extent of the dependency must be determined in accordance with the facts existing at the time of the injury.

(b) If the deceased employee leaves dependents only partially dependent upon the earnings of the deceased employee for support at the time of the injury causing his or her death, the monthly compensation to be paid must be equal to the same proportion of the monthly payments for the benefit of persons totally dependent as the amount contributed by the deceased

employee to the partial dependents bears to the average monthly wage of the deceased employee at the time of the injury resulting in his or her death.

(c) The duration of compensation to partial dependents must be fixed in accordance with the facts shown, but may not exceed compensation for 100 months.

9. Compensation payable to a surviving spouse is for the use and benefit of the surviving spouse and the dependent children, and the insurer may, from time to time, apportion such compensation between them in such a way as it deems best for the interest of all dependents.

10. In the event of the death of any dependent specified in this section before the expiration of the time during which compensation is payable to the dependent, funeral expenses are payable in an amount not to exceed \$10,000.

11. If a dependent is entitled to receive a death benefit pursuant to this section and is less than 18 years of age or ~~incompetent,~~ **incapacitated**, the legal representative of the dependent shall petition for a guardian to be appointed for that dependent pursuant to NRS 159.044. An insurer shall not pay any compensation in excess of \$3,000, other than burial expenses, to the dependent until a guardian is appointed and legally qualified. Upon receipt of a certified letter of guardianship, the insurer shall make all payments required by this section to the guardian of the dependent until the dependent is emancipated, the guardianship terminates or the dependent reaches the age of 18 years, whichever occurs first, unless paragraph (a) of subsection 12 is applicable. The fees and costs related to the guardianship must be paid from the estate of the dependent. A guardianship established pursuant to this subsection must be administered in accordance with chapter 159 of NRS, except that after the first annual review required pursuant to NRS 159.176, a court may elect not to review the guardianship annually. The court shall review the guardianship at least once every 3 years. As used in this subsection, ~~“incompetent”~~ **“incapacitated”** has the meaning ascribed to it in NRS 159.019.

12. Except as otherwise provided in paragraphs (a) and (b), the entitlement of any child to receive his or her proportionate share of compensation pursuant to this section ceases when the child dies, marries or reaches the age of 18 years. A child is entitled to continue to receive compensation pursuant to this section if the child is:

(a) Over 18 years of age and incapable of supporting himself or herself, until such time as the child becomes capable of supporting himself or herself; or

(b) Over 18 years of age and enrolled as a full-time student in an accredited vocational or educational institution, until the child reaches the age of 22 years.

13. As used in this section, “surviving spouse” means a surviving husband or wife who was married to the employee at the time of the employee’s death.

Sec. 44. NRS 159.1435 is hereby repealed.

Sec. 45. This act becomes effective on January 1, 2018.

TEXT OF REPEALED SECTION

159.1435 Public auction for sale of real property: Where held; postponement.

1. Except for a sale pursuant to NRS 159.123 or 159.142, a public auction for the sale of real property must be held:

(a) In the county in which the property is located or, if the real property is located in two or more counties, in either county;

(b) Between the hours of 9 a.m. and 5 p.m.; and

(c) On the date specified in the notice, unless the sale is postponed.

2. If, on or before the date and time set for the public auction, the guardian determines that the auction should be postponed:

(a) The auction may be postponed for not more than 3 months after the date first set for the auction; and

(b) Notice of the postponement must be given by a public declaration at the place first set for the sale on the date and time that was set for the sale.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 136.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 391.

AN ACT relating to criminal procedure; ~~providing that certain defendants must be admitted to bail on an unsecured bond;~~ **revising provisions governing factors to be considered by the court in deciding whether to release a person without bail; prohibiting a court from relying solely on a bail schedule in setting the amount of bail after a personal appearance by a defendant;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[The Nevada Constitution and existing law provide that all persons arrested for offenses other than murder of the first degree must be admitted to bail unless certain circumstances apply. (Nev. Const. Art. 1, § 7; NRS 178.484) Existing law also provides, with certain exceptions, that if a defendant can be admitted to bail without appearing personally before a magistrate, the defendant must be so admitted with the least possible delay and must be required to appear before a magistrate at the earliest convenient time thereafter. (NRS 171.178)]~~

~~—This bill provides that a defendant who can be admitted to bail without appearing before a magistrate must be admitted on an unsecured bond if the defendant: (1) was arrested for a misdemeanor which does not involve an act~~

~~of violence; (2) was not arrested while on bail; and (3) does not have a record of failing to appear after release on bail or without bail. This bill defines an “unsecured bond” as a bond which does not require advance payment and is a monetary sum that the defendant agrees to pay at a later time if the defendant, without good cause, fails to appear when the defendant’s presence in court is lawfully required.] Existing law sets forth certain factors which the court must consider in deciding whether there is good cause to release a person without bail. (NRS 178.4853) Section 2 of this bill includes in those factors the consideration of whether one or more conditions can be imposed on the person to mitigate the risk of failure to appear or the risk to public safety and authorizes the court to use an evidence-based risk assessment tool, if available.~~

Existing law sets forth certain factors for consideration by the magistrate in setting the amount of bail. (NRS 178.498) Section 3 of this bill provides that after the defendant has personally appeared before the magistrate, the magistrate may not rely solely on a standardized bail schedule to set the amount of bail.

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

~~Section 1. [Chapter 178 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~— 1. If, pursuant to subsection 5 of NRS 171.178, a defendant can be admitted to bail without appearing personally before a magistrate, the defendant must be admitted to bail on an unsecured bond if the defendant:~~

~~— (a) Was arrested for a misdemeanor which does not involve an act of violence;~~

~~— (b) Was not arrested while on bail; and~~

~~— (c) Does not have a record of failing to appear after release on bail or without bail.~~

~~— 2. As used in this section, “unsecured bond” means a bond which does not require any advance payment and is a monetary sum that a defendant agrees to pay at a later time if the defendant, without good cause, fails to appear when the defendant’s presence in court is lawfully required.] (Deleted by amendment.)~~

Sec. 2. NRS 178.4853 is hereby amended to read as follows:

178.4853 In deciding whether there is good cause to release a person without bail, the court may use an evidence-based risk assessment tool, if available, but at a minimum shall consider the following factors concerning the person:

1. The length of residence in the community;
2. The status and history of employment;
3. Relationships with the person’s spouse and children, parents or other family members and with close friends;
4. Reputation, character and mental condition;

5. Prior criminal record, including, without limitation, any record of appearing or failing to appear after release on bail or without bail;

6. The identity of responsible members of the community who would vouch for the reliability of the person;

7. The nature of the offense with which the person is charged, the apparent probability of conviction and the likely sentence, insofar as these factors relate to the risk of not appearing;

8. The nature and seriousness of the danger to the alleged victim, any other person or the community that would be posed by the person's release;

9. The likelihood of more criminal activity by the person after release;
~~and~~

10. Any other factors concerning the person's ties to the community or bearing on the risk that the person may willfully fail to appear ~~and~~; and

11. Whether one or more conditions can be imposed on the person to mitigate the risk of failure to appear or the risk to public safety, including, without limitation:

(a) Restrictions on residence or travel;

(b) Restrictions on associations, including, without limitation, requiring the person to avoid contact with alleged victims or potential witnesses;

(c) Requiring the person to maintain or actively seek employment;

(d) Requiring the person to regularly report to a designated law enforcement agency or the court;

(e) Imposing a curfew;

(f) Prohibiting the possession of a firearm;

(g) Prohibiting the use of alcohol and controlled substances;

(h) Requiring the person to receive medical, psychiatric or psychological treatment, including, without limitation, treatment for alcohol or drug abuse or a mental illness;

(i) Intensive supervision of the person; or

(j) Any other condition reasonably necessary to ensure the appearance of the person or the safety of any person in the community.

Sec. 3. NRS 178.498 is hereby amended to read as follows:

178.498 **1.** If the defendant is admitted to bail, the bail must be set at an amount which in the judgment of the magistrate will reasonably ensure the appearance of the defendant and the safety of other persons and of the community, having regard to:

~~1.~~ **(a)** The nature and circumstances of the offense charged;

~~2.~~ **(b)** The financial ability of the defendant to give bail;

~~3.~~ **(c)** The character of the defendant; and

~~4.~~ **(d)** The factors listed in NRS 178.4853.

2. After the defendant has personally appeared before the magistrate, the magistrate may not rely solely on any standardized bail schedule to set the amount of bail.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 159.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 179.

AN ACT relating to natural resources; prohibiting hydraulic fracturing in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Minerals of the Commission on Mineral Resources and the Division of Environmental Protection of the State Department of Conservation and Natural Resources, jointly, to develop a hydraulic fracturing program for certain purposes in this State. The Commission is required to adopt regulations to implement the program. (NRS 522.119) If a person wishes to drill and operate an oil or gas well, including a well that is intended to be hydraulically fractured, the person must first obtain a permit from the Division of Minerals. (NRS 522.050)

Section 1 of this bill prohibits any person from engaging in hydraulic fracturing in this State, and **section 5** of this bill repeals provisions relating to the hydraulic fracturing program. **Sections 2 and 3** of this bill make conforming changes. **Section 4** of this bill provides that any permit issued by the Division of Minerals before the effective date of this bill, authorizing a person to drill and operate an oil or gas well that is or is intended to be hydraulically fractured, ~~expires on that date.~~ **remains valid for the period for which the Division of Minerals issued the permit. Section 4 also authorizes the Administrator of the Division to extend the date of expiration of the permit by not more than 1 year upon application by the holder of the permit.**

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

Section 1. Chapter 522 of NRS is hereby amended by adding thereto a new section to read as follows:

A person shall not engage in hydraulic fracturing in this State. As used in this section, "hydraulic fracturing" means the process of pumping fluid into or under the surface of the ground to create fractures in the rock to facilitate the production or recovery of oil or gas.

Sec. 2. NRS 522.040 is hereby amended to read as follows:

522.040 ~~[Except as otherwise provided in NRS 522.119:]~~

1. The Division has jurisdiction and authority over all persons and property, public and private, necessary to effectuate the purposes and intent of this chapter.

2. The Division shall make investigation to determine whether waste exists or is imminent, or whether other facts exist which justify or require action by it.

3. The Division shall adopt regulations, make orders and take other appropriate action to effectuate the purposes of this chapter.

4. The Division may:

(a) Require:

(1) Identification of ownership of wells, producing leases, tanks, plants and drilling structures.

(2) The making and filing of reports, well logs and directional surveys. Logs of exploratory or "wildcat" wells marked "confidential" must be kept confidential for 6 months after the filing thereof, unless the owner gives written permission to release those logs at an earlier date.

(3) The drilling, casing and plugging of wells in such a manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into an oil or gas stratum, the pollution of fresh water supplies by oil, gas or salt water, and to prevent blowouts, cavings, seepages and fires.

(4) The furnishing of a reasonable bond with good and sufficient surety conditioned for the performance of the duty to plug each dry or abandoned well or the repair of wells causing waste.

(5) The operation of wells with efficient gas-oil and water-oil ratios, and to fix these ratios.

(6) The gauging or other measuring of oil and gas to determine the quality and quantity thereof.

(7) That every person who produces oil or gas in this State keep and maintain for a period of 5 years within this State complete and accurate record of the quantities thereof, which must be available for examination by the Division or its agents at all reasonable times.

(b) Regulate, for conservation purposes:

(1) The drilling, producing and plugging of wells.

(2) The shooting and chemical treatment of wells.

(3) The spacing of wells.

(4) The disposal of salt water, nonpotable water and oil field wastes.

(5) The contamination or waste of underground water.

(c) Classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this chapter.

Sec. 3. NRS 522.050 is hereby amended to read as follows:

522.050 1. A person shall not drill or operate an oil or gas well unless he or she first obtains a permit from the Division pursuant to this section.

2. Every person desiring to drill and operate an oil or gas well or requesting a change in the terms of an existing permit to drill and operate an oil or gas well must:

(a) Submit an application for a permit or for a request to change the terms of an existing permit, as applicable, to the Division on the form prescribed by the Division; and

(b) Pay the applicable fee prescribed pursuant to subsection 3.

3. The Commission on Mineral Resources shall prescribe by regulation the fees for a permit to drill and operate an oil or gas well and for a request to change the terms of an existing permit. The amount of each fee prescribed by the Commission may include the reasonable administrative costs of the Division relating to the filing and examination of applications for such permits or for requests for changes in the terms of such existing permits, as applicable, but the amount of the fee must not exceed:

(a) For a permit to drill and operate an oil or gas well, ~~that is not intended to be hydraulically fractured,~~ \$2,000.

(b) For a ~~permit to drill and operate an oil or gas well that is intended to be hydraulically fractured,~~ \$5,000.

~~(c) For a~~ request to change the terms of an existing permit to drill and operate an oil or gas well, \$400.

4. The Division shall, as soon as practicable after receiving the proper application and fee, issue to the person a permit or change the terms of an existing permit, as applicable, unless the drilling or operation of the well is prohibited by any law or regulation or order of the Division.

5. The Division shall deposit with the State Treasurer, for credit to the Account for the Division of Minerals created pursuant to NRS 513.103, all money received pursuant to subsection 2.

Sec. 4. 1. ~~Any~~ Notwithstanding the provisions of section 1 of this act, any permit issued before the effective date of this act by the Division of Minerals of the Commission on Mineral Resources that authorizes a person to drill and operate an oil or gas well in this State that is or is intended to be hydraulically fractured ~~expires on the effective date of this act.~~ **remains valid for the period for which the Division issued the permit if the holder of the permit is otherwise qualified to hold the permit during that period.**

2. The Administrator of the Division may, upon application by the holder of a permit described in subsection 1, extend the date of expiration of the permit by not more than 1 year. The Administrator may grant more than one extension of a permit pursuant to this subsection, but the date of expiration of the permit may not be extended in any case to a date more than 5 years after the original date of expiration. Any extension granted pursuant to this subsection:

(a) Must be determined in accordance with any applicable laws or regulations in effect on January 1, 2017.

(b) Does not authorize the holder of the permit for which the Administrator grants the extension to hydraulically fracture the oil or gas well more than once.

(c) Is invalid if the permit for which the Administrator grants the extension is revoked.

3. As used in this section, “hydraulically ~~fractured~~ **fracture**” has the meaning ascribed to “hydraulic fracturing” in section 1 of this act.

Sec. 5. NRS 522.0275 and 522.119 are hereby repealed.

Sec. 6. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTIONS

522.0275 “Hydraulic fracturing” and “hydraulically fractured” defined. “Hydraulic fracturing” or “hydraulically fractured” means the process of pumping a fluid into or under the surface of the ground to create fractures in the rock to facilitate the production or recovery of oil or gas.

522.119 Development of program; regulations.

1. The Division of Minerals and the Division of Environmental Protection shall, jointly, develop a hydraulic fracturing program to:

(a) Assess the effects of hydraulic fracturing on the waters of the State of Nevada;

(b) Require a person who engages in hydraulic fracturing to disclose each chemical used to engage in hydraulic fracturing; and

(c) Provide for notice to members of the general public concerning activities relating to hydraulic fracturing in this state.

2. The Commission on Mineral Resources shall adopt regulations to implement the hydraulic fracturing program required by subsection 1.

3. As used in this section, “Division of Environmental Protection” means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

Assemblywoman Swank moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 161.

Bill read second time.

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

Amendment No. 527.

SUMMARY—~~[Requires the notarization of]~~ **Revises provisions relating to certain rental agreements. (BDR 10-733)**

AN ACT relating to real property; requiring certain rental agreements to ~~[be notarized]~~ **contain certain disclosures; creating certain presumptions with respect to certain crimes involving real property;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law sets forth certain requirements relating to a written rental agreement. (NRS 118A.200) ~~[This]~~ **Section 1 of this** bill requires a written rental agreement for a single-family residence to ~~[be notarized]~~ **contain a disclosure which states that: (1) there are rebuttable presumptions in sections 1.3 and 1.7 of this bill that the tenant does not have lawful occupancy of the residence unless the agreement is notarized and**

contains certain contact information for the landlord or the landlord's representative; and (2) the agreement is valid and enforceable regardless of whether the agreement is notarized or contains certain contact information for the landlord or the landlord's representative.

Sections 1.3 and 1.7 of this bill create rebuttable presumptions that a person who forcibly enters or takes up residence in an uninhabited or vacant dwelling knows that his or her entry or residency is without permission of the owner or the owner's representative unless he or she provides a written rental agreement that is notarized and contains certain contact information for the owner or the owner's representative.

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

Section 1. NRS 118A.200 is hereby amended to read as follows:

118A.200 1. Any written agreement for the use and occupancy of a dwelling unit or premises must be signed by the landlord or his or her agent and the tenant or his or her agent.

2. The landlord shall provide one copy of any written agreement described in subsection 1 to the tenant free of cost at the time the agreement is executed and, upon request of the tenant, provide additional copies of any such agreement to the tenant within a reasonable time. The landlord may charge a reasonable fee for providing the additional copies.

3. Any written rental agreement must contain, but is not limited to, provisions relating to the following subjects:

- (a) Duration of the agreement.
- (b) Amount of rent and the manner and time of its payment.
- (c) Occupancy by children or pets.
- (d) Services included with the dwelling rental.
- (e) Fees which are required and the purposes for which they are required.
- (f) Deposits which are required and the conditions for their refund.
- (g) Charges which may be required for late or partial payment of rent or for return of any dishonored check.
- (h) Inspection rights of the landlord.
- (i) A listing of persons or numbers of persons who are to occupy the dwelling.
- (j) Respective responsibilities of the landlord and the tenant as to the payment of utility charges.
- (k) A signed record of the inventory and condition of the premises under the exclusive custody and control of the tenant.
- (l) A summary of the provisions of NRS 202.470.
- (m) Information regarding the procedure pursuant to which a tenant may report to the appropriate authorities:
 - (1) A nuisance.
 - (2) A violation of a building, safety or health code or regulation.

(n) Information regarding the right of the tenant to engage in the display of the flag of the United States, as set forth in NRS 118A.325.

4. ~~Any~~ **In addition to the provisions required by subsection 3, any written rental agreement for a single-family residence must ~~be notarized,~~ contain a disclosure at the top of the first page of the agreement, in a font size at least two times larger than any other font size in the agreement, which states that:**

(a) There are rebuttable presumptions in NRS 205.0813 and 205.0817 that the tenant does not have lawful occupancy of the dwelling unless the agreement:

(1) Is notarized; and

(2) Includes the current address and telephone number of the landlord or his or her authorized representative; and

(b) The agreement is valid and enforceable against the landlord and the tenant regardless of whether the agreement:

(1) Is notarized; or

(2) Includes the current address and telephone number of the landlord or his or her authorized representative.

5. The absence of a written agreement raises a disputable presumption that:

(a) There are no restrictions on occupancy by children or pets.

(b) Maintenance and waste removal services are provided without charge to the tenant.

(c) No charges for partial or late payments of rent or for dishonored checks are paid by the tenant.

(d) Other than normal wear, the premises will be returned in the same condition as when the tenancy began.

~~5.1~~ 6. It is unlawful for a landlord or any person authorized to enter into a rental agreement on his or her behalf to use any written agreement which does not conform to the provisions of this section, and any provision in an agreement which contravenes the provisions of this section is void.

7. ***As used in this section, "single-family residence" means a structures that is comprised of not more than four units. The term does not include a manufactured home as defined in NRS 118B.015.***

Sec. 1.3. NRS 205.0813 is hereby amended to read as follows:

205.0813 1. A person who forcibly enters an uninhabited or vacant dwelling, knows or has reason to believe that such entry is without permission of the owner of the dwelling or an authorized representative of the owner and has the intent to take up residence or provide a residency to another therein is guilty of housebreaking.

2. **A person is presumed to know that an entry described in subsection 1 is without the permission of the owner of the dwelling or an authorized representative of the owner unless the person provides a written rental agreement that:**

(a) Is notarized; and
(b) Includes the current address and telephone number of the owner or authorized representative.

3. A person convicted of housebreaking is guilty of:

- (a) For a first offense, a gross misdemeanor; and
- (b) For a second and any subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.

~~3.~~ 4. A person convicted of housebreaking and who has previously been convicted three or more times of housebreaking must not be released on probation or granted a suspension of sentence.

~~4.~~ 5. As used in this section, “forcibly enters” means an entry involving:

- (a) Any act of physical force resulting in damage to the structure; or
- (b) The changing or manipulation of a lock to gain access.

Sec. 1.7. NRS 205.0817 is hereby amended to read as follows:

205.0817 1. A person who takes up residence in an uninhabited or vacant dwelling and knows or has reason to believe that such residency is without permission of the owner of the dwelling or an authorized representative of the owner is guilty of unlawful occupancy.

2. A person is presumed to know that the residency described in subsection 1 is without the permission of the owner of the dwelling or an authorized representative of the owner unless the person provides a written rental agreement that:

(a) Is notarized; and
(b) Includes the current address and telephone number of the owner or authorized representative.

3. A person convicted of unlawful occupancy is guilty of a gross misdemeanor. A person convicted of unlawful occupancy and who has been convicted three or more times of unlawful occupancy is guilty of a category D felony and shall be punished as provided in NRS 193.130.

~~3.~~ 4. A person who is accused of unlawful occupancy pursuant to subsection 1 and has previously been convicted two times of housebreaking, unlawful occupancy or any lesser included or related offense, or any combination thereof, arising from the same set of facts is presumed to have obtained residency of the dwelling with the knowledge that:

- (a) Any asserted lease is invalid; and
- (b) Neither the owner nor an authorized representative of the owner permitted the residency.

Sec. 2. This act becomes effective on July 1, 2017.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 163.

Bill read second time.

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

Amendment No. 605.

AN ACT relating to financial services; requiring a person who is licensed to operate certain loan services to verify a customer's ability to repay the loan before making certain short-term loans to the customer; **requiring a person who makes a deferred deposit loan to offer an extended payment plan under certain circumstances**; revising provisions governing defaults, **lengths of term** and grace periods relating to certain short-term loans; requiring certain notices to be posted by a person who is licensed to operate certain loan services; revising the requirements for making a title loan; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes standards and procedures governing the making of certain short-term loans, commonly referred to as "payday loans," "high-interest loans" and "title loans." (Chapter 604A of NRS) **Section 1.3** of this bill: (1) prohibits a person from making such a loan unless the person has determined that the customer has the ability to repay the loan; and (2) establishes the factors that the person making the loan must consider when determining whether a customer has the ability to repay the loan. **Section 1.7 of this bill requires a person who makes a deferred deposit loan to offer an extended payment plan to the customer under certain circumstances.**

Existing law allows for a person making a payday loan, high-interest loan or title loan to offer the customer a grace period concerning repayment of the loan. (NRS 604A.210) **Section 3** of this bill distinguishes a grace period from an extension of a loan. **Section 4** of this bill ~~limits the actions the~~ **prohibits a** person making the loan ~~from taking with regard to~~ **from granting** a grace period ~~for the purpose of artificially increasing the amount a~~ **customer qualifies to borrow.**

Existing law requires a person making a payday loan, high-interest loan or title loan to post certain notices in a conspicuous place in every location at which the person conducts business. (NRS 604A.405) **Section 5** of this bill provides that the person must post a notice of the existing requirement that the person must offer a repayment plan to a customer who defaults on a loan before the person commences specified collection actions. **Section 5** also provides that the person must post a notice that states the process for customers to file a complaint with the Office of the Commissioner of Financial Institutions.

Existing law sets forth certain restrictions on the actions of a person licensed to operate certain loan services. (NRS 604A.440) Section 6 of this bill adds to those restrictions a limitation on the reinitiation of electronic debit transactions.

Existing law provides restrictions on the making of title loans. (NRS 604A.450) **Section 7** of this bill adds to those restrictions by specifying that the customer must legally own the vehicle which secures the loan and that the person making the loan cannot consider the income , except for the customer's community income, of anyone who is not a legal owner of the vehicle who enters into a loan agreement with the licensee when determining whether the customer has the ability to repay the loan.

~~{Sections 6 and }~~ **Section 8** of this bill ~~{make}~~ **makes** conforming changes.

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

Section 1. Chapter 604A of NRS is hereby amended by adding thereto ~~{a new section to read as follows:}~~ the provisions set forth as sections 1.3 and 1.7 of this act.

Sec. 1.3. 1. *A licensee shall not make a loan pursuant to this chapter unless the licensee determines pursuant to subsection 2 that the customer has the ability to repay the loan.*

2. *For the purposes of subsection 1, a customer has the ability to repay a loan if the customer has a reasonable ability to repay the loan, as determined by the licensee after considering ~~{and verifying}~~ the following underwriting factors:*

(a) The current or reasonably expected income of the customer;

(b) The current employment status of the customer ~~{}~~ based on evidence including, without limitation, a pay stub or bank deposit;

(c) ~~{The monthly residual income of the customer;~~

~~*(d) The credit history of the customer;*~~

~~*(e) The amount due under the original term of the loan, the monthly payment on the loan, if the loan is an installment loan, or the potential repayment plan if the customer defaults on the loan;*~~

~~*(f) Any monthly payments on other obligations owed by the customer; and*~~

~~*(g) Other current debt obligations owed by the customer, including, without limitation, alimony and child support; and*~~

(e) Other evidence, including, without limitation, bank statements, electronic bank statements and written representations to the licensee.

3. *For the purposes of subsection 1, a licensee shall not consider the ability of any person other than the customer to repay the loan.*

Sec. 1.7. 1. *A licensee shall allow a customer with an outstanding deferred deposit loan to enter into an extended payment plan if the customer:*

(a) Has not entered into an extended payment plan for the original loan during the immediately preceding 12-month period; and

(b) Requests an extended repayment plan before the time the original loan is due.

2. An extended payment plan entered into pursuant to subsection 1 must:

(a) Be in writing and be signed by the licensee and customer; and

(b) Provide a payment schedule of at least four payments over a period of at least 60 days.

3. An extended payment plan entered into pursuant to subsection 1 must not:

(a) Increase or decrease the amount owed under the original loan.

(b) Include any interest or fees in addition to those charged under the terms of the original loan.

4. If a customer defaults under an extended payment plan entered into pursuant to this section, the licensee may terminate the extended payment plan and accelerate the requirement to pay the amount owed.

Sec. 2. NRS 604A.045 is hereby amended to read as follows:

604A.045 1. "Default" means the failure of a customer to :

(a) Make ~~make~~ a scheduled payment on a loan on or before the due date for the payment under the ~~for original~~ terms of a lawful loan agreement and any grace period that complies with the provisions of NRS 604A.210; ~~for~~ ~~under the original terms of any lawful extension or repayment plan relating to the loan~~ and any grace period that complies with the provisions of NRS 604A.210;] or

(b) Pay a loan in full on or before]:

(1) The] ~~the~~ expiration of the ~~initial~~ loan period as set forth in a lawful loan agreement and any grace period that complies with the provisions of NRS 604A.210.]: or

(2) The due date of any lawful extension or repayment plan relating to the loan and any grace period that complies with the provisions of NRS 604A.210, provided that the due date of the extension or repayment plan does not violate the provisions of this chapter.]

2. A default occurs on the day immediately following the date of the customer's failure to perform as described in subsection 1.

Sec. 3. NRS 604A.070 is hereby amended to read as follows:

604A.070 1. "Grace period" means any period of deferment offered gratuitously by a licensee to a customer if the licensee complies with the provisions of NRS 604A.210.

2. The term does not include an extension of a loan.

Sec. 3.5. NRS 604A.0703 is hereby amended to read as follows:

604A.0703 1. "High-interest loan" means a loan made to a customer pursuant to a loan agreement which, under its original terms, charges an annual percentage rate of more than 40 percent.

2. The term includes, without limitation, any single-payment loan, installment loan, ~~for~~ open-ended loan or contract for the lease of an animal for a purpose other than a business, commercial or agricultural purpose which, under ~~its~~ the original terms ~~of~~ of the loan or contract, charges an annual percentage rate of more than 40 percent.

3. The term does not include:

- (a) A deferred deposit loan;
- (b) A refund anticipation loan; or
- (c) A title loan.

Sec. 4. NRS 604A.210 is hereby amended to read as follows:

604A.210 The provisions of this chapter do not prohibit a licensee from offering a customer a grace period on the repayment of a loan or an extension of a loan, except that the licensee shall not ~~charge~~ ~~for~~

~~1. Charge the customer:~~

~~1. Any fees, interest, costs or anything else of value during such a grace period or for granting such a grace period; or~~

~~2. Any additional fees or additional interest on the outstanding loan during~~ **Condition the granting of such a grace period . on the customer making any new loan agreement or adding any addendum or term to an existing loan agreement.** **grant a grace period for the purpose of artificially increasing the amount which a customer would otherwise qualify to borrow.**

Sec. 5. NRS 604A.405 is hereby amended to read as follows:

604A.405 1. A licensee shall post in a conspicuous place in every location at which the licensee conducts business under his or her license:

(a) A notice that states the fees the licensee charges for providing check-cashing services, deferred deposit loan services, high-interest loan services or title loan services.

(b) ***A notice that states that if the customer defaults on a loan, the licensee must offer a repayment plan to the customer before the licensee commences any civil action or process of alternative dispute resolution or repossesses a vehicle.***

(c) A notice that states a toll-free telephone number to the Office of the Commissioner to handle concerns or complaints of customers.

(d) ***A notice that states the process for filing a complaint with the Commissioner.***

➡ The Commissioner shall adopt regulations prescribing the form and size of the notices required by this subsection.

2. If a licensee offers loans to customers at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except for an automated loan machine prohibited by NRS 604A.400, the licensee shall, as appropriate to the location or method for making the loan, post in a conspicuous place where customers will see it before they enter into a loan, or disclose in an open and obvious manner to customers before they enter into a loan, a notice that states:

(a) The types of loans the licensee offers and the fees he or she charges for making each type of loan; and

(b) A list of the states where the licensee is licensed or authorized to conduct business from outside this State with customers located in this State.

3. A licensee who provides check-cashing services shall give written notice to each customer of the fees he or she charges for cashing checks. The customer must sign the notice before the licensee provides the check-cashing service.

Sec. 5.5. NRS 604A.408 is hereby amended to read as follows:

604A.408 1. Except as otherwise provided in this chapter, the original term of a deferred deposit loan or high-interest loan must not exceed 35 days.

2. The original term of a high-interest loan may be up to 90 days if:

- (a) The loan provides for payments in installments;
- (b) The payments are calculated to ratably and fully amortize the entire amount of principal and interest payable on the loan;
- (c) The loan is not subject to any extension; ~~and~~
- (d) The loan does not require a balloon payment of any kind ~~or~~; **and**
- (e) The loan is not a deferred deposit loan.**

3. Notwithstanding the provisions of NRS 604A.480, a licensee shall not agree to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding deferred deposit loan or high-interest loan for a period that exceeds 90 days after the date of origination of the loan.

Sec. 6. NRS 604A.440 is hereby amended to read as follows:

604A.440 A licensee shall not:

1. Use or threaten to use the criminal process in this State or any other state, or any civil process not available to creditors generally, to collect on a loan made to a customer.

2. Commence a civil action or any process of alternative dispute resolution or repossess a vehicle before the customer defaults under the original term of a loan agreement or before the customer defaults under any repayment plan ~~or~~ **or** extension ~~for grace period~~ negotiated and agreed to by the licensee and customer, unless otherwise authorized pursuant to this chapter.

3. Take any confession of judgment or any power of attorney running to the licensee or to any third person to confess judgment or to appear for the customer in a judicial proceeding.

4. Include in any written agreement:

- (a) A promise by the customer to hold the licensee harmless;
- (b) A confession of judgment by the customer;
- (c) An assignment or order for the payment of wages or other compensation due the customer; or
- (d) A waiver of any claim or defense arising out of the loan agreement or a waiver of any provision of this chapter. The provisions of this paragraph do not apply to the extent preempted by federal law.

5. Engage in any deceptive trade practice, as defined in chapter 598 of NRS, including, without limitation, making a false representation.

6. Advertise or permit to be advertised in any manner any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for loans.

7. **Reinitiate an electronic debit transaction that has been returned by a customer's bank except in accordance with the rules prescribed by the National Automated Clearing House Association or its successor organization.**

8. Use or attempt to use any agent, affiliate or subsidiary to avoid the requirements or prohibitions of this chapter.

Sec. 6.5. NRS 604A.445 is hereby amended to read as follows:

604A.445 Notwithstanding any other provision of this chapter to the contrary:

1. The original term of a title loan must not exceed 30 days.
2. The title loan may be extended for not more than six additional periods of extension, with each such period not to exceed 30 days, if:
 - (a) Any interest or charges accrued during the original term of the title loan or any period of extension of the title loan are not capitalized or added to the principal amount of the title loan during any subsequent period of extension;
 - (b) The annual percentage rate charged on the title loan during any period of extension is not more than the annual percentage rate charged on the title loan during the original term; and
 - (c) No additional origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fees, are charged in connection with any extension of the title loan.

3. The original term of a title loan may be up to 210 days if:
 - (a) The loan provides for payments in installments;
 - (b) The payments are calculated to ratably and fully amortize the entire amount of principal and interest payable on the loan;
 - (c) The loan is not subject to any extension; ~~and~~
 - (d) The loan does not require a balloon payment of any kind ~~for~~; **and**
 - (e) The loan is not a deferred deposit loan.**

Sec. 7. NRS 604A.450 is hereby amended to read as follows:

604A.450 A licensee who makes title loans shall not:

1. Make a title loan that exceeds the fair market value of the vehicle securing the title loan.
2. ***Make a title loan to a customer secured by a vehicle which is not legally owned by the customer.***
3. ~~Make a title loan without regard to the ability of the customer seeking the title loan to repay the title loan, including the customer's current and expected income, obligations and employment.~~
- ~~3.1 determining that the customer has the ability to repay the title loan, as required by section ~~44~~ 1.3 of this act. In complying with this subsection, the licensee shall not consider the income of any person who is not a legal~~

owner of the vehicle securing the title loan ~~for~~ but may consider a customer's community income and the income of any other customers who consent to the loan pursuant to subsection 5 and enter into a loan agreement with the licensee.

4. Make a title loan without requiring the customer to sign an affidavit which states that:

(a) The customer has provided the licensee with true and correct information concerning the customer's income, obligations, employment and ownership of the vehicle; and

(b) The customer has the ability to repay the title loan.

5. Make a title loan secured by a vehicle with multiple legal owners without the consent of each owner.

Sec. 8. NRS 604A.930 is hereby amended to read as follows:

604A.930 1. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, if a person violates any provision of NRS 604A.400, 604A.410 to 604A.500, inclusive, ~~and section 4~~ **sections 1.3 and 1.7 of this act**, 604A.610, 604A.615, 604A.650 or 604A.655 or any regulation adopted pursuant thereto, the customer may bring a civil action against the person for:

(a) Actual and consequential damages;

(b) Punitive damages, which are subject to the provisions of NRS 42.005;

(c) Reasonable attorney's fees and costs; and

(d) Any other legal or equitable relief that the court deems appropriate.

2. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, the customer may bring a civil action against a person pursuant to subsection 1 to recover an additional amount, as statutory damages, which is equal to \$1,000 for each violation if the person knowingly:

(a) Operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service without a license, in violation of NRS 604A.400;

(b) Fails to include in a loan agreement a disclosure of the right of the customer to rescind the loan, in violation of NRS 604A.410;

(c) Violates any provision of NRS 604A.420;

(d) Accepts collateral or security for a deferred deposit loan, in violation of NRS 604A.435, except that a check or written authorization for an electronic transfer of money shall not be deemed to be collateral or security for a deferred deposit loan;

(e) Uses or threatens to use the criminal process in this State or any other state to collect on a loan made to the customer, in violation of NRS 604A.440;

(f) Includes in any written agreement a promise by the customer to hold the person harmless, a confession of judgment by the customer or an assignment or order for the payment of wages or other compensation due the customer, in violation of NRS 604A.440;

- (g) Violates any provision of NRS 604A.485;
- (h) Violates any provision of NRS 604A.490; or
- (i) Violates any provision of NRS 604A.442.

3. A person may not be held liable in any civil action brought pursuant to this section if the person proves, by a preponderance of evidence, that the violation:

- (a) Was not intentional;
- (b) Was technical in nature; and
- (c) Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

4. For the purposes of subsection 3, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to the person's obligations under this chapter is not a bona fide error.

Sec. 9. Any contract or agreement entered into pursuant to chapter 604A of NRS before July 1, 2017, remains in effect in accordance with the provisions of the contract or agreement.

Sec. 10. This act becomes effective on July 1, 2017.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 165.

Bill read second time.

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

Amendment No. 532.

AN ACT relating to long-term care; providing for the licensure of certain persons as health services executives; authorizing the holder of such a license to perform the functions of an administrator of a residential facility for groups and a nursing facility administrator; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of Examiners for Long-Term Care Administrators to license and regulate two classes of licensees: administrators of residential facilities for groups and nursing facility administrators. (NRS 654.150, 654.155) This bill additionally provides for the licensure and regulation of health services executives, who have the powers and duties prescribed for both existing types of administrators. **Section 4** of this bill prescribes the requirements for licensure as a health services executive. **Section 9** of this bill authorizes the Board to establish by regulation the fee to apply for such a license.

Sections 4, 16 and 17 of this bill provide that a licensed health services executive has the rights and duties of an administrator of a residential facility for groups and a nursing facility administrator. **Sections 7 and 10-13** of this bill make conforming changes so that existing provisions relating to nursing facility administrators and administrators of residential facilities for groups also apply to health services executives. **Section 14** of this bill ~~provides that certain provisions governing the reinstatement of~~ **authorizes the Board to adopt regulations regarding the reinstatement of** the ~~suspended~~ license of ~~an administrator of a residential facility for groups do not apply to~~ a health services executive. **Section 15** of this bill authorizes a health services executive to serve as the administrator for a veterans' home.

Existing law provides for the appointment to the Board of two nursing facility administrators and two administrators of residential facilities for groups. (NRS 654.060) **Section 6** of this bill authorizes a health services executive who acts as either a nursing facility administrator or the administrator of a residential facility for groups to serve as a member of the Board in the capacity in which he or she is acting.

Existing law requires the Board to maintain, for each type of licensee, separate registers of applicants for licensure and licensed persons. (NRS 654.130) **Section 8** of this bill makes this requirement applicable to persons who apply for or are licensed as health services executives.

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

Section 1. Chapter 654 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *“Health services executive” means a person who is licensed as such pursuant to this chapter.*

Sec. 3. *“Licensee” means a person who is licensed pursuant to this chapter as an administrator of a residential facility for groups, a nursing facility administrator or a health services executive.*

Sec. 4. 1. *Each applicant for licensure as a health services executive pursuant to this chapter must:*

(a) Submit with the application:

(1) Evidence of having satisfied the requirements of the National Association of Long Term Care Administrator Boards for qualification as a health services executive;

(2) 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; and

(3) A fee to cover the actual cost of obtaining the report from the Federal Bureau of Investigation.

(b) Meet such other standards and qualifications as the Board may from time to time establish.

(c) *Submit all other information required to complete the application.*

2. *Except as otherwise provided by specific statute, a licensed health services executive has the powers and duties of a licensed administrator of a residential facility for groups and a licensed nursing facility administrator.*

Sec. 5. NRS 654.010 is hereby amended to read as follows:

654.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 654.015 to 654.031, inclusive, **and sections 2 and 3 of this act** have the meanings ascribed to them in those sections.

Sec. 6. NRS 654.060 is hereby amended to read as follows:

654.060 The Governor shall appoint:

1. Two members who are **licensees serving as** nursing facility administrators.

2. One member who is **a licensee serving as** an administrator of a residential facility for groups with less than seven clients.

3. One member who is **a licensee serving as** an administrator of a residential facility for groups with seven or more clients.

4. One member who is a member of the medical or paramedical professions.

5. One member who is a representative of the general public. This member must not be ~~the~~:

~~—(a) A nursing facility administrator or an administrator of a residential facility for groups; or~~

~~—(b) The spouse or the parent or child, by blood, marriage or adoption, of a nursing facility administrator or an administrator of a residential facility for groups.~~ **licensee.**

Sec. 7. NRS 654.110 is hereby amended to read as follows:

654.110 1. In a manner consistent with the provisions of chapter 622A of NRS, the Board shall:

(a) Develop, impose and enforce standards which must be met by persons to receive licenses as nursing facility administrators, ~~for~~ administrators of residential facilities for groups ~~and~~ **and health services executives**. The standards must be designed to ensure that ~~nursing facility administrators or persons acting as administrators of residential facilities for groups~~ **licensees** will be persons who are of good character and otherwise suitable, and who, by training or experience in their respective fields of administering health care facilities, are qualified to serve as nursing facility administrators or administrators of residential facilities for groups.

(b) Develop and apply appropriate techniques, including examinations and investigations, for determining whether a person meets those standards. The member of the Board who is a representative of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

(c) Issue licenses to persons determined, after the application of appropriate techniques, to meet those standards.

(d) Revoke or suspend licenses previously issued by the Board in any case if the person holding the license is determined substantially to have failed to conform to the requirements of the standards.

(e) Establish and carry out procedures designed to ensure that ~~persons licensed as nursing facility administrators or administrators of residential facilities for groups~~ **licensees** will, during any period they serve as ~~such,~~ **nursing facility administrators or administrators of residential facilities for groups**, comply with the requirements of the standards.

(f) Receive, investigate and take appropriate action with respect to any charge or complaint filed with the Board to the effect that any person has failed to comply with the requirements of the standards. Except as otherwise provided in this paragraph, the Board shall initiate an investigation of any charge or complaint filed with the Board within 30 days after receiving the charge or complaint. A complaint may be filed anonymously. If a complaint is filed anonymously, the Board may accept the complaint but may refuse to consider the complaint if anonymity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

(g) Conduct a continuing study of:

(1) Facilities for skilled nursing, facilities for intermediate care and their administrators; and

(2) Residential facilities for groups and their administrators,
 ➔ with a view to the improvement of the standards imposed for the licensing of **nursing facility administrators, administrators of residential facilities for groups and health services executives** and of procedures and methods for the enforcement of the standards.

(h) Conduct or approve, or both, a program of training and instruction designed to enable all persons to obtain the qualifications necessary to meet the standards set by the Board for qualification as a nursing facility administrator, ~~for~~ an administrator of a residential facility for groups ~~or~~ **or a health services executive.**

2. Except as otherwise provided in this section, all records kept by the Board, not otherwise privileged or confidential, are public records.

3. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

4. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all other documents and

information considered by the Board when determining whether to impose discipline are public records.

5. The Board shall, to the extent feasible, communicate or cooperate with or provide any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 8. NRS 654.130 is hereby amended to read as follows:

654.130 The Board shall:

1. Maintain ~~{a}~~ separate ~~{register}~~ **registers** of all applications for licensure as a nursing facility administrator , ~~{and a separate register of all applications for licensure as}~~ an administrator of a residential facility for groups ~~{,}~~ **or a health services executive**. Each register must include:

(a) The name, age and place of residence of the applicant.

(b) If the register is for:

(1) Nursing facility administrators, the name and address of the facility for skilled nursing or facility for intermediate care of which the applicant is to be administrator.

(2) Administrators of residential facilities for groups, the name and address of each residential facility for groups of which the applicant is to be administrator.

(3) Health services executives, the name and address of each facility for skilled nursing, facility for intermediate care or residential facility for groups of which the applicant is to be administrator.

(c) The date of the application.

(d) The date the application was reviewed and the action taken on the application.

(e) The serial number of the license, if any, issued to the applicant.

(f) Such other information as the Board may deem pertinent.

2. Maintain ~~{a}~~ separate ~~{register}~~ **registers** of all **persons licensed pursuant to this chapter as** nursing facility administrators , ~~{and a separate register of all}~~ administrators of residential facilities for groups ~~{licensed pursuant to this chapter}~~ **or health services executives**, showing the status of each license.

Sec. 9. NRS 654.140 is hereby amended to read as follows:

654.140 1. The Board shall prescribe and furnish an application form for the use of all persons who desire to be licensed pursuant to this chapter.

2. All applications filed with the Board must be accompanied by all information required to complete the application and the required fee fixed by the Board in an amount not to exceed:

(a) For an administrator of a residential facility for groups, \$150.

(b) For a nursing facility administrator, \$250.

(c) For a health services executive, the amount prescribed by regulation of the Board.

3. The Board may fix and charge an additional fee to cover the cost of administering the examinations if the Board determines that there is not sufficient money from other sources to cover such costs.

Sec. 10. NRS 654.145 is hereby amended to read as follows:

654.145 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license ~~as a nursing facility administrator or an administrator of a residential facility for groups shall~~ **pursuant to this chapter must** 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 ~~as a nursing facility administrator or an administrator of a residential facility for groups shall~~ **pursuant to this chapter must** submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license ~~as a nursing facility administrator or an administrator of a residential facility for groups~~ 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. 11. NRS 654.170 is hereby amended to read as follows:

654.170 1. The Board shall issue a numbered license, in such form as it may prescribe, to each applicant who meets the requirements of NRS 654.150 or 654.155 **or section 4 of this act** and shall affix its official seal to the license.

2. Each license issued by the Board pursuant to this chapter expires 2 years after the last day of the calendar month in which it was issued and may be renewed on or before that date biennially.

3. Any ~~licensed nursing facility administrator or administrator of a residential facility for groups~~ **licensee** may renew his or her license by applying for renewal in the manner prescribed by the Board, paying the renewal fee fixed by the Board and submitting all information required to complete the renewal.

4. The Board shall, as a prerequisite for the renewal of a license, require each holder to comply with:

- (a) The requirements for continuing education adopted by the Board; and
- (b) The duties of the administrator set forth in NRS 449.094.

Sec. 12. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and an opportunity for a hearing as required by law, impose an administrative fine of not more than \$10,000 for each violation on, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the license of, and place on probation or impose any combination of the foregoing on any ~~nursing facility administrator or administrator of a residential facility for groups~~ **licensee** who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his or her license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.030 to 449.2428, inclusive, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for ~~nursing facility administrators or administrators of residential facilities for groups~~ **licensees**, including, without limitation, a code of ethics.

(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the ~~nursing facility administrator or administrator of a residential facility for groups~~ **licensee** and the patient or resident for the financial or other gain of the licensee.

2. If a licensee requests a hearing pursuant to subsection 1, the Board shall give the licensee written notice of a hearing pursuant to NRS 233B.121 and 241.034. A licensee may waive, in writing, his or her right to attend the hearing.

3. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Chair of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant

to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

5. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

Sec. 13. NRS 654.193 is hereby amended to read as follows:

654.193 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 as a nursing facility administrator or an administrator of a residential facility for groups,~~ **licensee**, the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license ~~as a nursing facility administrator or an administrator of a residential facility for groups,~~ 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 was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 14. NRS 654.195 is hereby amended to read as follows:

654.195 1. Except as otherwise provided in subsection 2, the Board may reinstate the license of an administrator of a residential facility for groups that has been suspended by the Board if:

(a) A majority of the members of the Board vote in favor of the reinstatement; or

(b) The person who held the license reapplies for a license as an administrator of a residential facility for groups pursuant to NRS 654.140 and the Board determines that the person meets the requirements of NRS 654.155.

2. The Board may reinstate a license of an administrator of a residential facility for groups that has been suspended pursuant to NRS 425.540 only if the holder of the license complies with the requirements for reinstatement set forth in NRS 654.193.

3. In a manner consistent with the provisions of chapter 622A of NRS, the Board may reinstate the license of an administrator of a residential

facility for groups that has been revoked by the Board if all of the members of the Board vote in favor of reinstatement.

4. The ~~provisions of this section do not apply to~~ Board may reinstate a license as a health services executive ~~if~~ pursuant to regulations adopted by the Board.

Sec. 15. NRS 417.147 is hereby amended to read as follows:

417.147 1. The Director shall:

(a) Appoint an administrator for each veterans' home in this State. Each administrator must be licensed as a nursing facility administrator **or health services executive** pursuant to NRS 654.170.

(b) Take such other actions as are necessary for the management, maintenance and operation of veterans' homes in this State, including, without limitation, establishing and implementing rules, policies and procedures for such management, maintenance and operation.

(c) Apply for federal grants and other sources of money available for establishing veterans' homes. A federal grant must be used only as permitted by the terms of the grant.

2. With the advice of the Nevada Veterans Services Commission, the Director shall, on or before April 1 of each calendar year, recommend to the State Board of Examiners a schedule of rates to be charged for occupancy of rooms at each veterans' home in this State during the following fiscal year. The State Board of Examiners shall establish the schedule of rates. In setting the rates, the State Board of Examiners shall consider the recommendations of the Director, but is not bound to follow the recommendations of the Director.

3. The first veterans' home that is established in this State must be established at a location in southern Nevada determined to be appropriate by the Interim Finance Committee. The Interim Finance Committee shall give preference to a site that is zoned appropriately for the establishment of a veterans' home, that affords minimum costs of maintenance and that is located in an area where the members of the families of the veterans can easily visit the veterans' home. The site for the construction of the veterans' home in southern Nevada must be:

(a) Located in reasonable proximity to:

(1) A public transportation system;

(2) Shopping centers; and

(3) A major hospital that has a center for the treatment of trauma which is designated as a level II center by the Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services.

(b) Not less than 5 acres in area.

4. If an additional veterans' home is authorized, it must be established in northern Nevada.

Sec. 16. NRS 449.186 is hereby amended to read as follows:

449.186 A residential facility for groups must not be operated except under the supervision of an administrator of a residential facility for groups **or a health services executive** licensed pursuant to the provisions of chapter 654 of NRS.

Sec. 17. NRS 449.187 is hereby amended to read as follows:

449.187 1. Except as otherwise provided in subsection 2, a facility for skilled nursing or facility for intermediate care licensed pursuant to the provisions of NRS 449.030 to 449.2428, inclusive, may not be operated except under the supervision of a nursing facility administrator **or a health services executive** who is at the facility and licensed under the provisions of chapter 654 of NRS.

2. The provisions of subsection 1 do not apply to a facility for intermediate care which limits its care and treatment to those persons with intellectual disabilities or conditions related to intellectual disabilities.

Sec. 18. This act becomes effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on January 1, 2018, for all other purposes.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 175.

Bill read second time.

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

Amendment No. 540.

SUMMARY—~~[Requires]~~ **Prescribes** certain ~~[increases in]~~ **requirements for health benefits for the purpose of determining** the minimum wage paid to employees in private employment in this State. (BDR 53-866)

AN ACT relating to employment; ~~[requiring]~~ **prescribing** certain ~~[increases in]~~ **requirements for health benefits for the purpose of determining** the minimum wage paid to employees in private employment in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law requires the Labor Commissioner, in accordance with federal law, to establish by regulation the minimum wage that may be paid per hour to an employee in private employment in this State. (NRS 608.250)]~~

Section 16 of article 15 of the Nevada Constitution requires each employer in this State to pay a certain minimum wage to each employee of the employer. Under this provision of the Nevada Constitution, if an employer offers health benefits to an employee and his or her dependents, the minimum wage required to be paid to the employee is

lower than the minimum wage otherwise required to be paid to the employee. (Nev. Const. Art. 15, § 16) ~~This bill requires the Labor Commissioner, in adopting those regulations, to ensure that the minimum wage for the employee is increased by at least \$1.25 each year until the minimum wage: (1) is \$15 or more, if the employer of the employee does not offer health insurance for the employee in accordance with regulations adopted by the Labor Commissioner; and (2) is \$14 or more, if the employer of the employee offers health insurance for the employee in accordance with regulations adopted by the Labor Commissioner.~~ establishes the minimum level of health benefits that an employer must make available to an employee and his or her dependents for the purpose of determining whether the employer is authorized to pay the lower minimum wage to the employee.

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

Section 1. Chapter 608 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[In adopting the regulations establishing] For the purpose of determining the minimum wage that may be paid per hour to an employee in private employment pursuant to Section 16 of Article 15 of the Nevada Constitution and NRS 608.250, [the Labor Commissioner shall ensure that the minimum wage for each employee to whom those regulations apply is increased by at least \$1.25 each year until the minimum wage that may be paid per hour pursuant to NRS 608.250 is:~~

~~1. If the employer of the employee does not offer health insurance for the employee in accordance with regulations adopted by the Labor Commissioner, \$15 or more; and~~

~~2. If the employer of the employee offers health insurance for the employee in accordance with regulations adopted by the Labor Commissioner, \$14 or more.] an employer provides health benefits as described in Section 16 of Article 15 of the Nevada Constitution only if the employer makes available to the employee and the employee's dependents health benefits that:~~

1. Comply with the essential health benefits requirements set forth in 42 U.S.C. § 18022(a)(1) and (2), as those provisions exist on the effective date of this act, and provide a level of coverage that is described in 42 U.S.C. § 18022(d), as that provision exists on the effective date of this act;
or

2. Provide health benefits pursuant to a Taft-Hartley trust which is formed pursuant to 29 U.S.C. § 186(c)(5) and qualifies as an employee welfare benefits plan pursuant to:

(a) The Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.; or

(b) The provisions of the Internal Revenue Code.

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

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 179.

Bill read second time.

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

Amendment No. 553.

AN ACT relating to massage therapy; changing the name of the Board of Massage Therapists to the Board of Massage Therapy; authorizing the Board to issue a license and a temporary license to practice reflexology and structural integration; requiring the Board to adopt regulations concerning the certification of a massage, reflexology and structural integration establishment; authorizing a local government to license and regulate a massage, reflexology and structural integration establishment; requiring that the Board consist of nine members; requiring the Board to adopt certain additional regulations; providing that a license is valid for 2 years; increasing the fee amount for the renewal of a license; creating a fee for the issuance and renewal of the certification of a massage, reflexology and structural integration establishment; **authorizing the Board to establish different fee amounts for different types of licenses;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Board of Massage Therapists to issue a license to practice massage therapy and provides the requirements that an applicant for a license must satisfy in order to become licensed. (NRS 640C.400)

Section 7 of this bill authorizes the Board to issue a license to practice reflexology. **Section 9** of this bill authorizes the Board to issue a license to practice structural integration. **Section 20** of this bill makes conforming changes to existing law regarding the issuance of a license to practice massage therapy.

Existing law authorizes the Board to issue a temporary license to practice massage therapy and provides the requirements that an applicant for a temporary license must satisfy in order to become licensed. (NRS 640C.410)

Section 8 of this bill authorizes the Board to issue a temporary license to practice reflexology. **Section 10** of this bill authorizes the Board to issue a temporary license to practice structural integration.

Section 11 of this bill requires the Board to adopt regulations that prescribe the requirements for the certification and operation of a massage, reflexology and structural integration establishment. **Section 11** additionally authorizes a local government to license and regulate a massage, reflexology

and structural integration establishment in a manner that is more stringent than the regulations adopted by the Board. **Section 11** further requires that the Board and local governments have concurrent jurisdiction over the **licensure and** regulation of massage, reflexology and structural integration establishments and provides that if there is a conflict between a regulation of the Board and a requirement of a local government, the requirement of a local government prevails to the extent that the requirement provides a more stringent or specific requirement regarding the regulation of a massage, reflexology and structural integration establishment. **Section 16** of this bill makes conforming changes.

Existing law creates the Board of Massage Therapists, consisting of seven members. (NRS 640C.150) **Sections 14 and 17** of this bill change the name of the Board to the Board of Massage Therapy. **Sections ~~[24, 37 and] 40-43~~** of this bill make conforming changes.

Section 17 of this bill changes the composition of the Board so that it consists of nine members and requires that one member be licensed to practice reflexology in this State and that one member be licensed to practice structural integration in this State.

Existing law requires the Board to adopt regulations to carry out the provisions relating to massage therapy. (NRS 640C.320) **Section 19** of this bill requires the Board to adopt additional regulations that: (1) establish the standards for licensure as a massage therapist, reflexologist or structural integration practitioner; and (2) establish the standards and curriculum for schools of massage therapy, reflexology and structural integration.

Existing law specifies that each license is valid for 1 year and expires on the last day of the month in which it was issued. (NRS 640C.500) **Section 26** of this bill provides that each license is valid for 2 years.

Existing law requires the Board to establish a schedule of fees and charges and requires that the fee for the renewal of a license does not exceed \$200. (NRS 640C.520) **Section 28** of this bill increases this limit to \$350. **Section 28** additionally creates a \$50 limit on the fees for the issuance and renewal of a certification of a massage, reflexology and structural integration establishment. **Section 28 further authorizes the Board to adopt regulations that establish different fees for different types of licenses.**

Existing law requires the Board to impose an administrative fine if a licensee has engaged in or solicited sexual activity during the course of practicing massage. (NRS 640C.712) **Section 30** of this bill instead authorizes the Board to impose such an administrative fine.

Existing law authorizes the Board to issue a license by endorsement to practice massage therapy to an applicant who holds a valid and unrestricted license to practice massage therapy in the District of Columbia or any state or territory of the United States. (NRS 640C.425) **Existing law additionally requires the Board of Massage Therapists and the State Board of Cosmetology to reduce duplication in the licensing procedure for a qualified applicant who is applying to both Boards for a license to**

practice as a massage therapist and as a cosmetologist. (NRS 640C.440, 644.191) Section 47 of this bill repeals ~~this provision,~~ these provisions. Sections 20 and 20.5 of this bill make conforming changes.

Sections 1, 12, 18, 21-23, 25, 27, 29, 31-36, 38 and 39 of this bill make conforming changes relating to reflexology and structural integration.

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

Section 1. NRS 629.580 is hereby amended to read as follows:

629.580 1. A person who provides wellness services in accordance with this section, but who is not licensed, certified or registered in this State as a provider of health care, is not in violation of any law based on the unlicensed practice of health care services or a health care profession unless the person:

- (a) Performs surgery or any other procedure which punctures the skin of any person;
- (b) Sets a fracture of any bone of any person;
- (c) Prescribes or administers X-ray radiation to any person;
- (d) Prescribes or administers a prescription drug or device or a controlled substance to any person;
- (e) Recommends to a client that he or she discontinue or in any manner alter current medical treatment prescribed by a provider of health care licensed, certified or registered in this State;
- (f) Makes a diagnosis of a medical disease of any person;
- (g) Performs a manipulation or a chiropractic adjustment of the articulations of joints or the spine of any person;
- (h) Treats a person's health condition in a manner that intentionally or recklessly causes that person recognizable and imminent risk of serious or permanent physical or mental harm;
- (i) Holds out, states, indicates, advertises or implies to any person that he or she is a provider of health care;
- (j) Engages in the practice of medicine in violation of chapter 630 or 633 of NRS, the practice of homeopathic medicine in violation of chapter 630A of NRS or the practice of podiatry in violation of chapter 635 of NRS, unless otherwise expressly authorized by this section;
- (k) Performs massage therapy as that term is defined in NRS 640C.060 ~~to~~, **reflexology as that term is defined in section 3 of this act or structural integration as that term is defined in section 5 of this act;** or
- (l) Provides mental health services that are exclusive to the scope of practice of a psychiatrist licensed pursuant to chapter 630 or 633 of NRS, or a psychologist licensed pursuant to chapter 641 of NRS.

2. Any person providing wellness services in this State who is not licensed, certified or registered in this State as a provider of health care and who is advertising or charging a fee for wellness services shall, before

providing those services, disclose to each client in a plainly worded written statement:

- (a) The person's name, business address and telephone number;
- (b) The fact that he or she is not licensed, certified or registered as a provider of health care in this State;
- (c) The nature of the wellness services to be provided;
- (d) The degrees, training, experience, credentials and other qualifications of the person regarding the wellness services to be provided; and
- (e) A statement in substantially the following form:

It is recommended that before beginning any wellness plan, you notify your primary care physician or other licensed providers of health care of your intention to use wellness services, the nature of the wellness services to be provided and any wellness plan that may be utilized. It is also recommended that you ask your primary care physician or other licensed providers of health care about any potential drug interactions, side effects, risks or conflicts between any medications or treatments prescribed by your primary care physician or other licensed providers of health care and the wellness services you intend to receive.

➔ A person who provides wellness services shall obtain from each client a signed copy of the statement required by this subsection, provide the client with a copy of the signed statement at the time of service and retain a copy of the signed statement for a period of not less than 5 years.

3. A written copy of the statement required by subsection 2 must be posted in a prominent place in the treatment location of the person providing wellness services in at least 12-point font. Reasonable accommodations must be made for clients who:

- (a) Are unable to read;
- (b) Are blind or visually impaired;
- (c) Have communication impairments; or
- (d) Do not read or speak English or any other language in which the statement is written.

4. Any advertisement for wellness services authorized pursuant to this section must disclose that the provider of those services is not licensed, certified or registered as a provider of health care in this State.

5. A person who violates any provision of this section is guilty of a misdemeanor. Before a criminal proceeding is commenced against a person for a violation of a provision of this section, a notification, educational or mediative approach must be utilized by the regulatory body enforcing the provisions of this section to bring the person into compliance with such provisions.

6. This section does not apply to or control:

- (a) Any health care practice by a provider of health care pursuant to the professional practice laws of this State, or prevent such a health care practice from being performed.

(b) Any health care practice if the practice is exempt from the professional practice laws of this State, or prevent such a health care practice from being performed.

(c) A person who provides health care services if the person is exempt from the professional practice laws of this State, or prevent the person from performing such a health care service.

(d) A medical assistant, as that term is defined in NRS 630.0129 and 633.075, an advanced practitioner of homeopathy, as that term is defined in NRS 630A.015, or a homeopathic assistant, as that term is defined in NRS 630A.035.

7. As used in this section, “wellness services” means healing arts therapies and practices, and the provision of products, that are based on the following complementary health treatment approaches and which are not otherwise prohibited by subsection 1:

- (a) Anthroposophy.
- (b) Aromatherapy.
- (c) Traditional cultural healing practices.
- (d) Detoxification practices and therapies.
- (e) Energetic healing.
- (f) Folk practices.
- (g) Gerson therapy and colostrum therapy.
- (h) Healing practices using food, dietary supplements, nutrients and the physical forces of heat, cold, water and light.
- (i) Herbology and herbalism.
- (j) ~~Reflexology and~~ Reiki.
- (k) Mind-body healing practices.
- (l) Nondiagnostic iridology.
- (m) Noninvasive instrumentalities.
- (n) Holistic kinesiology.

Sec. 2. Chapter 640C of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 11, inclusive, of this act.

Sec. 3. *“Reflexologist” means a person who is licensed pursuant to the provisions of this chapter to engage in the practice of reflexology.*

Sec. 4. *“Reflexology” means the application of a system of pressure to the feet, ears and hands of the human body.*

Sec. 5. 1. *“Structural integration” means the application of a system of manual therapy, movement education and embodiment education that is intended to ~~to~~*

- ~~1. Improve the structural alignment of the human body;~~
- ~~2. Enhance the ease of movement of the human body; and~~
- ~~3. Improve the functional relationship of the parts of the human body to each other within the influences of gravity.~~

2. *The term does not include:*

- (a) The practice of physical therapy, as defined in NRS 640.024; or*

(b) The practice of chiropractic, as defined in NRS 634.013, including, without limitation, chiropractic adjustment or manipulation, as defined in NRS 634.014 and 634.0173, respectively.

Sec. 6. “Structural integration practitioner” means a person who is licensed pursuant to the provisions of this chapter to engage in the practice of structural integration.

Sec. 7. 1. The Board may issue a license to practice reflexology.

2. An applicant for a license must:

(a) Be at least 18 years of age;

(b) Except as otherwise provided in NRS 640C.426, submit to the Board:

(1) A completed application on a form prescribed by the Board;

(2) The fees prescribed by the Board pursuant to NRS 640C.520;

(3) Proof that the applicant has successfully completed a program of reflexology recognized by the Board;

(4) A certified statement issued by the licensing authority in each state, territory or possession of the United States or the District of Columbia in which the applicant is or has been licensed to practice reflexology verifying that:

(I) The applicant has not been involved in any disciplinary action relating to his or her license to practice reflexology; and

(II) Disciplinary proceedings relating to his or her license to practice reflexology are not pending;

(5) ~~Except as otherwise provided in NRS 640C.440, a~~ 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; and

(6) A statement authorizing the Board or its designee to conduct an investigation to determine the accuracy of any statements set forth in the application; and

(c) In addition to any examination required pursuant to NRS 640C.320 and except as otherwise provided in NRS 640C.426, pass a nationally recognized examination for testing the education and professional competency of reflexologists that is approved by the Board.

3. The Board:

(a) Shall recognize a program of reflexology that is:

(1) Approved by the Commission on Postsecondary Education; or

(2) Offered by a public college in this State or any other state; and

(b) May recognize other programs of reflexology.

4. Except as otherwise provided in NRS 640C.426, the Board or its designee shall:

(a) Conduct an investigation to determine:

(1) The reputation and character of the applicant;

(2) The existence and contents of any record of arrests or convictions of the applicant;

(3) *The existence and nature of any pending litigation involving the applicant that would affect his or her suitability for licensure; and*

(4) *The accuracy and completeness of any information submitted to the Board by the applicant.*

(b) *Report the results of the investigation of the applicant within the period the Board establishes by regulation pursuant to NRS 640C.320.*

(c) *Except as otherwise provided in NRS 239.0115, maintain the results of the investigation in a confidential manner for use by the Board and its members and employees in carrying out their duties pursuant to this chapter. The provisions of this paragraph do not prohibit the Board or its members or employees from communicating or cooperating with or providing any documents or other information to any other licensing board or any other federal, state or local agency that is investigating a person, including, without limitation, a law enforcement agency.*

Sec. 8. 1. *The Board may issue a temporary license to practice reflexology.*

2. *An applicant for a temporary license issued pursuant to this section must:*

(a) *Be at least 18 years of age; and*

(b) *Submit to the Board:*

(1) *A completed application on a form prescribed by the Board;*

(2) *The fees prescribed by the Board pursuant to NRS 640C.520;*

(3) *Proof that the applicant has successfully completed a program of reflexology recognized by the Board pursuant to section 7 of this act;*

(4) *Proof that the applicant:*

(I) *Has taken the examination required pursuant to section 7 of this act; or*

(II) *Is scheduled to take such an examination within 90 days after the date of application;*

(5) *An affidavit indicating that the applicant has not committed any of the offenses for which the Board may refuse to issue a license pursuant to NRS 640C.700;*

(6) *A certified statement issued by the licensing authority in each state, territory or possession of the United States or the District of Columbia in which the applicant is or has been licensed to practice reflexology verifying that:*

(I) *The applicant has not been involved in any disciplinary action relating to his or her license to practice reflexology; and*

(II) *Disciplinary proceedings relating to his or her license to practice reflexology are not pending; and*

(7) ~~*Except as otherwise provided in NRS 640C.440, a*~~ *A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.*

3. A temporary license issued pursuant to this section expires 90 days after the date the Board issues the temporary license. The Board shall not renew the temporary license.

4. A person who holds a temporary license:

(a) May practice reflexology only under the supervision of a fully licensed reflexologist and only in accordance with the provisions of this chapter and the regulations of the Board;

(b) Must comply with any other conditions, limitations and requirements imposed on the temporary license by the Board;

(c) Is subject to the regulatory and disciplinary authority of the Board to the same extent as a fully licensed reflexologist; and

(d) Remains subject to the regulatory and disciplinary authority of the Board after the expiration of the temporary license for all acts relating to the practice of reflexology which occurred during the period of temporary licensure.

5. As used in this section, “fully licensed reflexologist” means a person who holds a license to practice reflexology issued pursuant to NRS 640C.420 or section 7 of this act.

Sec. 9. 1. The Board may issue a license to practice structural integration.

2. An applicant for a license must:

(a) Be at least 18 years of age;

(b) Except as otherwise provided in NRS 640C.426, submit to the Board:

(1) A completed application on a form prescribed by the Board;

(2) The fees prescribed by the Board pursuant to NRS 640C.520;

(3) Proof that the applicant has successfully completed a program of structural integration recognized by the Board;

(4) A certified statement issued by the licensing authority in each state, territory or possession of the United States or the District of Columbia in which the applicant is or has been licensed to practice structural integration verifying that:

(I) The applicant has not been involved in any disciplinary action relating to his or her license to practice structural integration; and

(II) Disciplinary proceedings relating to his or her license to practice structural integration are not pending;

(5) ~~Except as otherwise provided in NRS 640C.440, a~~ 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; and

(6) A statement authorizing the Board or its designee to conduct an investigation to determine the accuracy of any statements set forth in the application; and

(c) In addition to any examination required pursuant to NRS 640C.320 and except as otherwise provided in NRS 640C.426, pass a nationally

recognized examination for testing the education and professional competency of structural integration practitioners that is approved by the Board.

3. The Board:

(a) Shall recognize a program of structural integration that is:

- (1) Approved by the Commission on Postsecondary Education; or*
- (2) Offered by a public college in this State or any other state; and*

(b) May recognize other programs of structural integration.

4. Except as otherwise provided in NRS 640C.426, the Board or its designee shall:

(a) Conduct an investigation to determine:

- (1) The reputation and character of the applicant;*
- (2) The existence and contents of any record of arrests or convictions of the applicant;*
- (3) The existence and nature of any pending litigation involving the applicant that would affect his or her suitability for licensure; and*
- (4) The accuracy and completeness of any information submitted to the Board by the applicant.*

(b) Report the results of the investigation of the applicant within the period the Board establishes by regulation pursuant to NRS 640C.320.

(c) Except as otherwise provided in NRS 239.0115, maintain the results of the investigation in a confidential manner for use by the Board and its members and employees in carrying out their duties pursuant to this chapter. The provisions of this paragraph do not prohibit the Board or its members or employees from communicating or cooperating with or providing any documents or other information to any other licensing board or any other federal, state or local agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 10. 1. The Board may issue a temporary license to practice structural integration.

2. An applicant for a temporary license issued pursuant to this section must:

(a) Be at least 18 years of age; and

(b) Submit to the Board:

- (1) A completed application on a form prescribed by the Board;*
- (2) The fees prescribed by the Board pursuant to NRS 640C.520;*
- (3) Proof that the applicant has successfully completed a program of structural integration recognized by the Board pursuant to section 9 of this act;*

(4) Proof that the applicant:

(I) Has taken the examination required pursuant to section 9 of this act; or

(II) Is scheduled to take such an examination within 90 days after the date of application;

(5) *An affidavit indicating that the applicant has not committed any of the offenses for which the Board may refuse to issue a license pursuant to NRS 640C.700;*

(6) *A certified statement issued by the licensing authority in each state, territory or possession of the United States or the District of Columbia in which the applicant is or has been licensed to practice structural integration verifying that:*

(I) The applicant has not been involved in any disciplinary action relating to his or her license to practice structural integration; and

(II) Disciplinary proceedings relating to his or her license to practice structural integration are not pending; and

(7) ~~*Except as otherwise provided in NRS 640C.440, a*~~ *A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.*

3. *A temporary license issued pursuant to this section expires 90 days after the date the Board issues the temporary license. The Board shall not renew the temporary license.*

4. *A person who holds a temporary license:*

(a) May practice structural integration only under the supervision of a fully licensed structural integration practitioner and only in accordance with the provisions of this chapter and the regulations of the Board;

(b) Must comply with any other conditions, limitations and requirements imposed on the temporary license by the Board;

(c) Is subject to the regulatory and disciplinary authority of the Board to the same extent as a fully licensed structural integration practitioner; and

(d) Remains subject to the regulatory and disciplinary authority of the Board after the expiration of the temporary license for all acts relating to the practice of structural integration which occurred during the period of temporary licensure.

5. *As used in this section, “fully licensed structural integration practitioner” means a person who holds a license to practice structural integration issued pursuant to NRS 640C.420 or section 9 of this act.*

Sec. 11. 1. *The Board shall adopt regulations that prescribe the requirements for the certification and operation of a massage, reflexology and structural integration establishment, including, without limitation, the:*

(a) Requirements for a massage, reflexology and structural integration establishment to obtain a certificate;

(b) Standards with which a massage, reflexology and structural integration establishment must comply; and

(c) Establishment of fees pursuant to NRS 640C.520 for the issuance and renewal of a certification of a massage, reflexology and structural integration establishment.

2. *The provisions of this section and any regulations adopted pursuant thereto do not prohibit a local government from licensing and regulating a massage, reflexology and structural integration establishment, including, without limitation, in a manner that is more stringent than the regulations adopted by the Board pursuant to this section.*

3. *Local governments have concurrent jurisdiction with the Board over the licensure and regulation of massage, reflexology and structural integration establishments.*

4. *If there is a conflict between a provision of the regulations adopted by the Board pursuant to this section and a requirement of a local government, the requirement of a local government prevails to the extent that the requirement provides a more stringent or specific requirement regarding the regulation of a massage, reflexology and structural integration establishment.*

5. *As used in this section, “massage, reflexology and structural integration establishment” means any premises, mobile unit, building or part of a building where massage therapy, reflexology or structural integration is practiced by a person or persons licensed pursuant to this chapter.*

Sec. 12. NRS 640C.010 is hereby amended to read as follows:

640C.010 The Legislature finds and declares that:

1. The practice of massage therapy , ***reflexology and structural integration*** by persons who do not possess sufficient knowledge of anatomy and physiology or an understanding of the relationship between the structure and function of the tissues being treated and the total function of the body may endanger the health, welfare and safety of the residents of this State.

2. To protect the residents of this State, it is necessary to license and regulate the practice of massage therapy ~~and~~ , ***reflexology and structural integration***.

Sec. 13. NRS 640C.020 is hereby amended to read as follows:

640C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 640C.030 to 640C.070, inclusive, ***and sections 3 to 6, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 14. NRS 640C.030 is hereby amended to read as follows:

640C.030 “Board” means the Board of Massage ~~Therapists~~ ***Therapy***.

Sec. 15. NRS 640C.060 is hereby amended to read as follows:

640C.060 1. “Massage therapy” means the application of a system of pressure to the muscular structure and soft tissues of the human body for therapeutic purposes, including, without limitation:

- (a) Effleurage;
- (b) Petrissage;
- (c) Tapotement;
- (d) Compressions;
- (e) Vibration;

(f) Friction; and

(g) Movements applied manually with or without superficial heat, cold, water or lubricants for the purpose of maintaining good health and establishing and maintaining good physical condition.

2. The term does not include:

(a) Diagnosis, adjustment, mobilization or manipulation of any articulations of the body or spine; or

(b) ~~Reflexology.~~ ***The demonstration of a product on a person that applies a system of pressure to the muscular structure and soft tissues of the human body, provided that the demonstration is not longer than 2 minutes.***

Sec. 16. NRS 640C.100 is hereby amended to read as follows:

640C.100 1. The provisions of this chapter do not apply to:

(a) A person licensed pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 640, 640A or 640B of NRS if the massage therapy , ***reflexology or structural integration*** is performed in the course of the practice for which the person is licensed.

(b) A person licensed as a barber or apprentice pursuant to chapter 643 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for a barber or apprentice pursuant to that chapter.

(c) A person licensed or registered as an aesthetician, aesthetician's apprentice, hair designer, hair designer's apprentice, hair braider, shampoo technologist, cosmetologist or cosmetologist's apprentice pursuant to chapter 644 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for an aesthetician, aesthetician's apprentice, hair designer, hair designer's apprentice, hair braider, shampoo technologist, cosmetologist or cosmetologist's apprentice pursuant to that chapter.

(d) A person licensed or registered as a nail technologist or nail technologist's apprentice pursuant to chapter 644 of NRS if the person is massaging, cleansing or stimulating the hands, forearms, feet or lower legs within the permissible scope of practice for a nail technologist or nail technologist's apprentice.

(e) A person who is an employee of an athletic department of any high school, college or university in this State and who, within the scope of that employment, practices massage therapy , ***reflexology or structural integration*** on athletes.

(f) Students enrolled in a school of massage therapy , ***reflexology or structural integration*** recognized by the Board.

(g) A person who practices massage therapy , ***reflexology or structural integration*** solely on members of his or her immediate family.

(h) A person who performs any activity in a licensed brothel.

2. Except as otherwise provided in subsection 3 ~~1~~ and ***section 11 of this act***, the provisions of this chapter preempt the licensure and regulation of a

massage therapist , ***reflexologist or structural integration practitioner*** by a county, city or town, including, without limitation, conducting a criminal background investigation and examination of a massage therapist , ***reflexologist or structural integration practitioner*** or applicant for a license to practice massage therapy ~~§~~ , ***reflexology or structural integration***.

3. The provisions of this chapter do not prohibit a county, city or town from requiring a massage therapist , ***reflexologist or structural integration practitioner*** to obtain a license or permit to transact business within the jurisdiction of the county, city or town, if the license or permit is required of other persons, regardless of occupation or profession, who transact business within the jurisdiction of the county, city or town.

4. As used in this section, “immediate family” means persons who are related by blood, adoption or marriage, within the second degree of consanguinity or affinity.

Sec. 17. NRS 640C.150 is hereby amended to read as follows:

640C.150 1. The Board of Massage ~~Therapists~~ ***Therapy*** is hereby created. The Board consists of ~~seven~~ ***nine*** members appointed pursuant to this chapter and one nonvoting advisory member appointed pursuant to NRS 640C.160.

2. The Governor shall appoint to the Board ~~seven~~ ***nine*** members as follows:

(a) Six members who:

(1) Are licensed to practice massage therapy in this State; and

(2) Have engaged in the practice of massage therapy for the 2 years immediately preceding their appointment.

➡ Of the six members appointed pursuant to this paragraph, three members must be residents of Clark County, two members must be residents of Washoe County and one member must be a resident of a county other than Clark County or Washoe County.

(b) ***One member who is licensed to practice reflexology in this State.***

(c) ***One member who is licensed to practice structural integration in this State.***

(d) One member who is a member of the general public. This member must not be:

(1) A massage therapist ~~§~~ , ***reflexologist or structural integration practitioner***; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a massage therapist ~~§~~ , ***reflexologist or structural integration practitioner***.

3. The members who are appointed to the Board pursuant to ~~paragraph~~ ***paragraphs (a) , (b) and (c)*** of subsection 2 must continue to practice massage therapy , ***reflexology or structural integration, as applicable***, in this State while they are members of the Board.

4. After the initial terms, the term of each member of the Board is 4 years. A member may continue in office until the appointment of a successor.

5. A member of the Board may not serve more than two consecutive terms. A former member of the Board is eligible for reappointment to the Board if that person has not served on the Board during the 4 years immediately preceding the reappointment.

6. A vacancy must be filled by appointment for the unexpired term in the same manner as the original appointment.

7. The Governor may remove any member of the Board for incompetence, neglect of duty, moral turpitude or misfeasance, malfeasance or nonfeasance in office.

Sec. 18. NRS 640C.300 is hereby amended to read as follows:

640C.300 The Board shall:

1. Adopt a seal of which each court in this State shall take judicial notice;
2. Prepare and maintain a record of its proceedings and transactions;
3. Review and evaluate applications for the licensing of massage therapists ~~and~~, **reflexologists or structural integration practitioners;**
4. Determine the qualifications and fitness of applicants;
5. Issue, renew, reinstate, revoke, suspend and deny licenses, as appropriate;
6. Enforce the provisions of this chapter and any regulations adopted pursuant thereto;
7. Investigate any complaints filed with the Board;
8. Impose any penalties it determines are required to administer the provisions of this chapter; and
9. Transact any other business required to carry out its duties.

Sec. 19. NRS 640C.320 is hereby amended to read as follows:

640C.320 The Board shall adopt regulations to carry out the provisions of this chapter. The regulations must include, without limitation, provisions that:

1. Establish the requirements for continuing education for the renewal of a license;
2. Establish the requirements for the approval of a course of continuing education, including, without limitation, a course on a specialty technique of massage therapy ~~and~~, **reflexology or structural integration;**
3. Establish the requirements for the approval of an instructor of a course of continuing education;
4. Establish requirements relating to sanitation, hygiene and safety relating to the practice of massage therapy ~~and~~, **reflexology and structural integration;**
5. Except as otherwise provided in NRS 622.090, prescribe the requirements for any practical ~~and oral~~ or written examination for a license that the Board may require, including, without limitation, the passing grade for such an examination;
6. Establish the period within which the Board or its designee must report the results of the investigation of an applicant; ~~and~~

7. Prescribe the form of a written administrative citation issued pursuant to NRS 640C.755 ~~[-]~~;

8. Establish the standards for the licensure of massage therapists, reflexologists and structural integration practitioners under this chapter; and

9. Prescribe the standards and curriculum for schools of massage therapy, reflexology and structural integration in this State.

Sec. 20. NRS 640C.400 is hereby amended to read as follows:

640C.400 1. The Board may issue a license to practice massage therapy.

2. An applicant for a license must:

(a) Be at least 18 years of age;

(b) Except as otherwise provided in NRS ~~[640C.425 and]~~ 640C.426, submit to the Board:

(1) A completed application on a form prescribed by the Board;

(2) The fees prescribed by the Board pursuant to NRS 640C.520;

(3) Proof that the applicant has successfully completed a program of massage therapy recognized by the Board;

(4) A certified statement issued by the licensing authority in each state, territory or possession of the United States or the District of Columbia in which the applicant is or has been licensed to practice massage therapy verifying that:

(I) The applicant has not been involved in any disciplinary action relating to his or her license to practice massage therapy; and

(II) Disciplinary proceedings relating to his or her license to practice massage therapy are not pending;

(5) ~~[Except as otherwise provided in NRS 640C.440, a]~~ 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;

and

(6) ~~[The names and addresses of five natural persons not related to the applicant and not business associates of the applicant who are willing to serve as character references;~~

~~—(7)]~~ A statement authorizing the Board or its designee to conduct an investigation to determine the accuracy of any statements set forth in the application; and

~~[(8) If required by the Board, a financial questionnaire; and]~~

(c) In addition to any examination required pursuant to NRS 640C.320 and except as otherwise provided in NRS ~~[640C.425 and]~~ 640C.426, ~~[-]~~

~~—(1) Except as otherwise provided in subsection 3,]~~ pass a nationally recognized examination for testing the education and professional competency of massage therapists that is approved by the Board. ~~[- or~~

~~—(2) At the applicant's discretion and in lieu of a written examination, pass an oral examination prescribed by the Board.~~

~~3. If the Board determines that the examinations being administered pursuant to subparagraph (1) of paragraph (c) of subsection 2 are inadequately testing the knowledge and competency of applicants, the Board shall prepare or cause to be prepared its own written examination to test the knowledge and competency of applicants. Such an examination must be offered not less than four times each year. The location of the examination must alternate between Clark County and Washoe County. Upon request, the Board must provide a list of approved interpreters at the location of the examination to interpret the examination for an applicant who, as determined by the Board, requires an interpreter for the examination.~~

~~4.1~~ 3. The Board ~~{shall}~~ :

(a) **Shall** recognize a program of massage therapy that is:

~~{a)}~~ (1) Approved by the Commission on Postsecondary Education; or

~~{b)}~~ (2) Offered by a public college in this State or any other state ~~;~~

~~→ The Board may} ; and~~

(b) **May** recognize other programs of massage therapy.

~~{5.1}~~ 4. Except as otherwise provided in NRS ~~{640C.425 and}~~ 640C.426, the Board or its designee shall:

(a) Conduct an investigation to determine:

(1) The reputation and character of the applicant;

(2) The existence and contents of any record of arrests or convictions of the applicant;

(3) The existence and nature of any pending litigation involving the applicant that would affect his or her suitability for licensure; and

(4) The accuracy and completeness of any information submitted to the Board by the applicant. ~~{;}~~

(b) ~~{If the Board determines that it is unable to conduct a complete investigation, require the applicant to submit a financial questionnaire and investigate the financial background and each source of funding of the applicant;~~

~~{(c)}~~ Report the results of the investigation of the applicant within the period the Board establishes by regulation pursuant to NRS 640C.320. ~~{; and}~~

~~{(d)}~~ (c) Except as otherwise provided in NRS 239.0115, maintain the results of the investigation in a confidential manner for use by the Board and its members and employees in carrying out their duties pursuant to this chapter. The provisions of this paragraph do not prohibit the Board or its members or employees from communicating or cooperating with or providing any documents or other information to any other licensing board or any other federal, state or local agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 20.5. NRS 640C.410 is hereby amended to read as follows:

640C.410 1. The Board may issue a temporary license to practice massage therapy.

2. An applicant for a temporary license issued pursuant to this section must:

- (a) Be at least 18 years of age; and
 - (b) Submit to the Board:
 - (1) A completed application on a form prescribed by the Board;
 - (2) The fees prescribed by the Board pursuant to NRS 640C.520;
 - (3) Proof that the applicant has successfully completed a program of massage therapy recognized by the Board pursuant to NRS 640C.400;
 - (4) Proof that the applicant:
 - (I) Has taken the examination required pursuant to NRS 640C.400; or
 - (II) Is scheduled to take such an examination within 90 days after the date of application;
 - (5) An affidavit indicating that the applicant has not committed any of the offenses for which the Board may refuse to issue a license pursuant to NRS 640C.700;
 - (6) A certified statement issued by the licensing authority in each state, territory or possession of the United States or the District of Columbia in which the applicant is or has been licensed to practice massage therapy verifying that:
 - (I) The applicant has not been involved in any disciplinary action relating to his or her license to practice massage therapy; and
 - (II) Disciplinary proceedings relating to his or her license to practice massage therapy are not pending; and
 - (7) ~~[Except as otherwise provided in NRS 640C.440, a]~~ A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.
3. A temporary license issued pursuant to this section expires 90 days after the date the Board issues the temporary license. The Board shall not renew the temporary license.
4. A person who holds a temporary license:
- (a) May practice massage therapy only under the supervision of a fully licensed massage therapist and only in accordance with the provisions of this chapter and the regulations of the Board;
 - (b) Must comply with any other conditions, limitations and requirements imposed on the temporary license by the Board;
 - (c) Is subject to the regulatory and disciplinary authority of the Board to the same extent as a fully licensed massage therapist; and
 - (d) Remains subject to the regulatory and disciplinary authority of the Board after the expiration of the temporary license for all acts relating to the practice of massage therapy which occurred during the period of temporary licensure.
5. As used in this section, "fully licensed massage therapist" means a person who holds a license to practice massage therapy issued pursuant to NRS 640C.400 or 640C.420.

Sec. 21. NRS 640C.420 is hereby amended to read as follows:

640C.420 1. Notwithstanding the provisions of NRS 640C.400 and except as otherwise provided in subsection 3, the Board may issue a license to an applicant who holds a current license to practice massage therapy , **reflexology or structural integration** issued by another state, territory or possession of the United States or the District of Columbia.

2. An applicant for a license issued by the Board pursuant to subsection 1 must submit to the Board:

- (a) A completed application on a form prescribed by the Board;
- (b) The fees prescribed by the Board pursuant to NRS 640C.520;
- (c) A notarized statement signed by the applicant that states:

(1) Whether any disciplinary proceedings relating to his or her license to practice massage therapy , **reflexology or structural integration** have at any time been instituted against the applicant; and

(2) Whether the applicant has been arrested or convicted, within the immediately preceding 10 years, for any crime involving violence, prostitution or any other sexual offense; and

(d) A certified statement issued by the licensing authority in each state, territory or possession of the United States or the District of Columbia in which the applicant is or has been licensed to practice massage therapy , **reflexology or structural integration** during the immediately preceding 10 years verifying that:

(1) The applicant has not been involved in any disciplinary action relating to his or her license to practice massage therapy ~~to~~ , **reflexology or structural integration**; and

(2) Disciplinary proceedings relating to his or her license to practice massage therapy , **reflexology or structural integration** are not pending.

3. The Board shall not issue a license pursuant to this section unless the state, territory or possession of the United States or the District of Columbia in which the applicant is licensed had requirements at the time the license was issued that the Board determines are substantially equivalent to the requirements for a license to practice massage therapy , **reflexology or structural integration** set forth in this chapter.

Sec. 22. NRS 640C.426 is hereby amended to read as follows:

640C.426 1. The Board may issue a license by endorsement to practice massage therapy , **reflexology or structural integration** to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant:

(a) Holds a corresponding valid and unrestricted license to practice massage therapy , **reflexology or structural integration** in the District of Columbia or any state or territory of the United States; and

(b) Is an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license to practice massage therapy ~~or~~ , **reflexology or structural integration**; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States;

(b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 640C.400;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(d) The fees prescribed by the Board pursuant to NRS 640C.520 for the application for and initial issuance of a license; and

(e) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement to practice massage therapy , **reflexology or structural integration** pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement to practice massage therapy , **reflexology or structural integration** to the applicant not later than:

(a) Forty-five days after receiving all additional information required by the Board to complete the application; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints,

➡ whichever occurs later.

4. A license by endorsement to practice massage therapy , **reflexology or structural integration** may be issued at a meeting of the Board or between its meetings by the Chair and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

5. At any time before making a final decision on an application for a license by endorsement, the Board may grant a provisional license authorizing an applicant to practice as a massage therapist , **reflexologist or structural integration practitioner** in accordance with regulations adopted by the Board.

6. As used in this section, "veteran" has the meaning ascribed to it in NRS 417.005.

Sec. 23. NRS 640C.430 is hereby amended to read as follows:

640C.430 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license as a massage therapist , **reflexologist or structural integration practitioner** 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 as a massage therapist , **reflexologist or structural integration practitioner** shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license as a massage therapist , **reflexologist or structural integration practitioner** 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. 24. ~~NRS 640C.440 is hereby amended to read as follows:~~

~~640C.440 1. The Board of Massage [Therapists] **Therapy** and the State Board of Cosmetology shall, to the extent practicable, reduce duplication in the licensing procedure for a qualified applicant who is applying to the Board of Massage [Therapists] **Therapy** for a license to practice pursuant to this chapter and who is also applying to the State Board of Cosmetology for a license to practice pursuant to chapter 644 of NRS, if both applications are filed not more than 60 days apart.~~

~~2. If a qualified applicant submits an application to the State Board of Cosmetology for a license to practice pursuant to chapter 644 of NRS and, not later than 60 days after that application, the applicant also submits an~~

~~application to the Board of Massage [Therapists] **Therapy** for a license to practice pursuant to this chapter;~~

~~— (a) The applicant is not required to submit a set of fingerprints to the Board of Massage [Therapists] **Therapy** if the applicant submitted a set of fingerprints with the application to the State Board of Cosmetology;~~

~~— (b) The Board of Massage [Therapists] **Therapy** shall request from the State Board of Cosmetology a copy of any reports relating to a background investigation of the applicant;~~

~~— (c) Upon receiving such a request, the State Board of Cosmetology shall provide to the Board of Massage [Therapists] **Therapy** any reports relating to a background investigation of the applicant; and~~

~~— (d) The Board of Massage [Therapists] **Therapy** shall use the reports provided by the State Board of Cosmetology in reviewing the application for a license to practice pursuant to this chapter, except that the Board of Massage [Therapists] **Therapy** may conduct its own background investigation of the applicant if the Board of Massage [Therapists] **Therapy** deems it to be necessary. **(Deleted by amendment.)**~~

Sec. 25. NRS 640C.450 is hereby amended to read as follows:

640C.450 1. Each licensee shall display his or her original license in a conspicuous manner at each location where the licensee practices massage therapy ~~[]~~ , **reflexology or structural integration**. If a licensee practices massage therapy , **reflexology or structural integration** in more than one place, the licensee must carry the original license with him or her and display it wherever he or she is actually working.

2. A licensee shall obtain a replacement of the original license from the Board if the licensee's:

- (a) Original license is destroyed, misplaced or mutilated; or
- (b) Name or address as printed on the original license has changed.

3. To obtain a replacement license, the licensee must:

(a) File an affidavit with the Board, on the form prescribed by the Board, which states that the licensee's original license was destroyed, misplaced or mutilated or that his or her name or address as printed on the original license has changed; and

(b) Pay the fee prescribed by the Board pursuant to NRS 640C.520.

Sec. 26. NRS 640C.500 is hereby amended to read as follows:

640C.500 1. Each license ~~[expires on the last day of the month in which it was issued in the next succeeding calendar year]~~ **is valid for 2 years after the first day of the first calendar month immediately following the date of issuance** and may be renewed if, before the license expires, the holder of the license submits to the Board:

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof of completion of the requirements for continuing education prescribed by the Board pursuant to the regulations adopted by the Board under NRS 640C.320; and

(c) The fee for renewal of the license prescribed by the Board pursuant to NRS 640C.520.

2. A license that expires pursuant to this section may be restored if, within 2 years after the expiration of the license, the applicant:

(a) Complies with the provisions of subsection 1; and

(b) Submits to the Board the fees prescribed by the Board pursuant to NRS 640C.520:

(1) For the restoration of an expired license; and

(2) For each year that the license was expired, for the renewal of a license.

3. The Board shall send a notice of renewal to each holder of a license not later than 60 days before the license expires. The notice must include a statement setting forth the provisions of this section and the amount of the fee for renewal of the license.

Sec. 27. NRS 640C.510 is hereby amended to read as follows:

640C.510 1. Upon written request to the Board, a holder of a license in good standing may cause his or her name and license to be transferred to an inactive list. The holder of the license may not practice massage therapy , ***reflexology or structural integration*** during the time the license is inactive, and no renewal fee accrues.

2. If an inactive holder of a license desires to resume the practice of massage therapy , ***reflexology or structural integration*** within 2 years after the license was made inactive, the Board shall renew the license upon:

(a) Demonstration, if deemed necessary by the Board, that the holder of the license is then qualified and competent to practice;

(b) Completion and submission of an application; and

(c) Payment of the current fee for renewal of the license.

Sec. 28. NRS 640C.520 is hereby amended to read as follows:

640C.520 1. The Board shall establish a schedule of fees and charges. The fees for the following items must not exceed the following amounts:

An examination established by the Board pursuant to this chapter.....	\$600
An application for a license	300
An application for a license without an examination	300
A background check of an applicant	600
The issuance of a license	400
The renewal of a license	~~200~~ 350
The restoration of an expired license.....	500
The reinstatement of a suspended or revoked license	500
The issuance of a replacement license.....	75
The restoration of an inactive license	300
<i>The issuance of a certification of a massage, reflexology and structural integration establishment as defined in section 11 of this act.....</i>	50

The renewal of a certification of a massage, reflexology and structural integration establishment as defined in section 11 of this act..... 50

2. If an applicant submits an application for a license by endorsement pursuant to NRS 640C.426, the Board shall collect not more than one-half of the fee specified in subsection 1 for the initial issuance of the license.

3. **Subject to the limits provided by subsection 1, the Board:**

(a) May adopt regulations that establish different fees for different types of licenses; and

(b) In establishing the different fees for different types of licenses, shall consider the income and opportunities for employment available to the holders of the different types of licenses.

4. The total fees collected by the Board pursuant to this section must not exceed the amount of money necessary for the operation of the Board and for the maintenance of an adequate reserve.

Sec. 29. NRS 640C.700 is hereby amended to read as follows:

640C.700 The Board may refuse to issue a license to an applicant, or may initiate disciplinary action against a holder of a license, if the applicant or holder of the license:

1. Has submitted false, fraudulent or misleading information to the Board or any agency of this State, any other state, a territory or possession of the United States, the District of Columbia or the Federal Government;

2. Has violated any provision of this chapter or any regulation adopted pursuant thereto;

3. Has been convicted of a crime involving violence, prostitution or any other sexual offense, a crime involving any type of larceny, a crime relating to a controlled substance, a crime involving any federal or state law or regulation relating to massage therapy , ***reflexology or structural integration*** or a substantially similar business, or a crime involving moral turpitude;

4. Has engaged in or solicited sexual activity during the course of practicing massage , ***reflexology or structural integration*** on a person, with or without the consent of the person, including, without limitation, if the applicant or holder of the license:

(a) Made sexual advances toward the person;

(b) Requested sexual favors from the person; or

(c) Massaged, touched or applied any instrument to the breasts of the person, unless the person has signed a written consent form provided by the Board;

5. Has habitually abused alcohol or is addicted to a controlled substance;

6. Is, in the judgment of the Board, guilty of gross negligence in the practice of massage therapy ~~and~~ , ***reflexology or structural integration***;

7. Is determined by the Board to be professionally incompetent to engage in the practice of massage therapy ~~and~~ , ***reflexology or structural integration***;

8. Has failed to provide information requested by the Board within 60 days after receiving the request;

9. Has, in the judgment of the Board, engaged in unethical or unprofessional conduct ; ~~as it relates to the practice of massage therapy;~~

10. Has knowingly failed to report to the Board that the holder of a license or other person has engaged in unethical or unprofessional conduct as it relates to the practice of massage therapy , **reflexology or structural integration** within 30 days after becoming aware of that conduct;

11. Has been disciplined in another state, a territory or possession of the United States or the District of Columbia for conduct that would be a violation of the provisions of this chapter or any regulations adopted pursuant thereto if the conduct were committed in this State;

12. Has solicited or received compensation for services relating to the practice of massage therapy , **reflexology or structural integration** that he or she did not provide;

13. If the holder of the license is on probation, has violated the terms of the probation;

14. Has engaged in false, deceptive or misleading advertising, including, without limitation, falsely, deceptively or misleadingly advertising that he or she has received training in a specialty technique of massage , **reflexology or structural integration** for which he or she has not received training, practicing massage therapy , **reflexology or structural integration** under an assumed name and impersonating a licensed massage therapist ~~or~~ , **reflexologist or structural integration practitioner;**

15. Has operated a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility was suspended or revoked; or

(b) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160.

➡ This subsection applies to an owner or other principal responsible for the operation of the facility.

16. Has failed to comply with a written administrative citation issued pursuant to NRS 640C.755 within the time permitted for compliance set forth in the citation or, if a hearing is held pursuant to NRS 640C.757, within 15 business days after the hearing; or

17. Except as otherwise provided in subsection 16, has failed to pay or make arrangements to pay, as approved by the Board, an administrative fine imposed pursuant to this chapter within 60 days after:

(a) Receiving notice of the imposition of the fine; or

(b) The final administrative or judicial decision affirming the imposition of the fine,

➡ whichever occurs later.

Sec. 30. NRS 640C.712 is hereby amended to read as follows:

640C.712 1. In addition to any other actions authorized by NRS 640C.710, if, after notice and a hearing as required by law, the Board

determines that a licensee has engaged in or solicited sexual activity during the course of practicing massage , **reflexology or structural integration** on a person, as set forth in subsection 4 of NRS 640C.700, or has been convicted of prostitution or any other sexual offense that occurred during the course of practicing massage , **reflexology or structural integration** on a person, the Board ~~shall~~ **may**:

(a) For a first violation, impose an administrative fine of not less than \$100 and not more than \$1,000;

(b) For a second violation, impose an administrative fine of not less than \$250 and not more than \$5,000; and

(c) For a third violation and for each additional violation, impose an administrative fine of not less than \$500 and not more than \$10,000.

2. The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to this section. The standards must include, without limitation, provisions requiring the Board to consider:

(a) The gravity of the violation;

(b) The good faith of the licensee; and

(c) Any history of previous violations of the provisions of this chapter committed by the licensee.

Sec. 31. NRS 640C.720 is hereby amended to read as follows:

640C.720 Notwithstanding any other statute to the contrary:

1. If the Board finds, based upon evidence in its possession, that immediate action is necessary to protect the health, safety or welfare of the public, the Board may, upon providing notice to the massage therapist, **reflexologist or structural integration practitioner**, temporarily suspend his or her license without a prior hearing for a period not to exceed 15 business days. The massage therapist , **reflexologist or structural integration practitioner** may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than 10 business days after the date on which the massage therapist , **reflexologist or structural integration practitioner** receives notice of the temporary suspension. If the massage therapist ~~is~~ , **reflexologist or structural integration practitioner**:

(a) Files a timely written request for a hearing, the Board shall extend the temporary suspension until a hearing is held. The Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than 15 business days after the date on which the Board receives the written request. After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.

(b) Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the

Board shall schedule a hearing and notify the massage therapist , **reflexologist or structural integration practitioner** immediately by certified mail of the date of the hearing. The hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension as promptly as is practicable but not later than 30 days after the date on which the Board provides notice of the initial temporary suspension. After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.

2. If a massage therapist , **reflexologist or structural integration practitioner** is charged with or cited for prostitution or any other sexual offense, the appropriate law enforcement agency shall report the charge or citation to the Executive Director of the Board. Upon receiving such a report, the Executive Director shall immediately issue by certified mail to the massage therapist , **reflexologist or structural integration practitioner** a cease and desist order temporarily suspending the license of the massage therapist , **reflexologist or structural integration practitioner** without a prior hearing. The temporary suspension of the license is effective immediately after the massage therapist , **reflexologist or structural integration practitioner** receives notice of the cease and desist order and must not exceed 15 business days. The massage therapist , **reflexologist or structural integration practitioner** may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than 10 business days after the date on which the Executive Director mails the cease and desist order. If the massage therapist ~~is~~ , **reflexologist or structural integration practitioner**:

(a) Files a timely written request for a hearing, the Board shall extend the temporary suspension until a hearing is held. The Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than 15 business days after the date on which the Board receives the written request. After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.

(b) Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the massage therapist , **reflexologist or structural integration practitioner** immediately by certified mail of the date of the hearing. The hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension as promptly as is practicable but not later than 15 business days after the date on which the Executive Director mails the cease and desist order. After holding such a hearing, the Board may extend the period of the temporary

suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.

3. If the Board or the Executive Director issues an order temporarily suspending the license of a massage therapist , **reflexologist or structural integration practitioner** pending proceedings for disciplinary action, a court shall not stay that order.

4. For purposes of this section, a person is deemed to have notice of a temporary suspension of his or her license:

(a) On the date on which the notice is personally delivered to the person; or

(b) If the notice is mailed, 3 days after the date on which the notice is mailed by certified mail to the last known business or residential address of the person.

Sec. 32. NRS 640C.745 is hereby amended to read as follows:

640C.745 1. When conducting an investigation of a massage therapist , **reflexologist or structural integration practitioner** pursuant to this chapter, the Board or the Executive Director may request from the appropriate governmental agency or court of competent jurisdiction records relating to any conviction of the massage therapist , **reflexologist or structural integration practitioner** for a crime involving violence, prostitution or any other sexual offense. Such records include, without limitation, a record of criminal history as defined in NRS 179A.070.

2. Upon receiving a request from the Board or the Executive Director pursuant to subsection 1, the governmental agency or court of competent jurisdiction shall provide the requested records to the Board or the Executive Director as soon as reasonably practicable. The governmental agency or court of competent jurisdiction may redact from the records produced pursuant to this subsection any information relating to the agency or court that is deemed confidential by the agency or court. Upon receiving the records from the governmental agency or court, the Board and the Executive Director:

(a) Shall maintain the confidentiality of the records if such confidentiality is required by federal or state law; and

(b) May use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist , **reflexologist or structural integration practitioner** pursuant to this chapter.

Sec. 33. NRS 640C.910 is hereby amended to read as follows:

640C.910 1. If a person is not licensed to practice massage therapy , **reflexology or structural integration** pursuant to this chapter, the person shall not:

(a) Engage in the practice of massage therapy ~~§~~ , **reflexology or structural integration**;

(b) Use in connection with his or her name the words or letters “L.M.T.,” “licensed massage therapist,” “licensed massage technician,” “M.T.,”

“massage technician ,” ~~“massage therapist,”~~ *“licensed reflexologist,” “reflexologist,” “licensed structural integration practitioner” or “structural integration practitioner,”* or any other letters, words or insignia indicating or implying that he or she is licensed to practice massage therapy, **reflexology or structural integration**, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word “massage ~~”~~ ,” *“reflexology,” “structural integration”* or represent himself or herself as licensed or qualified to engage in the practice of massage therapy ~~”~~ , **reflexology or structural integration**; or

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his or her name or the name of his or her company under the heading “massage,” “massage therapy,” “massage therapist,” “massage technician ~~”~~ ,” *“reflexologist,” “structural integration practitioner”* or any other term that indicates or implies that he or she is licensed or qualified to practice massage therapy ~~”~~ , **reflexology or structural integration**.

2. If a person’s license to practice massage therapy , **reflexology or structural integration** pursuant to this chapter has expired or has been suspended or revoked by the Board, the person shall not:

(a) Engage in the practice of massage therapy ~~”~~ , **reflexology or structural integration**;

(b) Use in connection with his or her name the words or letters “L.M.T.,” “licensed massage therapist,” “licensed massage technician,” “M.T.,” “massage technician ,” ~~“massage therapist,”~~ *“licensed reflexologist,” “reflexologist,” “licensed structural integration practitioner” or “structural integration practitioner,”* or any other letters, words or insignia indicating or implying that he or she is licensed to practice massage therapy, **reflexology or structural integration**, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word “massage ~~”~~ ,” *“reflexology” or “structural integration,”* or represent himself or herself as licensed or qualified to engage in the practice of massage therapy ~~”~~ , **reflexology or structural integration**; or

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his or her name or the name of his or her company under the heading “massage,” “massage therapy,” “massage therapist,” “massage technician ~~”~~ ,” *“reflexologist” or “structural integration practitioner,”* or any other term that indicates or implies that he or she is licensed or qualified to practice massage therapy ~~”~~ , **reflexology or structural integration**.

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 34. NRS 640C.920 is hereby amended to read as follows:

640C.920 1. A person shall not:

(a) Counterfeit or forge or attempt to counterfeit or forge a license to practice massage therapy ~~”~~ , **reflexology or structural integration**; or

(b) For the purpose of aiding or abetting an unlawful act:

(1) Alter or attempt to alter a license to practice massage therapy ~~§~~, **reflexology or structural integration**; or

(2) Make or attempt to make any photocopy print, photostat or other replica of a license to practice massage therapy ~~§~~, **reflexology or structural integration**.

2. A person shall not use or display a license to practice massage therapy , **reflexology or structural integration** that:

(a) Is not the original license issued to the person;

(b) Has been counterfeited or forged;

(c) Has been altered, copied or replicated for the purpose of aiding or abetting an unlawful act; or

(d) Has been issued to another person.

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 35. NRS 640C.930 is hereby amended to read as follows:

640C.930 1. A person shall not advertise as a massage therapist , **reflexologist or structural integration practitioner** in this State unless the person is licensed to practice massage therapy , **reflexology or structural integration** pursuant to this chapter.

2. A person licensed to practice massage therapy , **reflexology or structural integration** pursuant to this chapter shall not disseminate, as part of any advertising by the massage therapist, **reflexologist or structural integration practitioner**, any false or misleading statement or representation of material fact that is intended, directly or indirectly, to induce another person to use the services of the massage therapist ~~§~~ , **reflexologist or structural integration practitioner**.

3. All advertising by a licensed massage therapist , **reflexologist or structural integration practitioner** must include his or her name and the name of his or her company, if applicable. All advertising in a telephone directory or a newspaper must also include the number of the license.

4. A person who violates any provision of subsection 1 or 2 is guilty of a misdemeanor.

5. If, after notice and a hearing as required by law, the Board determines that a person has willfully engaged in advertising in a manner that violates the provisions of this section or NRS 640C.910, the Board may, in addition to any penalty, punishment or disciplinary action authorized by the provisions of this chapter, order the person to cease and desist the unlawful advertising. The provisions of this subsection do not apply to any person whose license has been expired for less than 90 days or is temporarily suspended.

6. The Board may order any person convicted of a crime involving violence, prostitution or any other sexual offense to cause any telephone number included in the advertising to be disconnected from service. If the Board orders the person to cause any telephone number to be disconnected

from service and the person fails to comply within 5 days after the date on which the person is served with the order, the Board may:

(a) If the provider is regulated by the Public Utilities Commission of Nevada, request the Commission to order the provider to disconnect the telephone number from service pursuant to NRS 703.175 and 707.355; or

(b) If the provider is not regulated by the Public Utilities Commission of Nevada, request the provider to disconnect the telephone number from service and inform the provider that the request is made pursuant to this section. Upon receiving such a request, the provider shall take such action as is necessary to disconnect the telephone number from service.

7. A provider shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to this section; or

(b) Provide or offer to provide a message that includes a new telephone number for the person whose telephone number was disconnected from service pursuant to this section.

8. If a provider complies in good faith with a request to disconnect a telephone number from service pursuant to this section, such good-faith compliance shall constitute a complete defense to any civil or criminal action brought against the provider arising from the disconnection or termination of service.

9. As used in this section:

(a) “Advertising” means the intentional placement or issuance of any sign, card or device, or the permitting or allowing of any sign or marking on a motor vehicle, in any building, structure, newspaper, magazine or airway transmission, on the Internet or in any directory under the listing of “massage therapist” ~~for~~ “massage [],” “**reflexologist,**” “**reflexology,**” “**structural integration practitioner**” or “**structural integration.**”

(b) “Provider” means a provider of any type of telephone, messaging or paging service.

(c) “Provider of messaging or paging service” means an entity that provides any type of messaging or paging service to any type of communication device.

(d) “Provider of telephone service” has the meaning ascribed to it in NRS 707.355.

(e) “Telephone number” means any sequence of numbers or characters, or both, used by a provider to provide any type of telephone, messaging or paging service.

Sec. 36. NRS 640E.090 is hereby amended to read as follows:

640E.090 1. The provisions of this chapter do not apply to:

(a) Any person who is licensed or registered in this State as a physician pursuant to chapter 630, 630A or 633 of NRS, dentist, nurse, dispensing optician, optometrist, occupational therapist, practitioner of respiratory care, physical therapist, podiatric physician, psychologist, marriage and family therapist, chiropractor, athletic trainer, massage therapist, **reflexologist,**

structural integration practitioner, perfusionist, doctor of Oriental medicine in any form, medical laboratory director or technician or pharmacist who:

- (1) Practices within the scope of that license or registration;
- (2) Does not represent that he or she is a licensed dietitian or registered dietitian; and
- (3) Provides nutrition information incidental to the practice for which he or she is licensed or registered.

(b) A student enrolled in an educational program accredited by the Commission on Accreditation for Dietetics Education of the Academy of Nutrition and Dietetics, if the student engages in the practice of dietetics under the supervision of a licensed dietitian or registered dietitian as part of that educational program.

(c) A registered dietitian employed by the Armed Forces of the United States, the United States Department of Veterans Affairs or any division or department of the Federal Government in the discharge of his or her official duties, including, without limitation, the practice of dietetics or providing nutrition services.

(d) A person who furnishes nutrition information, provides recommendations or advice concerning nutrition, or markets food, food materials or dietary supplements and provides nutrition information, recommendations or advice related to that marketing, if the person does not represent that he or she is a licensed dietitian or registered dietitian. While performing acts described in this paragraph, a person shall be deemed not to be engaged in the practice of dietetics or the providing of nutrition services.

(e) A person who provides services relating to weight loss or weight control through a program reviewed by and in consultation with a licensed dietitian or physician or a dietitian licensed or registered in another state which has equivalent licensure requirements as this State, as long as the person does not change the services or program without the approval of the person with whom he or she is consulting.

2. As used in this section, "nutrition information" means information relating to the principles of nutrition and the effect of nutrition on the human body, including, without limitation:

- (a) Food preparation;
- (b) Food included in a normal daily diet;
- (c) Essential nutrients required by the human body and recommended amounts of essential nutrients, based on nationally established standards;
- (d) The effect of nutrients on the human body and the effect of deficiencies in or excess amounts of nutrients in the human body; and
- (e) Specific foods or supplements that are sources of essential nutrients.

Sec. 37. ~~INRS 644.191 is hereby amended to read as follows:~~

~~644.191 1. The State Board of Cosmetology and the Board of Massage [Therapists] Therapy shall, to the extent practicable, reduce duplication in the licensing procedure for a qualified applicant who is applying to the State Board of Cosmetology for a license to practice pursuant to this chapter and~~

~~who is also applying to the Board of Massage [Therapists] **Therapy** for a license to practice pursuant to chapter 640C of NRS, if both applications are filed not more than 60 days apart.~~

~~2. If a qualified applicant submits an application to the Board of Massage [Therapists] **Therapy** for a license to practice pursuant to chapter 640C of NRS and, not later than 60 days after that application, the applicant also submits an application to the State Board of Cosmetology for a license to practice pursuant to this chapter:~~

~~(a) The applicant is not required to submit a set of fingerprints to the State Board of Cosmetology if the applicant submitted a set of fingerprints with his or her application to the Board of Massage [Therapists;] **Therapy**;~~

~~(b) The State Board of Cosmetology shall request from the Board of Massage [Therapists] **Therapy** a copy of any reports relating to a background investigation of the applicant;~~

~~(c) Upon receiving such a request, the Board of Massage [Therapists] **Therapy** shall provide to the State Board of Cosmetology any reports relating to a background investigation of the applicant; and~~

~~(d) The State Board of Cosmetology shall use the reports provided by the Board of Massage [Therapists] **Therapy** in reviewing the application for a license to practice pursuant to this chapter. **(Deleted by amendment.)**~~

Sec. 38. NRS 644.192 is hereby amended to read as follows:

644.192 1. The Board and a local governmental entity shall, to the extent practicable, reduce duplication in the licensing procedure for a qualified applicant who is applying to the Board for a license to practice pursuant to this chapter and who is also applying to the local governmental entity for a license to practice massage therapy, **reflexology or structural integration**, if both applications are filed not more than 60 days apart.

2. If a qualified applicant submits an application to a local governmental entity for a license to practice massage therapy , **reflexology or structural integration** and, not later than 60 days after that application, the applicant also submits an application to the Board for a license to practice pursuant to this chapter:

(a) The applicant is not required to submit a set of fingerprints to the Board if the applicant submitted a set of fingerprints with his or her application to the local governmental entity;

(b) The Board shall request from the local governmental entity a copy of any reports relating to a background investigation of the applicant;

(c) Upon receiving such a request, the local governmental entity shall provide to the Board any reports relating to a background investigation of the applicant; and

(d) The Board shall use the reports provided by the local governmental entity in reviewing the application for a license to practice pursuant to this chapter.

3. If a qualified applicant submits an application to the Board for a license to practice pursuant to this chapter and, not later than 60 days after

that application, the applicant also submits an application to a local governmental entity for a license to practice massage therapy ~~and~~, **reflexology or structural integration**:

(a) The applicant is not required to submit a set of fingerprints to the local governmental entity if the applicant submitted a set of fingerprints with his or her application to the Board;

(b) The local governmental entity shall request from the Board a copy of any reports relating to a background investigation of the applicant;

(c) Upon receiving such a request, the Board shall provide to the local governmental entity any reports relating to a background investigation of the applicant; and

(d) The local governmental entity shall use the reports provided by the Board in reviewing the application for a license to practice massage therapy, **reflexology or structural integration**, except that the local governmental entity may conduct its own background investigation of the applicant if the local governmental entity deems it to be necessary.

Sec. 39. NRS 644.400 is hereby amended to read as follows:

644.400 1. A school of cosmetology must at all times be under the immediate supervision of a licensed instructor who has had practical experience in an established place of business for at least 1 year in the practice of a majority of the branches of cosmetology taught at the school of cosmetology.

2. A school of cosmetology shall:

(a) Except as otherwise provided in subsection 6, maintain courses of practical training and technical instruction equal to the requirements for examination for a license or certificate of registration in each branch of cosmetology taught at the school of cosmetology.

(b) Maintain apparatus and equipment sufficient to teach all the subjects of its curriculum.

(c) Keep a daily record of the attendance of each student, a record devoted to the different practices, establish grades and hold examinations before issuing diplomas. These records must be submitted to the Board pursuant to its regulations.

(d) Include in its curriculum a course of deportment consisting of instruction in courtesy, neatness and professional attitude in meeting the public.

(e) Arrange the courses devoted to each branch or practice of cosmetology as the Board may from time to time adopt as the course to be followed by the schools.

(f) Not allow any student to perform services on the public for more than 7 hours in any day.

(g) Conduct at least 5 hours of instruction in theory in each 40-hour week or 6 hours of instruction in theory in each 48-hour week, which must be attended by all registered students.

(h) Require that all work by students be done on the basis of rotation.

3. Except as otherwise provided in subsection 4, the Board may, upon request, authorize a school of cosmetology to offer, in addition to courses which are included in any curriculum required for licensure or registration in each branch of cosmetology taught at the school of cosmetology, any other course.

4. The Board shall, upon request, authorize a school of cosmetology to offer a course or program that is designed, intended or used to prepare or qualify another person for licensure in the field of massage therapy , ***reflexology or structural integration*** if:

(a) The school of cosmetology has obtained all licenses, authorizations and approvals required by state and local law to offer such a course or program; and

(b) With regard to that portion of the premises where the school of cosmetology offers courses included in the cosmetological curriculum, the school of cosmetology continues to comply with the provisions of this chapter and any regulations adopted pursuant thereto.

5. Notwithstanding any other provision of law, if a school of cosmetology offers a course or program that is designed, intended or used to prepare or qualify another person for licensure in the field of massage therapy ~~therapy~~ , ***reflexology or structural integration***:

(a) The Board has exclusive jurisdiction over the authorization and regulation of the course or program offered by the school of cosmetology; and

(b) The school of cosmetology is not required to obtain any other license, authorization or approval to offer the course or program.

6. A school of cosmetology is not required to maintain courses of practical training and technical instruction equal to the requirements for examination for a license or certificate of registration in any branch of cosmetology if the school of cosmetology provides its students with a disclaimer, in at least 14-point bold type, indicating that completion of the instruction provided at the school of cosmetology does not:

(a) Qualify the student for a license or certificate of registration in any branch of cosmetology; or

(b) Prepare the student for an examination in any branch of cosmetology.

Sec. 40. NRS 179A.100 is hereby amended to read as follows:

179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which are the result of a name-based inquiry and which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. In addition to any other information to which an employer is entitled or authorized to receive from a name-based inquiry, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information contained in a record of registration concerning an employee, prospective employee, volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives written consent to the release of that information. The Central Repository shall disseminate such information in a manner that does not reveal the name of an individual victim of an offense or the information described in subsection 7 of NRS 179B.250. A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:

(a) The name and address of the employer, and the name and signature of the person or entity requesting the information on behalf of the employer;

(b) The name and address of the employer's facility in which the employee, prospective employee, volunteer or prospective volunteer is employed or volunteers or is seeking to become employed or volunteer; and

(c) The name and other identifying information of the employee, prospective employee, volunteer or prospective volunteer.

5. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information described in subsection 4 of NRS 179A.190 concerning an employee, prospective employee, volunteer or prospective volunteer who gives written consent to the release of that information if the employer submits a request in the manner set forth in NRS 179A.200 for obtaining a notice of information. The Central Repository shall search for and disseminate such information in the manner set forth in NRS 179A.210 for the dissemination of a notice of information.

6. Except as otherwise provided in subsection 5, the provisions of NRS 179A.180 to 179A.240, inclusive, do not apply to an employer who requests information and to whom such information is disseminated pursuant to subsections 4 and 5.

7. Records of criminal history must be disseminated by an agency of criminal justice, upon request, to the following persons or governmental entities:

(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.

(b) The person who is the subject of the record of criminal history when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.

(c) The Nevada Gaming Control Board.

(d) The State Board of Nursing.

(e) The Private Investigator's Licensing Board to investigate an applicant for a license.

(f) A public administrator to carry out the duties as prescribed in chapter 253 of NRS.

(g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.

(h) Any agency of criminal justice of the United States or of another state or the District of Columbia.

(i) Any public utility subject to the jurisdiction of the Public Utilities Commission of Nevada when the information is necessary to conduct a security investigation of an employee or prospective employee or to protect the public health, safety or welfare.

(j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.

(l) Any reporter for the electronic or printed media in a professional capacity for communication to the public.

(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

(o) An agency which provides child welfare services, as defined in NRS 432B.030.

(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative, as needed to ensure the safety of investigators and caseworkers.

(q) The Aging and Disability Services Division of the Department of Health and Human Services or its designated representative, as needed to ensure the safety of investigators and caseworkers.

(r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. §§ 651 et seq.

(s) The State Disaster Identification Team of the Division of Emergency Management of the Department.

(t) The Commissioner of Insurance.

(u) The Board of Medical Examiners.

(v) The State Board of Osteopathic Medicine.

(w) The Board of Massage ~~Therapists~~ **Therapy** and its Executive Director.

(x) The Board of Examiners for Social Workers.

(y) A multidisciplinary team to review the death of the victim of a crime that constitutes domestic violence organized or sponsored by the Attorney General pursuant to NRS 228.495.

8. Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

Sec. 41. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **and sections 7 and 9 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. 42. NRS 703.175 is hereby amended to read as follows:

703.175 1. Upon receiving a request to disconnect a telephone number from the State Contractors' Board pursuant to NRS 624.720, the Board of Massage ~~Therapists~~ **Therapy** pursuant to NRS 640C.930 or the Nevada Transportation Authority pursuant to NRS 706.758, the Commission shall issue an order to the appropriate provider of telephone service to disconnect the telephone number.

2. Compliance in good faith by a provider of telephone service with an order of the Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the provider of telephone service arising from the termination of service.

3. As used in this section, "provider of telephone service" has the meaning ascribed to it in NRS 707.355.

Sec. 43. NRS 707.355 is hereby amended to read as follows:

707.355 1. Each provider of telephone service in this State shall, when notified that:

(a) A court has ordered the disconnection of a telephone number pursuant to NRS 706.2855; or

(b) The Public Utilities Commission of Nevada has ordered the disconnection of a telephone number pursuant to NRS 703.175, after receiving a request to disconnect the telephone number from the State Contractors' Board pursuant to NRS 624.720, the Board of Massage ~~Therapists~~ **Therapy** pursuant to NRS 640C.930 or the Nevada Transportation Authority pursuant to NRS 706.758,

➔ take such action as is necessary to carry out the order of the court or the Public Utilities Commission of Nevada.

2. A provider of telephone service shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to the provisions of this section; or

(b) Provide or offer to provide a recorded message that includes the new telephone number for a business whose telephone number was disconnected from service pursuant to the provisions of this section.

3. As used in this section, "provider of telephone service" includes, but is not limited to:

(a) A public utility furnishing telephone service.

(b) A provider of cellular or other service to a telephone that is installed in a vehicle or is otherwise portable.

Sec. 44. A soon as practicable on or after July 1, ~~2017~~ **2018**, the Governor shall appoint to the Board of Massage Therapy the members required to be appointed pursuant to subsection 2 of NRS 640C.150, as amended by section 17 of this act.

Sec. 45. 1. Any administrative regulations adopted by an officer or entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act remain in force until amended by the officer or entity to which the responsibility for the adoption of the regulations has been transferred.

2. Any contracts or other agreements entered into by an officer or entity whose name has been changed pursuant to the provisions of this act are binding upon the officer or entity to which the responsibility for the administration of the provision of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer or entity to which the responsibility for the enforcement of the provisions of the contract or other agreements has been transferred.

3. Any action taken by an officer or entity whose name has been changed pursuant to the provisions of this act remains in effect as if taken by the officer or entity to which the responsibility for the enforcement of such actions has been transferred.

Sec. 46. The Legislative Counsel shall, in preparing supplements to the Nevada Administrative Code, substitute appropriately the name of any agency, officer or instrumentality of the State whose name is changed by this act for the name which the agency, officer or instrumentality previously used.

Sec. 47. NRS 640C.425 ~~is~~ , **640C.440 and 644.191 are** hereby repealed.

Sec. 48. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory tasks that are necessary to carry out the provisions of this act; and
2. On July 1, ~~2017~~ **2018**, for all other purposes.

TEXT OF REPEALED SECTION

640C.425 Expedited license by endorsement: Requirements; procedure for issuance.

1. The Board may issue a license by endorsement to practice massage therapy to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant holds a corresponding valid and unrestricted license to practice massage therapy in the District of Columbia or any state or territory of the United States.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

- (1) Satisfies the requirements of subsection 1;
- (2) Is a citizen of the United States or otherwise has the legal right to work in the United States;
- (3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or any state or territory in which the applicant currently holds or has held a license to practice massage therapy; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States;

(b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 640C.400;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(d) The fees prescribed by the Board pursuant to NRS 640C.520 for the application for and initial issuance of a license; and

(e) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement to practice massage therapy pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement to practice massage therapy to the applicant not later than:

- (a) Forty-five days after receiving the application; or
 - (b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints,
- ➡ whichever occurs later.

4. A license by endorsement to practice massage therapy may be issued at a meeting of the Board or between its meetings by the Chair and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

640C.440 Reduction of duplication in licensing procedure with State Board of Cosmetology.

___1. The Board of Massage Therapists and the State Board of Cosmetology shall, to the extent practicable, reduce duplication in the licensing procedure for a qualified applicant who is applying to the Board of Massage Therapists for a license to practice pursuant to this chapter and who is also applying to the State Board of Cosmetology for a license to practice pursuant to chapter 644 of NRS, if both applications are filed not more than 60 days apart.

2. If a qualified applicant submits an application to the State Board of Cosmetology for a license to practice pursuant to chapter 644 of NRS and, not later than 60 days after that application, the applicant also submits an application to the Board of Massage Therapists for a license to practice pursuant to this chapter:

(a) The applicant is not required to submit a set of fingerprints to the Board of Massage Therapists if the applicant submitted a set of fingerprints with the application to the State Board of Cosmetology;

(b) The Board of Massage Therapists shall request from the State Board of Cosmetology a copy of any reports relating to a background investigation of the applicant;

(c) Upon receiving such a request, the State Board of Cosmetology shall provide to the Board of Massage Therapists any reports relating to a background investigation of the applicant; and

(d) The Board of Massage Therapists shall use the reports provided by the State Board of Cosmetology in reviewing the application for a license to practice pursuant to this chapter, except that the Board of Massage Therapists may conduct its own background investigation of the applicant if the Board of Massage Therapists deems it to be necessary.

644.191 Reduction of duplication in licensing procedure for applicant who also applies to Board of Massage Therapists to practice massage therapy.

___1. The State Board of Cosmetology and the Board of Massage Therapists shall, to the extent practicable, reduce duplication in the licensing procedure for a qualified applicant who is applying to the State Board of Cosmetology for a license to practice pursuant to this chapter and who is also applying to the Board of Massage Therapists for a license to practice pursuant to chapter 640C of NRS, if both applications are filed not more than 60 days apart.

2. If a qualified applicant submits an application to the Board of Massage Therapists for a license to practice pursuant to chapter 640C of NRS and, not later than 60 days after that application, the applicant also submits an application to the State Board of Cosmetology for a license to practice pursuant to this chapter:

(a) The applicant is not required to submit a set of fingerprints to the State Board of Cosmetology if the applicant submitted a set of fingerprints with his or her application to the Board of Massage Therapists;

(b) The State Board of Cosmetology shall request from the Board of Massage Therapists a copy of any reports relating to a background investigation of the applicant;

(c) Upon receiving such a request, the Board of Massage Therapists shall provide to the State Board of Cosmetology any reports relating to a background investigation of the applicant; and

(d) The State Board of Cosmetology shall use the reports provided by the Board of Massage Therapists in reviewing the application for a license to practice pursuant to this chapter.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 186.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 478.

AN ACT relating to education; requiring the board of trustees of each school district to establish, equip and maintain a prekindergarten education program and a kindergarten in each elementary school or school attendance area in the district; revising provisions governing the age at which a child is required to be enrolled in and attend school; ~~authorizing a child who is 4 years of age on or before September 30 of a school year to be admitted to a prekindergarten education program;~~ **requiring the Department of Education to establish the Prekindergarten Improvement and Expansion Program; making an appropriation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing]~~ **With certain exceptions, existing law [generally]** requires the board of trustees of each school district to establish, equip and maintain a kindergarten in each elementary school or school attendance area in the district. (NRS 388.060) **Section 1 of this bill removes those exceptions, requiring the board of trustees of each school district to establish, equip and maintain a kindergarten in each elementary school or school attendance area in the district.**

~~With certain exceptions, existing law [also]~~ requires each parent, custodial parent, guardian or other person in the State of Nevada having control or charge of any child between the ages of 7 and 18 years to send the child to a public school during all the time the school is in session in the school district in which the child resides unless the child has graduated from high school. Existing law further provides that a child who is 5 years of age on or before

September 30 of a school year may be admitted to kindergarten at the beginning of that school year. (NRS 392.040)

~~Section 1 of this bill requires the board of trustees of each school district to establish, equip and maintain a prekindergarten education program in each elementary school or school attendance area in the district.~~

~~Section 3 of this bill lowers, from 7 years of age to ~~5~~ 6 years of age, the age at which a child must be enrolled in and attend public school. Section 3 also: (1) requires a child who is 5 years of age on or before September 30 of a school year to be admitted to kindergarten at the beginning of that school year; and (2) authorizes a child who is 4 years of age on or before September 30 of a school year to be admitted to a prekindergarten education program at the beginning of that school year.~~

~~The remaining sections~~ **Sections 2, 4 and 5** of this bill revise applicable provisions relating to kindergarten **and first grade** and the age at which a child must attend school to reflect the new requirements.

Section 5.3 of this bill requires the Department of Education to establish the Prekindergarten Improvement and Expansion Program, and section 5.8 of this bill appropriates money to fund the Program. Section 5.3 requires the Department to: (1) accept and approve applications from schools and child care facilities that wish to establish new prekindergarten education programs or expand existing prekindergarten education programs; and (2) identify the needs that must be met for those schools to establish or expand prekindergarten education programs. Section 5.3 prescribes the required uses of money appropriated for the program, including addressing the identified needs of schools and facilities participating in the program and awarding grants of money to such schools and facilities.

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

Section 1. NRS 388.060 is hereby amended to read as follows:

388.060 ~~{1. Except as otherwise provided in this subsection, the} The~~ board of trustees of each school district shall establish, equip and maintain a ~~{prekindergarten education program and a}~~ kindergarten in each elementary school or each school attendance area in the district. ~~If, on or before June 1 immediately preceding the school year, admittance to kindergarten has been requested for fewer than 15 children, the mandatory provisions of this subsection do not apply to that school, and the board may decide whether to establish a kindergarten for those children. If the board decides not to establish such a kindergarten, it may provide:~~

~~—(a) Transportation for each child to enable the child to attend kindergarten at another school; or~~

~~—(b) Upon agreement with a child's parent or guardian, an authorized program of instruction for kindergarten to be offered in the child's home;~~

~~which includes, without limitation, assigning licensed educational personnel to assist and consult with the parent or guardian as necessary.~~

~~2. The board of trustees of a school district in which a kindergarten is to be established under the provisions of this title of NRS shall budget for this purpose by including the costs in the next regular budget for the school district.]~~

Sec. 2. NRS 388A.366 is hereby amended to read as follows:

388A.366 1. A charter school shall:

(a) Comply with all laws and regulations relating to discrimination and civil rights.

(b) Remain nonsectarian, including, without limitation, in its educational programs, policies for admission and employment practices.

(c) Refrain from charging tuition or fees, except for tuition or fees that the board of trustees of a school district is authorized to charge, levying taxes or issuing bonds.

(d) Comply with any plan for desegregation ordered by a court that is in effect in the school district in which the charter school is located.

(e) Comply with the provisions of chapter 241 of NRS.

(f) Except as otherwise provided in this paragraph, schedule and provide annually at least as many days of instruction as are required of other public schools located in the same school district as the charter school is located. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction for a waiver from providing the days of instruction required by this paragraph. The Superintendent of Public Instruction may grant such a request if the governing body demonstrates to the satisfaction of the Superintendent that:

(1) Extenuating circumstances exist to justify the waiver; and

(2) The charter school will provide at least as many hours or minutes of instruction as would be provided under a program consisting of 180 days.

(g) Cooperate with the board of trustees of the school district in the administration of the examinations administered pursuant to NRS 390.105 and, if the charter school enrolls pupils at a high school grade level, the end-of-course examinations administered pursuant to NRS 390.600 and the college and career readiness assessment administered pursuant to NRS 390.610 to the pupils who are enrolled in the charter school.

(h) Comply with applicable statutes and regulations governing the achievement and proficiency of pupils in this State.

(i) Provide instruction in the core academic subjects set forth in subsection 1 of NRS 389.018, as applicable for the grade levels of pupils who are enrolled in the charter school, and provide at least the courses of study that are required of pupils by statute or regulation for promotion to the next grade or graduation from a public high school and require the pupils who are enrolled in the charter school to take those courses of study. This paragraph does not preclude a charter school from offering, or requiring the pupils who

are enrolled in the charter school to take, other courses of study that are required by statute or regulation.

(j) If the parent or legal guardian of a child submits an application to enroll in kindergarten ~~1-] or first grade [or second grade]~~ at the charter school, comply with NRS 392.040 regarding the ages ~~ages~~ for enrollment in those grades. ~~[[kindergarten.]~~

(k) Refrain from using public money to purchase real property or buildings without the approval of the sponsor.

(l) Hold harmless, indemnify and defend the sponsor of the charter school against any claim or liability arising from an act or omission by the governing body of the charter school or an employee or officer of the charter school. An action at law may not be maintained against the sponsor of a charter school for any cause of action for which the charter school has obtained liability insurance.

(m) Provide written notice to the parents or legal guardians of pupils in grades 9 to 12, inclusive, who are enrolled in the charter school of whether the charter school is accredited by the Northwest Accreditation Commission.

(n) Adopt a final budget in accordance with the regulations adopted by the Department. A charter school is not required to adopt a final budget pursuant to NRS 354.598 or otherwise comply with the provisions of chapter 354 of NRS.

(o) If the charter school provides a program of distance education pursuant to NRS 388.820 to 388.874, inclusive, comply with all statutes and regulations that are applicable to a program of distance education for purposes of the operation of the program.

2. A charter school shall not provide instruction through a program of distance education to children who are exempt from compulsory attendance pursuant to NRS 392.070. As used in this subsection, “distance education” has the meaning ascribed to it in NRS 388.826.

Sec. 3. NRS 392.040 is hereby amended to read as follows:

392.040 1. Except as otherwise provided by law, each parent, custodial parent, guardian or other person in the State of Nevada having control or charge of any child between the ages of ~~17-5] 6~~ and 18 years shall send the child to a public school during all the time the public school is in session in the school district in which the child resides unless the child has graduated from high school.

2. ~~[[A child who is 4 years of age on or before September 30 of a school year may be admitted to a prekindergarten education program at the beginning of that school year.~~

~~—3.]~~ A child who is 5 years of age on or before September 30 of a school year may ~~must~~ be admitted to kindergarten at the beginning of that school year, and the child’s enrollment must be counted for purposes of apportionment. If a child is not 5 years of age on or before September 30 of a school year, the child must not be admitted to kindergarten.

3. ~~{Except as otherwise provided in subsection 4, a}~~ A child who is 6 years of age on or before September 30 of a school year must:

(a) If the child has not completed kindergarten, be admitted to kindergarten at the beginning of that school year; or

(b) If the child has completed kindergarten, be admitted to the first grade at the beginning of that school year.

➔ and the child's enrollment must be counted for purposes of apportionment.

If a child is not 6 years of age on or before September 30 of a school year, the child must not be admitted to the first grade until the beginning of the school year following the child's sixth birthday.

4. ~~{The parents, custodial parent, guardian or other person within the State of Nevada having control or charge of a child who is 6 years of age on or before September 30 of a school year may elect for the child not to attend kindergarten or the first grade during that year. The parents, custodial parent, guardian or other person who makes such an election shall file with the board of trustees of the appropriate school district a waiver in a form prescribed by the board.~~

~~5.}~~ Whenever a child who is 6 years of age is enrolled in a public school, each parent, custodial parent, guardian or other person in the State of Nevada having control or charge of the child shall send the child to the public school during all the time the school is in session. If the board of trustees of a school district has adopted a policy prescribing a minimum number of days of attendance for pupils enrolled in kindergarten or first grade pursuant to NRS 392.122, the school district shall provide to each parent and legal guardian of a pupil ~~{who elects to enroll his or her child}~~ **enrolled** in kindergarten or first grade a written document containing a copy of that policy and a copy of the policy of the school district concerning the withdrawal of pupils from kindergarten or first grade. Before the child's first day of attendance at a school, the parent or legal guardian shall sign a statement on a form provided by the school district acknowledging that he or she has read and understands the policy concerning attendance and the policy concerning withdrawal of pupils from kindergarten or first grade. The parent or legal guardian shall comply with the applicable requirements for attendance. ~~{This requirement for attendance does not apply to any child under the age of 7 years who has not yet been enrolled or has been formally withdrawn from enrollment in public school.~~

~~6. A child who is 7 years of age on or before September 30 of a school year must:~~

~~(a) If the child has completed kindergarten and the first grade, be admitted to the second grade.~~

~~(b) If the child has completed kindergarten, be admitted to the first grade.~~

~~(c) If the parents, custodial parent, guardian or other person in the State of Nevada having control or charge of the child waived the child's attendance from kindergarten pursuant to subsection 4, undergo an assessment by the district pursuant to subsection 7 to determine whether the child is prepared~~

developmentally to be admitted to the first grade. If the district determines that the child is prepared developmentally, the child must be admitted to the first grade. If the district determines that the child is not so prepared, he or she must be admitted to kindergarten.

~~→ The enrollment of any child pursuant to this subsection must be counted for apportionment purposes.~~

~~—7.— Each school district shall prepare and administer before the beginning of each school year a developmental screening test to a child:~~

~~—(a) Who is 7 years of age on or before September 30 of the next school year; and~~

~~—(b) Whose parents waived the child's attendance from kindergarten pursuant to subsection 4;~~

~~→ to determine whether the child is prepared developmentally to be admitted to the first grade. The results of the test must be made available to the parents, custodial parent, guardian or other person within the State of Nevada having control or charge of the child.~~

~~—8.—4.] 5.~~ Except as otherwise provided in subsection ~~[9.—5.] 6.~~ a child who becomes a resident of this State after completing kindergarten or beginning first grade in another state in accordance with the laws of that state may be admitted to the grade the child was attending or would be attending had he or she remained a resident of the other state regardless of his or her age, unless the board of trustees of the school district determines that the requirements of this section are being deliberately circumvented.

~~[9.—5.] 6.~~ Pursuant to the provisions of NRS 388F.010, a child who transfers to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the child must be admitted to:

(a) The grade, other than kindergarten, the child was attending or would be attending had he or she remained a resident of the other state, regardless of the child's age.

(b) Kindergarten, if the child was enrolled in kindergarten in another state in accordance with the laws of that state, regardless of the child's age.

~~[10.—6.] 7.~~ As used in this section “kindergarten” ~~+~~

~~(a) “Kindergarten”~~ includes:

~~(a) [(1)]~~ A kindergarten established by the board of trustees of a school district pursuant to NRS 388.060;

~~[(b)] and~~

~~[(2)] (b)~~ A kindergarten established by the governing body of a charter school. ~~+~~ and

~~—(c) An authorized program of instruction for kindergarten offered in a child's home pursuant to NRS 388.060.~~

~~—(b) “Prekindergarten education program” includes a prekindergarten education program established by the board of trustees of a school district pursuant to NRS 388.060.]~~

Sec. 4. NRS 392.160 is hereby amended to read as follows:

392.160 1. Any peace officer, the attendance officer or any other school officer shall, during school hours, take into custody without warrant ~~the~~

~~— (a) Any~~ **any** child **who is** between the ages of ~~17-51~~ **6** and 18 years ~~1; and~~

~~— (b) Any child who has arrived at the age of 6 years but not at the age of 7 years and 1,~~ **who** is enrolled in a public school ~~1;~~

~~↪ 1~~ **and** who has been reported to the officer by the teacher, superintendent of schools or other school officer as an absentee from instruction upon which the child is lawfully required to attend.

2. Except as otherwise provided in subsection 3:

(a) During school hours, the officer having custody shall forthwith deliver the child to the superintendent of schools, principal or other school officer at the child's school of attendance.

(b) After school hours, the officer having custody shall deliver the child to the parent, guardian or other person having control or charge of the child.

3. The board of trustees of a school district or the governing body of a charter school may enter into an agreement with a counseling agency to permit delivery of the child to the agency. For the purposes of this subsection, "counseling agency" means an agency designated by the school district in which the child is enrolled to provide counseling for the child and the parent, guardian or other person having control or charge of the child.

Sec. 5. NRS 422A.333 is hereby amended to read as follows:

422A.333 1. A recipient who has control or charge of a child who is not less than ~~17-51~~ **6** years of age, but is less than 12 years of age, must comply with the provisions of NRS 392.040 with respect to that child.

2. If the head of a household that is receiving benefits pursuant to the program to provide Temporary Assistance for Needy Families has control or charge of a child who is not less than ~~17-51~~ **6** years of age, but is less than 12 years of age, the head of the household shall take every reasonable action to ensure that the child is not at risk of failing to advance to the next grade level in school.

3. If the head of a household that is receiving benefits pursuant to the program to provide Temporary Assistance for Needy Families has control or charge of a child who is not less than ~~17-51~~ **6** years of age, but is less than 12 years of age and:

(a) The head of the household does not comply with the provisions of NRS 392.040 with respect to that child; or

(b) That child is at risk of failing to advance to the next grade level in school,

↪ the Division shall require the head of the household to review with the Division the personal responsibility plan signed by the head of household pursuant to NRS 422A.535 and revise the plan as necessary to assist the head of the household in complying with the provisions of NRS 392.040 and helping the child to improve his or her academic performance.

Sec. 5.3. 1. The Department of Education shall establish the Prekindergarten Improvement and Expansion Program. To carry out the Program, the Department shall:

(a) Solicit applications from public schools, private schools and child care facilities that wish to establish new prekindergarten education programs or expand existing prekindergarten education programs;

(b) Approve applications based on the quality of the application and the ability of the applicant to effectively establish a new prekindergarten education program or expand an existing kindergarten education program;

(c) Identify the needs that must be met for the schools or facilities whose applications have been approved to establish new prekindergarten education programs or expand existing prekindergarten education programs; and

(d) Use the money appropriated to the Department by section 5.8 of this act for the purposes prescribed in subsections 2, 3 and 4.

2. Except as otherwise authorized by section 5.8 of this act, the Department shall use the money appropriated to the Department by section 5.8 of this act for the Fiscal Year 2017-2018 to address the needs identified pursuant to paragraph (c) of subsection 1, including, without limitation, by:

(a) Purchasing portable classrooms to provide additional classroom space.

(b) Increasing the number of scholarships available to students who are enrolled in a program of early childhood education at a college or university located in this State.

(c) Expanding the Nevada Silver State Stars Quality Rating and Improvement System for prekindergarten education programs.

(d) Collecting data concerning pupils enrolled in prekindergarten education programs for inclusion in the statewide longitudinal data system developed pursuant to NRS 400.040. Such data must be collected and maintained in a manner that complies with all applicable state and federal requirements concerning the privacy of data concerning pupils.

3. Except as otherwise authorized by section 5.8 of this act, the Department shall use the money appropriated to the Department by section 5.8 of this act for the Fiscal Year 2018-2019 to award grants of money to schools and child care facilities whose applications have been approved pursuant to subsection 1 in the amount of \$8,000 for each pupil enrolled in a prekindergarten education program at the school or facility, for a maximum of 670 total pupils in this State. If there are more than 670 pupils enrolled in prekindergarten education programs at such schools and facilities, the Department shall award grants of money based on need, as determined by the Department.

4. If any of the money appropriated to the Department by section 5.8 of this act remains after awarding grants pursuant to subsection 3, the Department shall use that money to:

(a) Increase the number of scholarships available to students who are enrolled in a program of early childhood education at a college or university located in this State.

(b) Expand the Nevada Silver State Stars Quality Rating and Improvement System for prekindergarten education programs.

(c) Collect data concerning pupils enrolled in prekindergarten education programs for inclusion in the statewide longitudinal data system developed pursuant to NRS 400.040. Such data must be collected and maintained in a manner that complies with all applicable state and federal requirements concerning the privacy of data concerning pupils.

(d) Provide wrap-around services to pupils with special needs who are enrolled in prekindergarten education programs and their families.

5. As used in this section:

(a) "Child care facility" has the meaning ascribed to it in NRS 432A.024.

(b) "Private school" has the meaning ascribed to it in NRS 394.103.

(c) "Public school" has the meaning ascribed to it in NRS 385.007.

(d) "Wrap-around services" means supplemental services provided to a pupil with special needs or the family of such a pupil that are not otherwise covered by any federal or state program of assistance.

Sec. 5.8. 1. There is hereby appropriated from the State General Fund to the Department of Education for the purposes prescribed in section 5.3 of this act:

(a) For the Fiscal Year 2017-2018..... \$1,542,000

(b) For the Fiscal Year 2018-2019..... \$7,771,000

2. The sums appropriated by subsection 1 are available for either fiscal year. Any remaining balance of those sums must not be committed for expenditure after June 30, 2019, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 20, 2019, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 20, 2019.

Sec. 6. 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. 7. This act becomes effective on July 1, 2017.

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 188.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 477.

AN ACT relating to education; reducing the minimum number of credit hours required per semester for eligibility for a grant awarded under the Silver State Opportunity Grant Program; **creating certain exceptions to the credit hour requirement; providing that grant money received by colleges pursuant to the Program does not revert**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Silver State Opportunity Grant Program. Under the Program, the Board of Regents of the University of Nevada is required to award grants to eligible students to pay for a portion of the cost of education at a community college or state college that is part of the Nevada System of Higher Education. One of the requirements for eligibility for such a grant is that a student be enrolled, or accepted to be enrolled, during a semester in at least 15 credit hours at a community college or state college that is part of the Nevada System of Higher Education. (NRS 396.952) ~~[This]~~ **Section 1 of this bill reduces the minimum number of such required credit hours to ~~15~~ 12 credit hours ~~and~~ and provides that a student who is enrolled in fewer than 12 credit hours is still eligible for a grant if the student: (1) is enrolled in his or her final semester of study; or (2) receives a waiver of the 12 credit hour requirement from the student's college based on hardship. Section 1 also provides that a student who loses his or her eligibility for a grant because he or she was not enrolled in 12 credit hours during a semester: (1) may regain his or her eligibility for a grant in future semesters by satisfying the 12 credit hour requirement during a semester for which he or she is not eligible for a grant; and (2) will lose eligibility permanently if he or she fails for a second time to satisfy the 12 credit hour requirement in a subsequent semester.**

Section 2 of this bill provides that money provided to a community college or state college for a grant awarded on behalf of a student under the Silver State Opportunity Grant Program does not revert and any remaining amount must be carried forward and used for grants for eligible students in a subsequent semester.

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

Section 1. NRS 396.952 is hereby amended to read as follows:

396.952 1. The Silver State Opportunity Grant Program is hereby created for the purpose of awarding grants to eligible students to pay for a portion of the cost of education at a community college or state college within the System.

2. The Board of Regents shall administer the Program.

3. In administering the Program, the Board of Regents shall for each semester, subject to the limits of money available for this purpose, award a grant to each eligible student to pay for a portion of the cost of education at a community college or state college within the System.

4. To be eligible for a grant awarded under the Program, a student must:

(a) ~~Be~~ Except as otherwise provided in this section, be enrolled, or accepted to be enrolled, during a semester in at least ~~15-91~~ 12 credit hours at a community college or state college within the System;

(b) Be enrolled in a program of study leading to a recognized degree or certificate;

(c) Demonstrate proficiency in English and mathematics sufficient for placement into college-level English and mathematics courses pursuant to regulations adopted by the Board of Regents for such placement;

(d) Be a bona fide resident of the State of Nevada for the purposes of determining pursuant to NRS 396.540 whether the student is assessed a tuition charge; and

(e) Complete the Free Application for Federal Student Aid provided for by 20 U.S.C. § 1090.

5. A student who is enrolled, or accepted to be enrolled, in the final semester of his or her program of study in less than 12 credit hours at a community college or state college within the System is eligible for a grant awarded under the Program.

6. Except as otherwise provided in subsection 7, if a student does not satisfy the requirements of paragraph (a) of subsection 4 during one semester of enrollment, the student is not eligible for a grant awarded under the Program for the succeeding semester of enrollment. If such a student:

(a) Subsequently satisfies the requirements of paragraph (a) of subsection 4 in any subsequent semester in which he or she is not eligible for a grant awarded under the Program, the student is eligible for a grant awarded under the Program for his or her next semester of enrollment.

(b) Fails a second time to satisfy the requirements of paragraph (a) of subsection 4 during any subsequent semester, the student is no longer eligible for a grant awarded under the Program.

7. If a student does not satisfy the requirements of paragraph (a) of subsection 4 during a semester of enrollment, the student may apply for a waiver from the requirements of that paragraph for that semester from the community college or state college based on hardship arising out of the individual circumstances of the student. The community college or state college shall grant the waiver if it determines that the individual circumstances warrant a waiver.

Sec. 2. NRS 396.954 is hereby amended to read as follows:

396.954 1. For each eligible student, the Board of Regents or a designee thereof shall:

(a) Calculate the maximum amount of the grant which the student is eligible to receive. The maximum amount of such a grant must not exceed the amount equal to the cost of education of the student minus the amounts determined for the student contribution, family contribution and federal contribution to the cost of education of the student.

(b) Determine the actual amount of the grant which will be awarded to each student, which amount must not exceed the maximum amount calculated pursuant to paragraph (a), but which may be in a lesser amount if the Board of Regents or a designee thereof, as applicable, determines that the amount of money available for all grants for any semester is insufficient to award to all eligible students the maximum amount of the grant which each student is eligible to receive.

(c) Award to each eligible student a grant in the amount determined pursuant to paragraph (b).

2. **Any money received by a community college or state college within the System for a grant awarded under the Program on behalf of an eligible student at the community college or state college does not revert and any remaining amount must be carried forward and used for grants awarded under the Program for eligible students in a subsequent semester.**

3. Money received from a grant awarded under the Program must be used by a student only to pay for the cost of education of the student at a community college or state college within the System and not for any other purpose.

Sec. 3. NRS 396.956 is hereby amended to read as follows:

396.956 1. The Board of Regents:

(a) Shall adopt regulations prescribing the procedures and standards for determining the eligibility of a student for a grant from the Program.

(b) Shall adopt regulations prescribing the methodology by which the Board of Regents or a designee thereof will calculate:

(1) The cost of education of a student at each community college and state college within the System, which must be consistent with the provisions of 20 U.S.C. § 1087ll.

(2) For each student, the amounts of the student contribution, family contribution and federal contribution to the cost of education of the student.

(3) The maximum amount of the grant for which a student is eligible.

(c) Shall adopt regulations prescribing the process by which each student may meet the credit-hour requirement described in ~~paragraph (a) of subsection 4 of~~ NRS 396.952 for eligibility for a grant awarded under the Program.

(d) May adopt any other regulations necessary to carry out the Program.

2. The regulations prescribed pursuant to this section must provide that:

(a) In determining the student contribution to the cost of education, the student contribution must not exceed the amount that the Board of Regents determines the student reasonably could be expected to earn from employment during the time the student is enrolled at a community college or

state college within the System, including, without limitation, during breaks between semesters. This paragraph and any regulations adopted pursuant to this section must not be construed to require a student to seek or obtain employment as a condition of eligibility for a grant under the Program.

(b) Determination of the family contribution to the cost of education must be based on the family resources reported in the Free Application for Federal Student Aid submitted by the student.

(c) Determination of the federal contribution to the cost of education must be equal to the total amount that the student and his or her family are expected to receive from the Federal Government as grants.

~~{Sec. 2.}~~ **Sec. 4.** This act becomes effective on July 1, 2017.

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 199.

Bill read second time.

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

Amendment No. 587.

~~[ASSEMBLYWOMAN]~~ **ASSEMBLYWOMEN WOODBURY AND TITUS**

AN ACT relating to health care; authorizing a physician assistant or advanced practice registered nurse to take certain actions relating to a Physician Order for Life-Sustaining Treatment; revising provisions governing the execution and revocation of a Physician Order for Life-Sustaining Treatment form; ~~requiring the Registry of Advance Directives for Health Care to include a form for electronically completing and registering a Physician Order for Life-Sustaining Treatment;~~ providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Health to adopt a Physician Order for Life-Sustaining Treatment form (POLST form), a document which records the wishes of a patient and directs any provider of health care regarding the provision of life-resuscitating treatment and life-sustaining treatment. (NRS 449.694) Existing law also specifies that a patient who is at least 18 years of age and of sound mind is allowed to request, execute and revoke a POLST form. Under existing law, if a patient is at least 18 years of age and incompetent, certain legal representatives of the patient are authorized to execute and revoke a POLST form on behalf of the patient. (NRS 449.6942, 449.6944) **Sections 2-5, 7-17 and 21-25** of this bill authorize a physician assistant or advanced practice registered nurse to make certain determinations related to a POLST form and to execute a POLST form for a patient. **Sections 9 and 10** also revise provisions governing the execution and revocation of a POLST form. **Section 9:** (1) provides that, under certain circumstances, a surrogate who is not a legal representative of

the patient, including, without limitation, certain family members of the patient or any other adult who has exhibited special care or concern for the patient, is familiar with the values of the patient and willing and able to make health care decisions for the patient, is authorized to request and execute a POLST form for the patient; and (2) revises the standard for determining whether a patient has the capacity to request and execute a POLST form. **Section 10** revises the standard for determining whether a patient has the capacity to revoke a POLST form so that the standard matches the standard set forth in **section 9** for determining whether the patient has the capacity to execute a POLST form.

Existing law contains provisions for resolving potential conflicts between a POLST form and another type of instrument governing the withholding or withdrawal of life-resuscitating treatment and life-sustaining treatment. (NRS 449.6946) **Section 11** requires a provider of health care to honor a declaration, direction or order set forth in a POLST form to provide life-resuscitating treatment if the declaration, direction or order is executed after a do-not-resuscitate identification was issued to the patient.

~~[Existing law establishes a Registry of Advance Directives for Health Care, administered by the Secretary of State, in which certain declarations, directions or orders relating to the administration of life-resuscitating treatment or life-sustaining treatment of a patient may be deposited to facilitate treatment of that patient by any health care provider. (NRS 449.900-449.965) Sections 19 and 20 of this bill provide for the completion and registration of a POLST form electronically on the Internet website of the Secretary of State.]~~

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *“Advanced practice registered nurse” means a registered nurse who holds a valid license as an advanced practice registered nurse issued by the State Board of Nursing pursuant to NRS 632.237.*

Sec. 3. *“Attending advanced practice registered nurse” means an advanced practice registered nurse who has primary responsibility for the treatment and care of the patient.*

Sec. 4. *“Attending physician assistant” means a physician assistant who has primary responsibility for the treatment and care of the patient.*

Sec. 5. *“Physician assistant” means a person who holds a license as a physician assistant pursuant to chapter 630 or 633 of NRS.*

Sec. 6. NRS 449.691 is hereby amended to read as follows:

449.691 As used in NRS 449.691 to 449.697, inclusive, **and sections 2 to 5, inclusive, of this act**, unless the context otherwise requires, the words and terms defined in NRS 449.6912 to 449.6934, inclusive, **and sections 2 to 5, inclusive, of this act** have the meanings ascribed to them in those sections.

Sec. 7. NRS 449.693 is hereby amended to read as follows:

449.693 ~~["Physician"]~~ **"Provider** Order for Life-Sustaining Treatment form" or "POLST form" means the form prescribed pursuant to NRS 449.694 that:

1. Records the wishes of the patient; and
2. Directs a provider of health care regarding the provision of life-resuscitating treatment and life-sustaining treatment.

Sec. 8. NRS 449.694 is hereby amended to read as follows:

449.694 The Board shall prescribe a standardized ~~["Physician"]~~ **Provider** Order for Life-Sustaining Treatment form, commonly known as a POLST form, which:

1. Is uniquely identifiable and has a uniform color;
2. Provides a means by which to indicate whether the patient has made an anatomical gift pursuant to NRS 451.500 to 451.598, inclusive;
3. Gives direction to a provider of health care or health care facility regarding the use of emergency care and life-sustaining treatment;
4. Is intended to be honored by any provider of health care who treats the patient in any health-care setting, including, without limitation, the patient's residence, a health care facility or the scene of a medical emergency; and
5. Includes such other features and information as the Board may deem advisable.

Sec. 9. NRS 449.6942 is hereby amended to read as follows:

449.6942 1. A physician , **physician assistant or advanced practice registered nurse** shall take the actions described in subsection 2:

- (a) If the physician , **physician assistant or advanced practice registered nurse** diagnoses a patient with a terminal condition;
- (b) If the physician , **physician assistant or advanced practice registered nurse** determines, for any reason, that a patient has a life expectancy of less than 5 years; or
- (c) At the request of a patient.

2. Upon the occurrence of any of the events specified in subsection 1, the physician , **physician assistant or advanced practice registered nurse** shall explain to the patient:

- (a) The existence and availability of the ~~["Physician"]~~ **Provider** Order for Life-Sustaining Treatment form;
- (b) The features of and procedures offered by way of the POLST form; and
- (c) The differences between a POLST form and the other types of advance directives.

3. ~~["Upon the request of the patient, the"]~~ **The** physician , **physician assistant or advanced practice registered nurse** shall complete the POLST form based on the preferences and medical indications of the patient ~~[""]~~ , **upon the request of:**

- (a) **If the patient is 18 years of age or older and the physician, physician assistant or advanced practice registered nurse determines that the patient**

has the capacity to make decisions regarding his or her wishes for the provision of life-resuscitating treatment and life-sustaining treatment, the patient.

(b) If the patient is 18 years of age or older and the physician, physician assistant or advanced practice registered nurse determines that the patient lacks the capacity to make decisions regarding his or her wishes for the provision of life-resuscitating treatment and life-sustaining treatment:

(1) The representative of the patient; or

(2) If no person is a representative of the patient and a valid POLST form has not been executed by the patient or the representative of the patient, a surrogate of the patient who has the capacity to make decisions regarding the provision of life-resuscitating treatment and life-sustaining treatment for the patient.

(c) If the patient is less than 18 years of age, the patient and a parent or legal guardian of the patient.

4. A POLST form is valid upon execution by a physician , **physician assistant or advanced practice registered nurse** and:

(a) If the patient is 18 years of age or older and ~~{of sound mind,}~~ **the physician, physician assistant or advanced practice registered nurse determines that the patient has the capacity to make decisions regarding his or her wishes for the provision of life-resuscitating treatment and life-sustaining treatment,** the patient . ~~{}~~

(b) If the patient is 18 years of age or older and ~~{incompetent,}~~ **the physician, physician assistant or advanced practice registered nurse determines that the patient lacks the capacity to make decisions regarding his or her wishes for the provision of life-resuscitating treatment and life-sustaining treatment:**

(1) The representative of the patient; or

(2) If no person is a representative of the patient and a valid POLST form has not been executed by the patient or the representative of the patient, a surrogate of the patient who has the capacity to make decisions regarding the provision of life-resuscitating treatment and life-sustaining treatment for the patient.

(c) If the patient is less than 18 years of age, ~~{the patient and}~~ a parent or legal guardian of the patient.

5. **If, pursuant to subsection 3, a valid POLST form has been executed by a representative or surrogate of the patient and a provider of health care or the representative or surrogate of the patient believes that the patient has regained the capacity to make decisions regarding his or her wishes for the provision of life-resuscitating treatment and life-sustaining treatment, a physician, physician assistant or advanced practice registered nurse must examine the patient and inform the patient of the execution of the POLST form. If the physician, physician assistant or advanced practice registered nurse determines that the patient regained the capacity to make decisions regarding his or her wishes for the provision of life-resuscitating treatment**

and life-sustaining treatment, the patient may approve the execution of the POLST form or, pursuant to NRS 449.6944, revoke the POLST form executed for the patient by his or her representative or surrogate. If the patient approves the execution of the POLST form executed by his or her representative or surrogate, such approval must be made a part of the medical record of the patient and the POLST form is deemed to be valid. The physician, physician assistant or advanced practice registered nurse who examined the patient must notify the representative or surrogate of the patient who executed the POLST form of the decision of the patient to approve or revoke the POLST form.

6. For the purpose of determining whether a surrogate of the patient is authorized to request and execute a POLST form pursuant to subsections 3 and 4, respectively:

(a) If a class entitled to decide whether to request and execute a POLST form is not reasonably available for consultation and capable of deciding or declines to decide, the next class is authorized to decide, but an equal division in a class does not authorize the next class to decide.

(b) A decision to request and execute a POLST form must be made in good faith and is not valid if it conflicts with the expressed intention of the patient.

(c) A decision of the physician, physician assistant or advanced practice registered nurse acting in good faith that a decision to request and execute a POLST form is valid or invalid is conclusive.

7. As used in this section ~~["terminal"]~~:

(a) "Surrogate of the patient" means the following persons, in order of priority:

(1) The spouse of the patient;

(2) An adult child of the patient or, if there is more than one adult child, a majority of the adult children who are reasonably available for consultation;

(3) The parents of the patient;

(4) An adult sibling of the patient or, if there is more than one adult sibling, a majority of the adult siblings who are reasonably available for consultation;

(5) The nearest other adult relative of the patient by blood or adoption who is reasonably available for consultation; or

(6) An adult who has exhibited special care or concern for the patient, is familiar with the values of the patient and willing and able to make health care decisions for the patient.

(b) "Terminal condition" has the meaning ascribed to it in NRS 449.590.

Sec. 10. NRS 449.6944 is hereby amended to read as follows:

449.6944 1. A ~~Physician~~ **Provider** Order for Life-Sustaining Treatment form may be revoked at any time and in any manner by:

(a) The patient who executed it ~~[""]~~ or for whom a representative or surrogate executed it pursuant to NRS 449.6942, if ~~competent,~~ the patient

is 18 years of age or older and the physician, physician assistant or advanced practice registered nurse determines that the patient has the capacity to make decisions regarding his or her wishes for the provision of life-resuscitating treatment and life-sustaining treatment ; ~~if, without regard to his or her age or physical condition,~~

(b) ~~if~~ ***Without regard to the patient's age or physical condition, if the physician, physician assistant or advanced practice registered nurse determines that the*** patient ~~is incompetent,~~ ***lacks the capacity to make decisions regarding his or her wishes for the provision of life-resuscitating treatment and life-sustaining treatment,*** the representative of the patient; or

(c) If the patient is less than 18 years of age, a parent or legal guardian of the patient.

2. The revocation of a POLST form is effective upon the communication to a provider of health care, by the patient or a ~~twitness to the revocation,~~ ***person authorized to revoke a POLST form pursuant to subsection 1,*** of the desire to revoke the form. The provider of health care to whom the revocation is communicated shall:

(a) Make the revocation a part of the medical record of the patient; or

(b) Cause the revocation to be made a part of the medical record of the patient.

Sec. 11. NRS 449.6946 is hereby amended to read as follows:

449.6946 1. If a valid ~~Physician~~ ***Provider*** Order for Life-Sustaining Treatment form sets forth a declaration, direction or order which conflicts with a declaration, direction or order set forth in one or more of the other types of advance directives:

(a) The declaration, direction or order set forth in the document executed most recently is valid; and

(b) Any other declarations, directions or orders that do not conflict with a declaration, direction or order set forth in another document referenced in this subsection remain valid.

2. If a valid POLST form sets forth a declaration, direction or order to provide life-resuscitating treatment to a patient who also possesses a do-not-resuscitate identification, a provider of health care shall ~~not~~ provide life-resuscitating treatment if the ~~do not resuscitate identification is on the person of the patient when the need for life resuscitating treatment arises.~~ ***declaration, direction or order to provide life-resuscitating treatment set forth in the valid POLST form was executed more recently than the issuance of the do-not-resuscitate identification.***

Sec. 12. NRS 449.6948 is hereby amended to read as follows:

449.6948 1. A provider of health care is not guilty of unprofessional conduct or subject to civil or criminal liability if:

(a) The provider of health care withholds emergency care or life-sustaining treatment:

(1) In compliance with a ~~Physician~~ **Provider** Order for Life-Sustaining Treatment form and the provisions of NRS 449.691 to 449.697, inclusive ~~1~~, **and sections 2 to 5, inclusive, of this act;** or

(2) In violation of a ~~Physician~~ **Provider** Order for Life-Sustaining Treatment form if the provider of health care is acting in accordance with a declaration, direction or order set forth in one or more of the other types of advance directives and:

(I) Complies with the provisions of NRS 449.695; or

(II) Reasonably and in good faith, at the time the emergency care or life-sustaining treatment is withheld, is unaware of the existence of the POLST form or believes that the POLST form has been revoked pursuant to NRS 449.6944; or

(b) The provider of health care provides emergency care or life-sustaining treatment:

(1) Pursuant to an oral or written request made by the patient, the representative of the patient, or a parent or legal guardian of the patient, who may revoke the POLST form pursuant to NRS 449.6944;

(2) Pursuant to an observation that the patient, the representative of the patient or a parent or legal guardian of the patient has revoked, or otherwise indicated that he or she wishes to revoke, the POLST form pursuant to NRS 449.6944; or

(3) In violation of a POLST form, if the provider of health care reasonably and in good faith, at the time the emergency care or life-sustaining treatment is provided, is unaware of the existence of the POLST form or believes that the POLST form has been revoked pursuant to NRS 449.6944.

2. A health care facility, ambulance service, fire-fighting agency or other entity that employs a provider of health care is not guilty of unprofessional conduct or subject to civil or criminal liability for the acts or omissions of the employee carried out in accordance with the provisions of subsection 1.

Sec. 13. NRS 449.695 is hereby amended to read as follows:

449.695 1. Except as otherwise provided in this section and NRS 449.6946, a provider of health care shall comply with a valid ~~Physician~~ **Provider** Order for Life-Sustaining Treatment form, regardless of whether the provider of health care is employed by a health care facility or other entity affiliated with the physician, **physician assistant or advanced practice registered nurse** who executed the POLST form.

2. A physician, **physician assistant or advanced practice registered nurse** may medically evaluate the patient and, based upon the evaluation, may recommend new orders consistent with the most current information available about the patient's health status and goals of care. Before making a modification to a valid POLST form, the physician, **physician assistant or advanced practice registered nurse** shall consult the patient or, if the patient ~~is incompetent,~~ **lacks decisional capacity**, shall make a reasonable attempt to consult the representative of the patient and the patient's attending

physician ~~or~~, **attending physician assistant or attending advanced practice registered nurse.**

3. Except as otherwise provided in subsection 4, a provider of health care who is unwilling or unable to comply with a valid POLST form shall take all reasonable measures to transfer the patient to a physician, **physician assistant, advanced practice registered nurse** or health care facility so that the POLST form will be followed.

4. Life-sustaining treatment must not be withheld or withdrawn pursuant to a POLST form of a patient known to the attending physician, **attending physician assistant or attending advanced practice registered nurse** to be pregnant, so long as it is probable that the fetus will develop to the point of live birth with the continued application of life-sustaining treatment.

5. Nothing in this section requires a provider of health care to comply with a valid POLST form if the provider of health care does not have actual knowledge of the existence of the form.

Sec. 14. NRS 449.6952 is hereby amended to read as follows:

449.6952 1. Unless he or she has knowledge to the contrary, a provider of health care may assume that a ~~Physician~~ **Provider** Order for Life-Sustaining Treatment form complies with the provisions of NRS 449.691 to 449.697, inclusive, **and sections 2 to 5, inclusive, of this act** and is valid.

2. The provisions of NRS 449.691 to 449.697, inclusive, **and sections 2 to 5, inclusive, of this act** do not create a presumption concerning the intention of a:

(a) Patient if the patient, the representative of the patient or a parent or legal guardian of the patient has revoked the POLST form pursuant to NRS 449.6944; or

(b) Person who has not executed a POLST form,
 ➤ concerning the use or withholding of emergency care or life-sustaining treatment.

Sec. 15. NRS 449.6954 is hereby amended to read as follows:

449.6954 1. Death that results when emergency care or life-sustaining treatment has been withheld pursuant to a ~~Physician~~ **Provider** Order for Life-Sustaining Treatment form and in accordance with the provisions of NRS 449.691 to 449.697, inclusive, **and sections 2 to 5, inclusive, of this act** does not constitute a suicide or homicide.

2. The execution of a POLST form does not affect the sale, procurement or issuance of a policy of life insurance or an annuity, nor does it affect, impair or modify the terms of an existing policy of life insurance or an annuity. A policy of life insurance or an annuity is not legally impaired or invalidated if emergency care or life-sustaining treatment has been withheld from an insured who has executed a POLST form, notwithstanding any term in the policy or annuity to the contrary.

3. A person may not prohibit or require the execution of a POLST form as a condition of being insured for, or receiving, health care.

Sec. 16. NRS 449.6956 is hereby amended to read as follows:

449.6956 1. It is unlawful for:

(a) A provider of health care to willfully fail to transfer the care of a patient in accordance with subsection 3 of NRS 449.695.

(b) A person to willfully conceal, cancel, deface or obliterate a ~~Physician~~ **Provider** Order for Life-Sustaining Treatment form without the consent of the patient who executed the form.

(c) A person to falsify or forge the POLST form of another person, or willfully conceal or withhold personal knowledge of the revocation of the POLST form of another person, with the intent to cause the withholding or withdrawal of emergency care or life-sustaining treatment contrary to the wishes of the patient.

(d) A person to require or prohibit the execution of a POLST form as a condition of being insured for, or receiving, health care in violation of subsection 3 of NRS 449.6954.

(e) A person to coerce or fraudulently induce another to execute a POLST form.

2. A person who violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 17. NRS 449.696 is hereby amended to read as follows:

449.696 1. A ~~Physician~~ **Provider** Order for Life-Sustaining Treatment form executed in another state in compliance with the laws of that state or this State is valid for the purposes of NRS 449.691 to 449.697, inclusive ~~[-],~~ **and sections 2 to 5, inclusive, of this act.**

2. As used in this section, "state" includes the District of Columbia, the Commonwealth of Puerto Rico and a territory or insular possession subject to the jurisdiction of the United States.

Sec. 18. NRS 449.905 is hereby amended to read as follows:

449.905 "Advance directive" means an advance directive for health care. The term includes:

1. A declaration governing the withholding or withdrawal of life-sustaining treatment as set forth in NRS 449.535 to 449.690, inclusive;

2. A durable power of attorney for health care as set forth in NRS 162A.700 to 162A.865, inclusive;

3. A do-not-resuscitate order as defined in NRS 450B.420; and

4. A ~~Physician~~ **Provider** Order for Life-Sustaining Treatment form as defined in NRS 449.693.

Sec. 19. ~~NRS 449.920 is hereby amended to read as follows:~~

~~449.920 The Secretary of State shall establish and maintain the Registry of Advance Directives for Health Care on the Internet website of the Secretary of State. The Registry must include, without limitation, in a secure portion of the website [-, and] -~~

~~1. An electronic reproduction of each advance directive. The electronic reproduction must be capable of being viewed on the website and~~

~~downloaded, printed or otherwise retrieved by a person as set forth in NRS 449.930.~~

~~2. A fillable form by which a person may complete and register a Provider Order for Life-Sustaining Treatment form electronically on the Internet website of the Secretary of State. The submitted form must be capable of being viewed on the website and downloaded, printed or otherwise retrieved by a person as set forth in NRS 449.930. (Deleted by amendment.)~~

Sec. 20. ~~[NRS 449.925 is hereby amended to read as follows:~~

~~449.925 1. A person who wishes to register an advance directive must [submit]:~~

~~(a) Submit to the Secretary of State;~~

~~[(a)] (1) An application in the form prescribed by the Secretary of State;~~

~~[(b)] (2) A copy of the advance directive; and~~

~~[(c)] (3) The fee, if any, established by the Secretary of State pursuant to NRS 449.955 [.] ; or~~

~~(b) Complete and submit:~~

~~(1) The electronic form prescribed by the Secretary of State on the Internet website of the Secretary of State to register a Provider Order for Life-Sustaining Treatment form; and~~

~~(2) The fee, if any, established by the Secretary of State pursuant to NRS 449.955.~~

~~2. If the person satisfies the requirements of subsection 1, the Secretary of State shall:~~

~~(a) Make an electronic reproduction of the advance directive and post it to the Registry, as applicable, and, if the person consents pursuant to NRS 439.591, a health information exchange established pursuant to NRS 439.591 to 439.595, inclusive, if that health information exchange is connected to the Registry;~~

~~(b) Assign a registration number and password to the registrant; and~~

~~(c) Provide the registrant with a registration card that includes, without limitation, the name, registration number and password of the registrant.~~

~~3. The Secretary of State shall establish procedures for:~~

~~(a) The registration of an advance directive that replaces an advance directive that is posted on the Registry;~~

~~(b) The removal from the Registry of an advance directive that has been revoked following the revocation of the advance directive or the death of the registrant; and~~

~~(c) The issuance of a duplicate registration card or the provision of other access to the registrant's registration number and password if a registration card issued pursuant to this section is lost, stolen, destroyed or otherwise unavailable. (Deleted by amendment.)~~

Sec. 21. NRS 449.945 is hereby amended to read as follows:

449.945 1. The provisions of NRS 449.900 to 449.965, inclusive, do not require a provider of health care to inquire whether a patient has an

advance directive registered on the Registry or to access the Registry to determine the terms of the advance directive.

2. A provider of health care who relies in good faith on the provisions of an advance directive retrieved from the Registry is immune from criminal and civil liability as set forth in:

(a) NRS 449.630, if the advance directive is a declaration governing the withholding or withdrawal of life-sustaining treatment executed pursuant to NRS 449.535 to 449.690, inclusive, or a durable power of attorney for health care executed pursuant to NRS 162A.700 to 162A.865, inclusive;

(b) NRS 449.691 to 449.697, inclusive, **and sections 2 to 5, inclusive, of this act**, if the advance directive is a ~~{Physician}~~ **Provider** Order for Life-Sustaining Treatment form; or

(c) NRS 450B.540, if the advance directive is a do-not-resuscitate order as defined in NRS 450B.420.

Sec. 22. NRS 450B.470 is hereby amended to read as follows:

450B.470 “Qualified patient” means:

1. A patient 18 years of age or older who has been determined by the patient’s attending physician to be in a terminal condition and who:

(a) Has executed a declaration in accordance with the requirements of NRS 449.600;

(b) Has executed a ~~{Physician}~~ **Provider** Order for Life-Sustaining Treatment form pursuant to NRS 449.691 to 449.697, inclusive, **and sections 2 to 5, inclusive, of this act**, if the form provides that the patient is not to receive life-resuscitating treatment; or

(c) Has been issued a do-not-resuscitate order pursuant to NRS 450B.510.

2. A patient who is less than 18 years of age and who:

(a) Has been determined by the patient’s attending physician to be in a terminal condition; and

(b) Has executed a Physician Order for Life-Sustaining Treatment form pursuant to NRS 449.691 to 449.697, inclusive, if the form provides that the patient is not to receive life-resuscitating treatment or has been issued a do-not-resuscitate order pursuant to NRS 450B.510.

Sec. 23. NRS 450B.520 is hereby amended to read as follows:

450B.520 Except as otherwise provided in NRS 450B.525:

1. A qualified patient may apply to the health authority for a do-not-resuscitate identification by submitting an application on a form provided by the health authority. To obtain a do-not-resuscitate identification, the patient must comply with the requirements prescribed by the board and sign a form which states that the patient has informed each member of his or her family within the first degree of consanguinity or affinity, whose whereabouts are known to the patient, or if no such members are living, the patient’s legal guardian, if any, or if he or she has no such members living and has no legal guardian, his or her caretaker, if any, of the patient’s decision to apply for an identification.

2. An application must include, without limitation:

(a) Certification by the patient's attending physician that the patient suffers from a terminal condition;

(b) Certification by the patient's attending physician that the patient is capable of making an informed decision or, when the patient was capable of making an informed decision, that the patient:

(1) Executed:

(I) A written directive that life-resuscitating treatment be withheld under certain circumstances;

(II) A durable power of attorney for health care pursuant to NRS 162A.700 to 162A.865, inclusive; or

(III) A ~~Physician~~ **Provider** Order for Life-Sustaining Treatment form pursuant to NRS 449.691 to 449.697, inclusive, **and sections 2 to 5, inclusive, of this act**, if the form provides that the patient is not to receive life-resuscitating treatment; or

(2) Was issued a do-not-resuscitate order pursuant to NRS 450B.510;

(c) A statement that the patient does not wish that life-resuscitating treatment be undertaken in the event of a cardiac or respiratory arrest;

(d) The name, signature and telephone number of the patient's attending physician; and

(e) The name and signature of the patient or the agent who is authorized to make health care decisions on the patient's behalf pursuant to a durable power of attorney for health care decisions.

Sec. 24. NRS 450B.525 is hereby amended to read as follows:

450B.525 1. A parent or legal guardian of a minor may apply to the health authority for a do-not-resuscitate identification on behalf of the minor if the minor has been:

(a) Determined by his or her attending physician to be in a terminal condition; and

(b) Issued a do-not-resuscitate order pursuant to NRS 450B.510.

2. To obtain such a do-not-resuscitate identification, the parent or legal guardian must:

(a) Submit an application on a form provided by the health authority; and

(b) Comply with the requirements prescribed by the board.

3. An application submitted pursuant to subsection 2 must include, without limitation:

(a) Certification by the minor's attending physician that the minor:

(1) Suffers from a terminal condition; and

(2) Has executed a ~~Physician~~ **Provider** Order for Life-Sustaining Treatment form pursuant to NRS 449.691 to 449.697, inclusive, **and sections 2 to 5, inclusive, of this act**, if the form provides that the minor is not to receive life-resuscitating treatment or has been issued a do-not-resuscitate order pursuant to NRS 450B.510;

(b) A statement that the parent or legal guardian of the minor does not wish that life-resuscitating treatment be undertaken in the event of a cardiac or respiratory arrest;

- (c) The name of the minor;
- (d) The name, signature and telephone number of the minor's attending physician; and
- (e) The name, signature and telephone number of the minor's parent or legal guardian.

4. The parent or legal guardian of the minor may revoke the authorization to withhold life-resuscitating treatment by removing or destroying or requesting the removal or destruction of the identification or otherwise indicating to a person that he or she wishes to have the identification removed or destroyed.

5. If, in the opinion of the attending physician, the minor is of sufficient maturity to understand the nature and effect of withholding life-resuscitating treatment:

(a) The do-not-resuscitate identification obtained pursuant to this section is not effective without the assent of the minor.

(b) The minor may revoke the authorization to withhold life-resuscitating treatment by removing or destroying or requesting the removal or destruction of the identification or otherwise indicating to a person that the minor wishes to have the identification removed or destroyed.

Sec. 25. NRS 451.595 is hereby amended to read as follows:

451.595 1. As used in this section:

(a) "Advance health-care directive" means a power of attorney for health care or other record signed by a prospective donor, or executed in the manner set forth in NRS 162A.790, containing the prospective donor's direction concerning a health-care decision for the prospective donor.

(b) "Declaration" means a record signed by a prospective donor, or executed as set forth in NRS 449.600, specifying the circumstances under which life-sustaining treatment may be withheld or withdrawn from the prospective donor. The term includes a ~~Physician~~ **Provider** Order for Life-Sustaining Treatment form executed pursuant to NRS 449.691 to 449.697, inclusive ~~1~~, **and sections 2 to 5, inclusive, of this act.**

(c) "Health-care decision" means any decision made regarding the health care of the prospective donor.

2. If a prospective donor has a declaration or advance health-care directive and the terms of the declaration or advance health-care directive and the express or implied terms of the potential anatomical gift are in conflict concerning the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy:

(a) The attending physician of the prospective donor shall confer with the prospective donor to resolve the conflict or, if the prospective donor is incapable of resolving the conflict, with:

(1) An agent acting under the declaration or advance health-care directive of the prospective donor; or

(2) If an agent is not named in the declaration or advance health-care directive or the agent is not reasonably available, any other person authorized

by law, other than by a provision of NRS 451.500 to 451.598, inclusive, to make a health-care decision for the prospective donor.

(b) The conflict must be resolved as expeditiously as practicable.

(c) Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift of the prospective donor's body or part under NRS 451.556.

(d) Before the resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor, if withholding or withdrawing the measures is not medically contraindicated for the appropriate treatment of the prospective donor at the end of his or her life.

Sec. 26. NRS 449.6922 is hereby repealed.

Sec. 27. This act becomes effective on July 1, 2017.

TEXT OF REPEALED SECTION

449.6922 “Incompetent” defined. “Incompetent” has the meaning ascribed to it in NRS 159.019.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 203.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 430.

~~CONTAINS UNFUNDED MANDATE (S 7)~~

~~(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)) (NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)) (CONTAINS UNFUNDED MANDATE (S 7)~~

AN ACT relating to cemeteries; clarifying that a cemetery authority is not authorized to order the disinterment and removal of human remains from certain burial plots; requiring a governmental authority to make certain determinations before a cemetery authority may order the disinterment and removal of human remains; requiring a cemetery authority to prescribe a time for the removal and reinterment of human remains under certain circumstances; providing when a receptacle for reinterment will be deemed suitable; authorizing certain persons to maintain an action to require ~~to~~ **certain** cemetery ~~lowered~~ **owners** to keep the cemetery in an orderly condition; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the cemetery authority to order the disinterment and removal of all human remains interred in all or any part of a cemetery if

either the cemetery authority or a governmental authority determines that the further maintenance of all or any part of the cemetery as a burial place is not in accordance with the health, safety, comfort or welfare of the public. (NRS 451.070) **Section 1** of this bill clarifies that a cemetery authority may not: (1) order the disinterment and removal of remains from a burial plot that is owned in fee simple by a person other than the cemetery authority; or (2) sell, mortgage or encumber or order the sale, mortgage or encumbrance of such a burial plot. **Section 4** of this bill removes the authority of a cemetery authority to determine unilaterally that the further maintenance of all or any part of the cemetery as a burial place is not in accordance with the health, safety, comfort or welfare of the public. Before the cemetery authority may order the disinterment and removal of human remains, **section 4** requires the governmental authority to determine, in addition, that: (1) the cemetery authority cannot restore the cemetery to a proper operating condition; and (2) the cemetery authority cannot sell or lease the cemetery to or enter into a contract with another cemetery authority that will properly maintain the cemetery.

Existing law requires a cemetery authority that orders the disinterment and removal of remains under the circumstances described above to: (1) prescribe a reasonable time of not less than 1 year after which the cemetery authority may proceed to remove the remains and reinter them in another cemetery or deposit them in a memorial mausoleum or columbarium; and (2) reinter the remains of each person in a separate and suitable receptacle. (NRS 451.080, 451.270) **Section 5** of this bill clarifies that the statutory period begins when the cemetery authority orders disinterment and that, after the expiration of that period, the cemetery authority may proceed to remove and reinter or deposit the remains. **Section 5** also clarifies that these provisions apply if the cemetery authority plans to reinter the remains in another portion of the existing cemetery. **Section 6** of this bill requires remains to be reinterred within 1 year after the date on which they are disinterred. **Section 6** also deems a receptacle to be suitable if it meets certain conditions.

Existing law requires the owner of a cemetery to keep the cemetery in an orderly condition. (NRS 452.030) **Section 7** of this bill authorizes the district attorney of the county in which the cemetery is located or a relative of any person interred in the cemetery to maintain an action in a court of competent jurisdiction to enforce that requirement. **Under section 7, such an action may not be brought against a cemetery owned by a city or county.** **Section 7** authorizes a court, upon finding that the owner of a cemetery **that is not owned by a city or county** has not complied with that requirement, to: (1) order the owner to take any action necessary to bring the cemetery into an orderly condition; or (2) if the court also determines that continued ownership of the cemetery by the owner is not in accordance with the health, safety, comfort or welfare of the public, transfer title to the cemetery to the city or county in which the cemetery is located ~~if~~ **if the city or county accepts such transfer of title.** **Section 7** also requires a city or county to

which title to a cemetery is transferred to operate or provide for the operation of the cemetery.

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

Section 1. Chapter 451 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any other provision of law, including, without limitation, any provision of NRS 451.069 to 451.330, inclusive, a cemetery authority shall not:

1. Order the disinterment and removal of human remains interred in a burial plot that is owned in fee simple by a person other than the cemetery authority; or

2. Sell, mortgage or encumber or require the sale, mortgage or encumbrance of such a burial plot.

Sec. 2. NRS 451.005 is hereby amended to read as follows:

451.005 As used in NRS 451.010 to 451.470, inclusive, ***and section 1 of this act***, unless the context otherwise requires, “human remains” or “remains” means the body of a deceased person, and includes the body in any stage of decomposition and the cremated remains of a body.

Sec. 3. NRS 451.069 is hereby amended to read as follows:

451.069 As used in NRS 451.069 to 451.330, inclusive, ***and section 1 of this act***, “cemetery authority” means any natural person, partnership, association, corporation or public entity, including the Nevada System of Higher Education or any cemetery district, owning or leasing the land or other property of a cemetery or operating a cemetery as a business in this State.

Sec. 4. NRS 451.070 is hereby amended to read as follows:

451.070 ~~Except as otherwise provided in section 1 of this act, a~~ ***Except as otherwise provided in section 1 of this act, a*** cemetery authority may order the disinterment and removal of all human remains interred in all or any part of any cemetery if ~~the cemetery authority or a~~ ***the cemetery authority*** ~~or a~~ ***is*** ~~:~~ ***is unable to restore the cemetery or part of the cemetery to a condition where the maintenance of the cemetery as a burial place for the human dead is in accordance with the health, safety, comfort and welfare of the public; and***

1. A governmental authority other than the cemetery authority determines that the further:

(a) The maintenance of all or any part of the cemetery as a burial place for the human dead is not in accordance with the health, safety, comfort or welfare of the public ;

(b) The cemetery authority is unable to restore the cemetery or part of the cemetery to a condition where the maintenance of the cemetery as a burial place for the human dead is in accordance with the health, safety, comfort and welfare of the public; and

(c) The cemetery authority is unable, at current market rates, to sell or lease the cemetery to or enter into a contract with another cemetery authority that will maintain the cemetery as a burial place for the human

dead in accordance with the health, safety, comfort and welfare of the public; or ~~if the~~

2. *The* cemetery authority determines that financial provision must be made for future care of gravesites within a specified area.

Sec. 5. NRS 451.080 is hereby amended to read as follows:

451.080 1. The cemetery authority may prescribe reasonable regulations governing the manner of making disinterments and removals and providing for reinterment in a portion of the existing cemetery or in any other cemetery or for deposit of the remains in any memorial mausoleum or columbarium or for providing appropriate future care.

2. The cemetery authority must prescribe a reasonable time of not less than 1 year after *the date on which it orders the disinterment and removal of remains pursuant to NRS 451.070, after* which the cemetery authority may proceed to *disinter and* remove the remains and reinter them in *a portion of the existing cemetery or* another cemetery or deposit them in a memorial mausoleum or columbarium.

Sec. 6. NRS 451.270 is hereby amended to read as follows:

451.270 1. The remains of each person reinterred shall be placed in a separate and suitable receptacle and decently and respectfully interred *not later than 1 year after the date on which the remains are disinterred* under rules and regulations adopted by the cemetery authority making the removal.

2. *A receptacle shall be deemed suitable for the purposes of subsection 1 if the receptacle:*

(a) *Is capable of withstanding weather and movement of the earth that may affect the receptacle for at least 100 years; or*

(b) *Has been approved by the closest living relative of the decedent.*

Sec. 7. NRS 452.030 is hereby amended to read as follows:

452.030 1. Every owner of a cemetery shall keep the same in an orderly condition, and authority is conferred on the board of county commissioners of each county to make such rules as will carry out the intent of this section.

2. ~~But~~ *Except as otherwise provided in subsection 4, in addition to any action that may be taken pursuant to the rules described in subsection 1, the district attorney of the county in which a cemetery is located or a relative of any person interred in a cemetery may bring an action in a court of competent jurisdiction to enforce the provisions of subsection 1. If the court finds that the owner of the cemetery has failed to keep the cemetery in an orderly condition, the court may:*

(a) *Order the owner of the cemetery to take any action necessary to bring the cemetery into such a condition; or*

(b) *If the court also determines that continued ownership of the cemetery by the owner is not in accordance with the health, safety, comfort or welfare of the public, transfer title to the cemetery to the city or, if the cemetery is located in an unincorporated area of a county, the county in*

which the cemetery is located ~~for~~, if the city or county accepts such a transfer of title.

3. A city or county to which title of a cemetery is transferred pursuant to this section shall:

(a) Operate the cemetery;

(b) Lease the cemetery to a cemetery authority to operate the cemetery;

~~for~~

(c) Enter into a contract with a cemetery authority to operate the cemetery ~~for~~; or

(d) Transfer title of the cemetery to a nonprofit organization acting as the cemetery authority of the cemetery.

4. The provisions of subsection 2 do not apply to a cemetery owned by a city or county.

Sec. 8. ~~[The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.]~~

(Deleted by amendment.)

Sec. 9. This act becomes effective upon passage and approval.

Assemblyman Sprinkle moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 209.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 350.

AN ACT relating to water; ~~[requiring, under certain circumstances, the State Engineer to extend the time necessary to work a forfeiture of certain water rights;]~~ **revising the criteria that the State Engineer must consider in determining whether to extend the time necessary to work a forfeiture; authorizing certain extensions to be for a period of not more than 3 years;** and providing other matters properly relating thereto.

in determining whether to extend the time necessary to work a forfeiture; authorizing certain extensions to be for a period of not more than 3 years; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides, with limited exception, that the holder of a water right forfeits the right if the holder fails for 5 successive years to use beneficially all or any part of the underground water for the purpose for which the right is acquired or claimed. Existing law authorizes the holder of a water right to request an extension to work the forfeiture and the State Engineer may grant an extension for good cause shown if the request is made before the expiration of the time necessary to work the forfeiture. **Existing law also provides that a single extension must not exceed 1 year.** (NRS 534.090)

This bill revises the criteria the State Engineer must consider to determine whether to grant or deny a request to extend the time necessary to work a forfeiture. This bill ~~[requires]~~ **also authorizes** the State

Engineer to extend the time necessary to work a forfeiture ~~[if the request is made before the expiration of the time necessary to work the forfeiture and the water right authorizes the holder of the right to use groundwater]~~ **for a period of not more than 3 years** in a basin: (1) where the withdrawals consistently exceed the perennial yield; or (2) that has been designated as a critical management area.

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

Section 1. NRS 534.090 is hereby amended to read as follows:

534.090 1. Except as otherwise provided in this section, 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~~ ~~[Except as otherwise provided in subsection 3, 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]~~ **Except as otherwise provided in subsection 3, 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~~
~~[Except as otherwise provided in subsection 3, 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]~~
Whether 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; and]~~ in a basin within a county under a
declaration of drought by the Governor, the United States Secretary of
Agriculture or the President of the United States;

(e) ~~[Whether a groundwater management plan has been approved for the~~
~~basin pursuant to NRS 534.037; and~~

~~—(f)]~~ Whether the holder has demonstrated efficient ways of using the water
 for agricultural purposes, such as center-pivot irrigation ~~[,];~~

(f) Whether the holder has demonstrated efforts to conserve water which
have resulted in a reduction in water consumption; and

(g) Whether the water right is located in a basin that has been
designated as a critical management area by the State Engineer pursuant
to subsection 7 of NRS 534.110 or where withdrawals of groundwater
consistently exceed the perennial yield of the basin.

↪ 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. ~~[The]~~ If the State Engineer ~~[shall, 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:~~

~~—(a) The request is made before the expiration of the time necessary to~~
~~work a forfeiture; and~~

~~—(b) The right authorizes the holder to use underground water from a~~
~~basin;~~

~~—(1)]~~ grants an extension pursuant to subsection 1 in a basin:

~~(a) Where withdrawals of groundwater consistently exceed the perennial yield of the basin; or~~

~~{(2)} (b) That has been designated as a critical management area by the State Engineer pursuant to subsection 7 of NRS 534.110, f,}~~

~~↪ [Any] a single extension must not exceed 3 years, but any number of extensions may be granted to the holder of such a right . {pursuant to this subsection. An extension that is granted pursuant to this subsection may exceed 1 year.}~~

4. 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.}~~ 5. 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. 2. This act becomes effective on July 1, 2017.

Assemblywoman Swank moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 226.

Bill read second time.

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

Amendment No. 525.

~~{ASSEMBLYMAN}~~ ASSEMBLYMEN HANSEN, OHRENSCHALL, DALY AND DIAZ

AN ACT relating to elections; ~~revising deadlines by which certain signature petitions of minor political parties and independent candidates must be filed;~~ revising the circumstances under which candidates of major political parties appear on or are omitted from the ballot at ~~a primary election;~~ primary elections; revising provisions governing primary

elections for certain judicial candidates; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, if a major political party has only one candidate for a particular office, the name of the candidate does not appear on the ballot at the primary election but appears on the ballot at the general election. If a major political party has two or more candidates for a particular office, there must be a primary election where the person who receives the highest number of votes is declared the nominee of that party for the office. ~~(NRS 293.260) Section 3 of this bill eliminates this provision and provides instead for~~ revises the circumstances under which candidates of a major political party either appear on the ballot at the primary election or are omitted from the ballot at ~~the~~ the primary election ~~Section~~ and appear on the ballot at the general election when there are multiple candidates for the major political party.

First, section 3 provides that if two or more major political parties have candidates for a particular office and at least one of the major political parties has multiple candidates for a particular office, the names of the office, the candidates of both the major political parties with multiple candidates for the office appear on the ballot at the primary election and from each party, the candidate who receives of their respective parties. The candidates who receive the highest number of votes at the primary election is of their respective parties are declared the nominee of that party. Section 3 also nominees of those parties and appear on the ballot at the general election with any other candidates for the office who are entitled by law to be placed on the ballot at the general election, such as: (1) any candidate of a major political party that did not have a primary election because it had only one candidate for the office; (2) any candidate for the office nominated by a minor political party; or (3) any independent candidate who has filed for the office.

Second, section 3 provides that if only one major political party has multiple candidates for a particular office, whether or not the names of the candidates of the and no other major political party appear on the ballot at the primary election depends on whether a minor political party has nominated a candidate for that office or an independent candidate has filed has any candidates for the office ~~if~~ but there is at least one candidate who was nominated by a minor political party or one independent candidate who has filed for the office, section 3 requires the candidates of the major political party to appear on the ballot at the primary election. The major party candidate who receives the highest number of votes at the primary election is the nominee of that party and will be placed appears on the ballot at the general election along with any each candidate who was nominated by a minor political party candidates and independent

~~candidates. Alternatively,]~~ **and each independent candidate who has filed for the office.**

Third, section 3 provides that if only one major political party has multiple candidates for [any] a particular office and no other major political party has any candidates for the office and there are no candidates nominated by a minor political party and no independent candidates file for the office, the candidates of the major political party ~~[(1) appear on the ballot at the primary election if there are more candidates than twice the number to be elected to that office; and (2) do not appear on the ballot]~~ **are subject to the following rules: (1) if there are not more than twice the number of candidates to be elected to that office, [**

~~Under existing law, the names of candidates for a partisan office of a minor political party do not appear on the ballot at a primary election. Instead, if the minor political party has qualified as such, either by receiving a certain percentage of votes at the preceding election or by collecting a certain number of signatures, the party can name one candidate for each partisan office, and the name of each such candidate must appear on the general election ballot. If a minor political party wishes to place a candidate on the ballot for a general election by collecting a certain number of signatures, the party must file a petition with the signatures with the Secretary of State not later than the third Friday in June before the general election. (NRS 293.1715) Section 1 of this bill changes the deadline for a minor political party to file its signature petition to the third Friday in May before the general election.~~

~~Under existing law, the names of independent candidates for a partisan office do not appear on the ballot at a primary election. Instead, a person wishing to run as an independent candidate can be named as such on the general election ballot if he or she files a petition with a certain number of signatures. The signature petition must be filed with the appropriate filing officer not later than the third Friday in June before the general election. (NRS 293.200) Section 2 of this bill changes the deadline for an independent candidate to file his or her signature petition to the second Friday after the first Monday in March.]~~ **, the candidates do not appear on the ballot at the primary election but appear on the ballot at the general election; or (2) if there are more candidates than twice the number to be elected to that office, the candidates appear on the ballot at the primary election, and the candidates who receive the highest number of votes at the primary election, not to exceed twice the number to be elected to that office at the general election, are declared the nominees for the office and appear on the ballot at the general election.**

Under existing law, in an election for the nonpartisan office of judge of a district court, judge of the Nevada Court of Appeals or justice of the Nevada Supreme Court, if there are more than twice the number of candidates to be elected to the office, the candidates appear on the ballot at the primary election. The candidates who receive the highest number

of votes at the primary election, not to exceed twice the number to be elected, are declared nominees for the office, and they appear on the ballot at the general election, except that if one of those candidates receives a majority of the votes cast at the primary election, the candidate is declared the only nominee for the office and only that candidate appears on the ballot at the general election. (NRS 293.260)

Section 3 of this bill removes the existing exception that applies to situations when one of the state judicial candidates receives a majority of the votes cast at the primary election. As a result, in an election for the nonpartisan office of judge of a district court, judge of the Nevada Court of Appeals or justice of the Nevada Supreme Court, section 3 provides that if there are more than twice the number of candidates to be elected to the office, the candidates appear on the ballot at the primary election, and those candidates who receive the highest number of votes at the primary election, not to exceed twice the number to be elected, are declared nominees for the office and appear on the ballot at the general election without any exceptions.

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

~~Section 1. [NRS 293.1715 is hereby amended to read as follows:~~

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

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

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

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

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

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

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

Sec. 2. [NRS 293.200 is hereby amended to read as follows:]

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

~~(a) A copy of the petition of candidacy that he or she intends to subsequently circulate for signatures. The copy must be filed not earlier than the January 2 preceding the date of the election and not later than 10 working days before the last day to file the petition pursuant to subsection 4. The copy of the petition must be filed with the appropriate filing officer before the petition may be circulated for signatures.~~

~~(b) Either of the following:~~

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

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

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

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

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

~~2. The petition may consist of more than one document. Each document must bear the name of the county in which it was circulated, and only registered voters of that county may sign the document. If the office is not a statewide office, only the registered voters of the county, district or municipality in question may sign the document. The documents that are circulated for signature in a county must be submitted to that county clerk for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 10 working days before the last day to file the petition pursuant to subsection 4. Each person who signs the petition shall add to his or her signature the address of the place at which the person actually resides, the date that he or she signs the petition and the name of the county where he or she is registered to vote. The person who circulates each document of the petition shall sign an affidavit attesting that the signatures on the document are genuine to the best of his or her knowledge and belief and were signed in his or her presence by persons registered to vote in that county.~~

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

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

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

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

~~7. The names of independent candidates must be placed on the general election ballot and must not appear on the primary election ballot.~~

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

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

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

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

~~10. The district court in which the challenge is filed shall give priority to such proceedings over all other matters pending with the court, except for criminal proceedings.~~

~~11. An independent candidate for partisan office must file a declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the first Monday in March of the year in which the election is held nor later than 5 p.m. on the second Friday after the first Monday in March. (Deleted by amendment.)~~

Sec. 3. NRS 293.260 is hereby amended to read as follows:

293.260 1. If 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 at the primary election.

2. If ~~if a major political party has two or more candidates for a particular office, the person who receives the highest number of votes at the primary election must be declared the nominee of that major political party~~ **two or more ~~than~~ major political parties have candidates for a particular office and at least one of the major political ~~party~~ parties has multiple candidates for ~~a particular~~ the office, the names of the candidates of the major political parties with multiple candidates for the office must appear on the ballot at the primary election ~~and the persons~~ of their respective parties. The candidates who receive the highest number of votes at the primary election of their respective parties must be declared the nominees of those parties for the office ~~[-], and their names must be placed on the ballot at the general election with the names of any other candidates for the~~**

office who are entitled by law to be placed on the ballot at the general election.

3. If only one major political party has multiple candidates for a particular office and ~~for~~ no other major political party has any candidates for the office but at least one minor political party has nominated a candidate for the office or ~~for~~ at least one independent candidate has filed for the office, the names of the candidates of the major political party must appear on the ballot at the primary election ~~for~~ of the major political party. The candidate who receives the highest number of votes ~~for~~ at 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 ballot at the general election ~~ballot~~ with the name of ~~the nominee of the~~ each candidate for the office who has been nominated by a minor political party ~~for the office~~ and the name of ~~the~~ each independent candidate who has filed for the office.

4. If only one major political party has multiple candidates for a particular office and no other major political party has any candidates for the office and no minor political party has nominated a candidate for the office and no independent candidate has filed for the office ~~for~~, then:

(a) If there are not 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, and their names must be omitted from the ballot at the primary election of the major political party and placed on the ballot at the general election.

~~(b) 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 at the primary election for. Except as otherwise provided in this paragraph, the of the major political party. The candidates of that party who receive the highest number of votes for at 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 for. If only one candidate is to be elected to the office and a candidate receives a majority of the votes in the primary election for that office, that candidate must be declared the nominee for that office and his or her name must be placed on the ballot for the general election.~~

~~(b) If there are not 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 for, and their names must be placed on the ballot at the general election.~~

5. If not more than the number of candidates to be elected have filed for nomination for:

(a) Any partisan office or the office of judge of a district court, judge of the Court of Appeals or 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 the general election;

(b) Any nonpartisan office, other than the office of judge of a district court, judge of the Court of Appeals, justice of the Supreme Court or 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) 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.

~~{4.}~~ 6. If there are not more than twice the number of candidates to be elected to a nonpartisan office, the candidates must, without a primary election, be declared the nominees for the office, and the names of the candidates must be omitted from all ballots for a primary election and placed on all ballots for the general election.

~~{5.}~~ 7. If there are more than twice the number of candidates 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 the primary election, not to exceed twice the number to be elected, must be declared nominees for the office, and the names of those candidates must be placed on the ballot for the general election, except that if one of those candidates receives a majority of the votes cast in the primary election for ~~the~~

~~(a) The office of judge of a district court, judge of the Court of Appeals or justice of the Supreme Court, the candidate must be declared the only nominee for the office and only his or her name must be placed on the ballot for the general election.~~

~~(b) Any other~~ the nonpartisan office, other than the office of judge of a district court, judge of the Court of Appeals or justice of the Supreme Court, 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.

Assemblywoman Diaz moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 243.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 396.

SUMMARY—Revises provisions relating to criminal convictions of victims of sex trafficking and involuntary servitude. (BDR 14-444)

AN ACT relating to criminal procedure; providing ~~that the district court has exclusive jurisdiction for a motion to vacate~~ for the vacating of a judgment of conviction and sealing of records of a victim of sex trafficking

or involuntary servitude ~~; under certain circumstances;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a court to grant a motion to vacate a judgment if the defendant was convicted of certain offenses and the defendant's participation in the offense was the result of having been a victim of sex trafficking or involuntary servitude. (NRS 176.515) ~~(This)~~ **Existing law also establishes a process for sealing certain records of criminal proceedings. (NRS 179.245-179.301) With certain limited exceptions, if the court orders a person's record of criminal history sealed, all proceedings recounted in the record are deemed never to have occurred. (NRS 179.285)**

Section 1.2 of this bill ~~(provides that a district)~~ authorizes a person convicted of certain offenses who was a victim of sex trafficking or involuntary servitude to petition the court ~~(has exclusive jurisdiction to hear a motion)~~ **to vacate ~~(such a)~~ the judgment ~~(-)~~ and seal all documents relating to the case. Section 1.2 generally sets forth the procedure established in existing law for the vacating of a judgment of conviction of such a person, but additionally requires the court to notify the Central Repository for Nevada Records of Criminal History, the Office of the Attorney General and each office of the district attorney and law enforcement agency in this State and to allow any person to testify and present evidence on behalf of such an entity before the court decides whether to grant a petition. Section 1.2 also authorizes a court to enter an interim order to vacate a judgment of conviction if the petitioner satisfies all requirements necessary for the judgment to be vacated but the petition is deficient with respect to the sealing of the petitioner's record. Section 1.2 provides that if the court enters such an interim order, the court is also required to order sealed the records of the petitioner which relate to the judgment being vacated. Sections 1 and 1.3-1.7 of this bill make conforming changes.**

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

Section 1. NRS 176.515 is hereby amended to read as follows:

176.515 1. The court may grant a new trial to a defendant if required as a matter of law or on the ground of newly discovered evidence.

2. If trial was by the court without a jury, the court may vacate the judgment if entered, take additional testimony and direct the entry of a new judgment.

3. Except as otherwise provided in NRS 176.09187, a motion for a new trial based on the ground of newly discovered evidence may be made only within 2 years after the verdict or finding of guilt.

4. A motion for a new trial based on any other grounds must be made within 7 days after the verdict or finding of guilt or within such further time as the court may fix during the 7-day period.

~~[5. Notwithstanding any other provision of law, the district court has exclusive jurisdiction to hear a motion to vacate a judgment that is made pursuant to this subsection. The district court may grant a motion to vacate a judgment if:~~

- ~~— (a) The judgment is a conviction for a violation of:~~
 - ~~— (1) NRS 201.354, for engaging in prostitution or solicitation for prostitution, provided that the defendant was not alleged to be a customer of a prostitute;~~
 - ~~— (2) NRS 207.200, for unlawful trespass;~~
 - ~~— (3) Paragraph (b) of subsection 1 of NRS 463.350, for loitering; or~~
 - ~~— (4) A county, city or town ordinance, for loitering for the purpose of solicitation or prostitution;~~
 - ~~— (b) The participation of the defendant in the offense was the result of the defendant having been a victim of:~~
 - ~~— (1) Trafficking in persons as described in the Trafficking Victims Protection Act of 2000, 22 U.S.C. §§ 7101 et seq.; or~~
 - ~~— (2) Involuntary servitude as described in NRS 200.463 or 200.4631; and~~
 - ~~— (c) The defendant makes a motion under this subsection with due diligence after the defendant has ceased being a victim of trafficking or involuntary servitude or has sought services for victims of such trafficking or involuntary servitude.~~
- ~~— 6. In deciding whether to grant a motion made pursuant to subsection 5, the district court shall take into consideration any reasonable concerns for the safety of the defendant, family members of the defendant or other victims that may be jeopardized by the bringing of such a motion.~~
- ~~— 7. If the district court grants a motion made pursuant to subsection 5, the court:~~
- ~~— (a) Shall vacate the judgment and dismiss the accusatory pleading; and~~
 - ~~— (b) May take any additional action that the court deems appropriate under the circumstances.~~

Sec. 1.2. Chapter 179 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a person has been convicted of any offense listed in subsection 2, the person may petition the court in which he or she was convicted or, if the person wishes to file more than one petition and would otherwise need to file a petition in more than one court, the district court, for an order:

- (a) Vacating the judgment; and**
- (b) Sealing all documents, papers and exhibits in the 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.**

2. A person may file a petition pursuant to subsection 1 if the person was convicted of a violation of:

(a) NRS 201.354, for engaging in prostitution or solicitation for prostitution, provided that the person was not alleged to be a customer of a prostitute;

(b) NRS 207.200, for unlawful trespass;

(c) Paragraph (b) of subsection 1 of NRS 463.350, for loitering; or

(d) A county, city or town ordinance, for loitering for the purpose of solicitation or prostitution.

3. A petition filed pursuant to subsection 1 must satisfy the requirements of subsection 2 of NRS 179.245.

4. The court may grant a petition filed pursuant to subsection 1 if:

(a) The petitioner was convicted of a violation of an offense described in subsection 2;

(b) The participation of the petitioner in the offense was the result of the petitioner having been a victim of:

(1) Trafficking in persons as described in the Trafficking Victims Protection Act of 2000, 22 U.S.C. §§ 7101 et seq.; or

(2) Involuntary servitude as described in NRS 200.463 or 200.4631; and

(c) The petitioner files a petition pursuant to subsection 1 with due diligence after the petitioner has ceased being a victim of trafficking or involuntary servitude or has sought services for victims of such trafficking or involuntary servitude.

5. Before the court decides whether to grant a petition filed pursuant to subsection 1, the court shall:

(a) Notify the Central Repository for Nevada Records of Criminal History, the Office of the Attorney General and each office of the district attorney and law enforcement agency in this State and allow any person to testify and present evidence on behalf of any such entity; and

(b) Take into consideration any reasonable concerns for the safety of the defendant, family members of the defendant or other victims that may be jeopardized by the granting of the petition.

6. If the court grants a petition filed pursuant to subsection 1, the court:

(a) Shall vacate the judgment and dismiss the accusatory pleading;

(b) Shall order sealed all documents, papers and exhibits in the petitioner'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; and

(c) May take any additional action that the court deems appropriate under the circumstances.

7. If a petition filed pursuant to subsection 1 does not satisfy the requirements of subsection 2 of NRS 179.245 or the court determines that the petition is otherwise deficient with respect to the sealing of the petitioner's record, the court may enter an interim order to vacate the

judgment and dismiss the accusatory pleading if the petitioner satisfies all requirements necessary for the judgment to be vacated.

8. If the court enters an interim order pursuant to subsection 7, the court shall also order sealed the records of the petitioner which relate to the judgment being vacated in accordance with paragraph (b) of subsection 6, regardless of whether any records relating to other convictions are ineligible for sealing either by operation of law or because of a deficiency in the petition.

Sec. 1.3. NRS 179.241 is hereby amended to read as follows:

179.241 As used in NRS 179.241 to 179.301, inclusive, and section 1.2 of this act, unless the context otherwise requires, the words and terms defined in NRS 179.242, 179.243 and 179.244 have the meanings ascribed to them in those sections.

Sec. 1.4. NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 5 and NRS 176A.265, 176A.295, 179.259, 453.3365 and 458.330, and section 1.2 of this act, a person may petition the court in which the person was convicted for the sealing of all records relating to a conviction of:

(a) A category A or B felony after 15 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(b) A category C or D felony after 12 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(c) A category E felony after 7 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(d) Except as otherwise provided in paragraph (e), any gross misdemeanor after 5 years from the date of release from actual custody or discharge from probation, whichever occurs later;

(e) A violation of NRS 422.540 to 422.570, inclusive, other than a felony, a violation of NRS 484C.110 or 484C.120 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later; or

(f) Any other misdemeanor after 2 years from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 must:

(a) Be accompanied by the petitioner's current, verified records received from:

(1) The Central Repository for Nevada Records of Criminal History; and

(2) All agencies of criminal justice which maintain such records within the city or county in which the conviction was entered;

(b) If the petition references NRS 453.3365 or 458.330, include a certificate of acknowledgment or the disposition of the proceedings for the

records to be sealed from all agencies of criminal justice which maintain such records;

(c) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

(d) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed, including, without limitation, the:

(1) Date of birth of the petitioner;

(2) Specific conviction to which the records to be sealed pertain; and

(3) Date of arrest relating to the specific conviction to which the records to be sealed pertain.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and the prosecuting attorney, including, without limitation, the Attorney General, who prosecuted the petitioner for the crime. The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of any agency of criminal justice or any public or private agency, company, official or other custodian of records in the State of Nevada, and may also order all such records of the petitioner returned to the file of the court where the proceeding was commenced from, including, without limitation, the Federal Bureau of Investigation, the California Bureau of Criminal Identification and Information and all other agencies of criminal justice which maintain such records and which are reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of:

(a) A crime against a child;

(b) A sexual offense;

(c) A violation of NRS 484C.110 or 484C.120 that is punishable as a felony pursuant to paragraph (c) of subsection 1 of NRS 484C.400;

(d) A violation of NRS 484C.430;

(e) 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;

(f) A violation of NRS 488.410 that is punishable as a felony pursuant to NRS 488.427; or

(g) A violation of NRS 488.420 or 488.425.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

7. As used in this section:

(a) “Crime against a child” has the meaning ascribed to it in NRS 179D.0357.

(b) “Sexual offense” means:

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

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.

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

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

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

(9) Incest pursuant to NRS 201.180.

(10) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.

(11) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

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

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

(14) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.

(15) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.

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

(17) An attempt to commit an offense listed in this paragraph.

Sec. 1.5. NRS 179.275 is hereby amended to read as follows:

179.275 Where the court orders the sealing of a record pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330, **or section 1.2 of this act**, a copy of the order must be sent to:

1. The Central Repository for Nevada Records of Criminal History; and
2. Each agency of criminal justice and each public or private company, agency, official or other custodian of records named in the order, and that person shall seal the records in his or her custody which relate to the matters contained in the order, shall advise the court of compliance and shall then seal the order.

Sec. 1.6. NRS 179.285 is hereby amended to read as follows:

179.285 Except as otherwise provided in NRS 179.301:

1. If the court orders a record sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 ~~or~~ **or section 1.2 of this act**:

(a) All proceedings recounted in the record are deemed never to have occurred, and the person to whom the order pertains may properly answer accordingly to any inquiry, including, without limitation, an inquiry relating to an application for employment, concerning the arrest, conviction, dismissal or acquittal and the events and proceedings relating to the arrest, conviction, dismissal or acquittal.

(b) The person is immediately restored to the following civil rights if the person's civil rights previously have not been restored:

- (1) The right to vote;
- (2) The right to hold office; and
- (3) The right to serve on a jury.

2. Upon the sealing of the person's records, a person who is restored to his or her civil rights pursuant to subsection 1 must be given:

(a) An official document which demonstrates that the person has been restored to the civil rights set forth in paragraph (b) of subsection 1; and

(b) A written notice informing the person that he or she has not been restored to the right to bear arms, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms.

3. A person who has had his or her records sealed in this State or any other state and whose official documentation of the restoration of civil rights is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has had his or her records sealed, the court shall issue an order restoring the person to the civil rights to vote, to hold office and to serve on a jury. A person must not be required to pay a fee to receive such an order.

4. A person who has had his or her records sealed in this State or any other state may present official documentation that the person has been restored to his or her civil rights or a court order restoring civil rights as proof that the person has been restored to the right to vote, to hold office and to serve as a juror.

Sec. 1.7. NRS 179.295 is hereby amended to read as follows:

179.295 1. The person who is the subject of the records that are sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 **or section 1.2 of this act** may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court may order such inspection. Except as otherwise provided in this section, subsection 8 of NRS 179.255 and NRS 179.259 and 179.301, the court may not order the inspection of the records under any other circumstances.

2. If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of the records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or a similar offense and that there is sufficient evidence reasonably to conclude that the person will stand trial for the offense.

3. The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of such records for the purpose of obtaining information relating to persons who were involved in the incident recorded.

4. This section does not prohibit a court from considering a conviction for which records have been sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 **or section 1.2 of this act** in determining whether to grant a petition pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 for a conviction of another offense.

~~Sec. 2. [The amendatory provisions of section 1 of this act apply to a motion to vacate a judgment pursuant to subsection 5 of NRS 176.515, as amended by section 1 of this act, which is filed on or after October 1, 2017.]~~
(Deleted by amendment.)

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 245.

Bill read second time.

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

Amendment No. 534.

AN ACT relating to pharmacy; requiring a pharmacist or his or her designee to make certain entries any time a biological product is dispensed under certain circumstances; requiring the dispensing of an interchangeable biological product in substitution for a prescribed biological product under certain circumstances; requiring the State Board of Pharmacy to maintain **certain** lists of approved interchangeable biological products, **published by**

the United States Food and Drug Administration, on its Internet website; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that under certain circumstances, a pharmacist is required to dispense a generic drug in substitution for a prescribed brand name drug. (NRS 639.2583) **Sections 3, 5 and 7-12** of this bill enact similar provisions to provide for the dispensing of an interchangeable biological product in substitution for a prescribed biological product. **Section 7** provides that under certain circumstances, a pharmacist is required to dispense an interchangeable biological product in substitution for a prescribed biological product if the interchangeable biological product is less expensive than the prescribed biological product. However, while existing law exempts from the substitution requirement a prescription drug dispensed to a person by mail or common carrier by a certified Internet pharmacy, **section 7** provides that the requirement to dispense an interchangeable biological product applies to a biological product dispensed to a person by mail or common carrier by a certified Internet pharmacy. **Section 3** provides that a biological product is interchangeable if the biological product has been found to be interchangeable in accordance with certain federal standards or has been listed as therapeutically equivalent in certain federal publications. (42 U.S.C. § 262) **Section 5** requires the State Board of Pharmacy to maintain on its Internet website ~~current lists of biological products determined~~ **a link to the Purple Book: Lists of Licensed Biological Products with Reference Product Exclusivity and Biosimilarity or Interchangeability Evaluations, published** by the United States Food and Drug Administration to be interchangeable.

Section 4 of this bill provides that within 3 business days after dispensing a biological product, the dispensing pharmacist or his or her designee is required to make an entry of the specific product dispensed to the patient that includes, without limitation, the name and the manufacturer of the product. The record must be electronically accessible by the prescribing practitioner through certain systems. If an electronic record is not made, the dispensing pharmacist or his or her designee must provide the notice to the prescriber by certain other means. Under **section 4**, a record of the dispensing of a biological product is not required to be made if: (1) there is no interchangeable biological product for the biological product that has been prescribed; or (2) the dispensed biological product is a refill and is the same product that was dispensed for the prior filling of the prescription.

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

Section 1. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *“Biological product” has the meaning ascribed to it in 42 U.S.C. § 262.*

Sec. 3. *“Interchangeable biological product” means a biological product that the Food and Drug Administration has:*

1. *Licensed and determined meets the standards for interchangeability pursuant to 42 U.S.C. § 262(k)(4); or*

2. *Determined is therapeutically equivalent as set forth in the most recent edition or supplement of the Approved Drug Products with Therapeutic Equivalence Evaluations, published by the Food and Drug Administration.*

Sec. 4. 1. *Except as otherwise provided in subsections 3 and 4, within 3 business days after dispensing a biological product, the dispensing pharmacist or his or her designee shall make an entry of the specific product provided to the patient that includes, without limitation, the name of the product and its manufacturer. The record must be electronically accessible by the prescribing practitioner through:*

(a) *An interoperable electronic health records system;*

(b) *Electronic prescribing technology;*

(c) *A pharmacy benefit management system; or*

(d) *A pharmacy record.*

2. *An electronic record of the dispensing of a biological product made pursuant to subsection 1 is presumed to provide notice to the prescriber of the dispensing of the product.*

3. *Except as otherwise provided in subsection 4, if an electronic record of the dispensing of a biological product is not made pursuant to subsection 1, the dispensing pharmacist or his or her designee shall, within 3 business days after dispensing the biological product, give notice of the biological product to the prescriber by facsimile, telephone, electronic transmission or other available means.*

4. *Notice of the dispensing of a biological product pursuant to subsection 1 or 3 is not required if:*

(a) *There is no interchangeable biological product for the biological product prescribed; or*

(b) *A prescription for a refill is not changed from the product dispensed on the prior filling of the prescription.*

5. *As used in this section, “electronic health record” has the meaning ascribed to it in 42 U.S.C. § 17921(5).*

Sec. 5. *The Board shall maintain a link on its Internet website to the ~~lists of all interchangeable biological products.~~ Purple Book: Lists of Licensed Biological Products with Reference Product Exclusivity and Biosimilarity or Interchangeability Evaluations, published by the Food and Drug Administration.*

Sec. 6. NRS 639.001 is hereby amended to read as follows:

639.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 639.0015 to 639.016, inclusive, **and sections 2 and 3 of this act** have the meanings ascribed to them in those sections.

Sec. 7. NRS 639.2583 is hereby amended to read as follows:

639.2583 1. Except as otherwise provided in this section, if a practitioner has prescribed a ~~drug~~:

(a) **Drug** by brand name and the practitioner has not indicated, by a method set forth in subsection 5, that a substitution is prohibited, the pharmacist who fills or refills the prescription shall dispense, in substitution, another drug which is available to him or her if the other drug:

~~((a))~~ (1) Is less expensive than the drug prescribed by brand name;
~~((b))~~ (2) Is biologically equivalent to the drug prescribed by brand name;
~~((c))~~ (3) Has the same active ingredient or ingredients of the same strength, quantity and form of dosage as the drug prescribed by brand name; and

~~((d))~~ (4) Is of the same generic type as the drug prescribed by brand name.

(b) *Biological product and the practitioner has not indicated, by a method set forth in subsection 5, that a substitution is prohibited, the pharmacist who fills or refills the prescription shall dispense, in substitution, another biological product which is available to him or her if the other biological product:*

(1) *Is an interchangeable biological product for the biological product prescribed; and*

(2) *Is less expensive than the biological product prescribed by brand name.*

2. If the pharmacist has available to him or her more than one drug **or interchangeable biological product** that may be substituted for the drug prescribed by brand name ~~{} or biological product prescribed~~, the pharmacist shall dispense, in substitution, the least expensive of the drugs **or interchangeable biological products** that are available to him or her for substitution.

3. Before a pharmacist dispenses a drug **or biological product** in substitution for a drug prescribed by brand name ~~{} or biological product prescribed~~, the pharmacist shall:

(a) Advise the person who presents the prescription that the pharmacist intends to dispense a drug **or biological product** in substitution; and

(b) Advise the person that he or she may refuse to accept the drug **or biological product** that the pharmacist intends to dispense in substitution, unless the pharmacist is being paid for the drug by a governmental agency.

4. If a person refuses to accept the drug **or biological product** that the pharmacist intends to dispense in substitution, the pharmacist shall dispense the drug prescribed by brand name ~~{} or biological product prescribed~~, unless the pharmacist is being paid for the drug **or biological product** by a governmental agency, in which case the pharmacist shall dispense the drug **or biological product** in substitution.

5. A pharmacist shall not dispense a drug **or biological product** in substitution for a drug prescribed by brand name **or biological product**

prescribed if the practitioner has indicated that a substitution is prohibited using one or more of the following methods:

(a) By oral communication to the pharmacist at any time before the drug **or biological product** is dispensed.

(b) By handwriting the words “Dispense as Written” on the form used for the prescription, including, without limitation, any form used for transmitting the prescription from a facsimile machine to another facsimile machine. The pharmacist shall disregard the words “Dispense as Written” if they have been placed on the form used for the prescription by preprinting or other mechanical process or by any method other than handwriting.

(c) By including the words “Dispense as Written” in any prescription that is given to the pharmacist by electronic transmission pursuant to the regulations of the Board or in accordance with NRS 439.581 to 439.595, inclusive, and the regulations adopted pursuant thereto, including, without limitation, an electronic transmission from a computer equipped with a facsimile modem to a facsimile machine or from a computer to another computer pursuant to the regulations of the Board.

6. The provisions of this section also apply to a prescription issued to a person by a practitioner from outside this State if the practitioner has not indicated, by a method set forth in subsection 5, that a substitution is prohibited.

7. The provisions of this section do not apply to:

(a) A prescription drug **or biological product** that is dispensed to any inpatient of a hospital by an inpatient pharmacy which is associated with that hospital;

(b) A prescription drug that is dispensed to any person by mail order or other common carrier by an Internet pharmacy which is certified by the Board pursuant to NRS 639.23288 and authorized to provide service by mail order or other common carrier pursuant to the provisions of this chapter; or

(c) A prescription drug **or biological product** that is dispensed to any person by a pharmacist if the substitution:

(1) Would violate the terms of a health care plan that maintains a mandatory, exclusive or closed formulary for its coverage for prescription drugs ~~and biological products~~; or

(2) Would otherwise make the transaction ineligible for reimbursement by a third party.

Sec. 8. NRS 639.2587 is hereby amended to read as follows:

639.2587 If a generic drug **or interchangeable biological product** is substituted for a drug prescribed by brand name ~~or biological product~~ **prescribed**, the pharmacist or practitioner shall:

1. Note the name of the manufacturer, packer or distributor of the drug **or biological product** actually dispensed on the prescription; and

2. Indicate the substitution by writing or typing on the label the words “substituted for,” or substantially similar language, following the generic name and preceding the brand name of the drug , **or following the name of**

the interchangeable biological product and preceding the brand name of the prescribed biological product, as applicable, unless, at the time the initial substitution of the generic drug *or interchangeable biological product* for a drug prescribed by brand name *or biological product prescribed* is made, the person for whom the drug *or interchangeable biological product* is dispensed elects not to have such an indication written or typed on the label. An election to indicate or not to indicate a substitution on the label pursuant to this subsection applies to both the fill and each refill of the same prescription.

Sec. 9. NRS 639.2589 is hereby amended to read as follows:

639.2589 1. The form used for any prescription which is issued or intended to be filled in this state must contain a line for the signature of the practitioner.

2. Substitutions may be made in filling prescriptions contained in the orders of a physician, or of an advanced practice registered nurse who is a practitioner, in a facility for skilled nursing or facility for intermediate care.

3. Substitutions may be made in filling prescriptions *for drugs* ordered on a patient's chart in a hospital if the hospital's medical staff has approved a formulary for specific generic substitutions.

4. Substitutions may be made in filling prescriptions for biological products ordered on a patient's chart in a hospital if the hospital's medical staff has approved a formulary for specific interchangeable biological products.

Sec. 10. NRS 639.259 is hereby amended to read as follows:

639.259 No employer of a pharmacist may require the pharmacist to dispense any specific generic drug *or interchangeable biological product* in substitution for another drug *or biological product* if the:

1. Substitution is not permitted by the prescription as signed by a practitioner;

2. Substitution would be against the professional judgment of the pharmacist; or

3. Substitution would violate any provision of NRS 639.2583 to 639.2597, inclusive ~~{-}~~, **and sections 4 and 5 of this act.**

Sec. 11. NRS 639.2595 is hereby amended to read as follows:

639.2595 A pharmacist or practitioner who selects a drug *or interchangeable biological product* for substitution assumes no greater civil liability than he or she assumes by filling the prescription with the drug under its brand name ~~{-}~~ **or the prescribed biological product.**

Sec. 12. NRS 639.2597 is hereby amended to read as follows:

639.2597 A pharmacist or practitioner who proposes to make any substitution must have made use of a list of biologically equivalent drugs *or interchangeable biological products* approved by the United States Food and Drug Administration.

Sec. 13. NRS 689A.04045 is hereby amended to read as follows:

689A.04045 1. Except as otherwise provided in this section, a policy of health insurance which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the insurer for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The insurer from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the policy that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive ~~1-3~~, **and sections 4 and 5 of this act**; or

(c) Require any coverage for a drug after the term of the policy.

3. Any provision of a policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 14. NRS 689B.0368 is hereby amended to read as follows:

689B.0368 1. Except as otherwise provided in this section, a policy of group health insurance which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the insurer for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The insurer from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the policy that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive ~~to~~, **and sections 4 and 5 of this act**; or

(c) Require any coverage for a drug after the term of the policy.

3. Any provision of a policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 15. NRS 689C.168 is hereby amended to read as follows:

689C.168 1. Except as otherwise provided in this section, a health benefit plan which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the carrier for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The carrier from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the plan that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive ~~to~~, **and sections 4 and 5 of this act**; or

(c) Require any coverage for a drug after the term of the plan.

3. Any provision of a health benefit plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 16. NRS 695A.184 is hereby amended to read as follows:

695A.184 1. Except as otherwise provided in this section, a benefit contract which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the society for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The society from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the benefit contract that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive ~~{ }~~, **and sections 4 and 5 of this act**; or

(c) Require any coverage for a drug after the term of the benefit contract.

3. Any provision of a benefit contract subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 17. NRS 695B.1905 is hereby amended to read as follows:

695B.1905 1. Except as otherwise provided in this section, a contract for hospital or medical services which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the insurer for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The insurer from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the contract that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive ~~[-]~~, **and sections 4 and 5 of this act**; or

(c) Require any coverage for a drug after the term of the contract.

3. Any provision of a contract for hospital or medical services subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 18. NRS 695C.1734 is hereby amended to read as follows:

695C.1734 1. Except as otherwise provided in this section, evidence of coverage which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the health maintenance organization or insurer for a medical condition of an enrollee and the enrollee's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the enrollee; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the enrollee.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The health maintenance organization or insurer from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the enrollee or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the evidence of coverage that is medically appropriate for the enrollee; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive ~~[-]~~, **and sections 4 and 5 of this act**; or

(c) Require any coverage for a drug after the term of the evidence of coverage.

3. Any provision of an evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 19. NRS 695F.156 is hereby amended to read as follows:

695F.156 1. Except as otherwise provided in this section, evidence of coverage which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the prepaid limited health service organization for a medical condition of an enrollee and the enrollee's provider of health care determines, after conducting a reasonable

investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the enrollee; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the enrollee.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The organization from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the enrollee or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the evidence of coverage that is medically appropriate for the enrollee; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive ~~to~~, **and sections 4 and 5 of this act**; or

(c) Require any coverage for a drug after the term of the evidence of coverage.

3. Any provision of an evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 20. NRS 695G.166 is hereby amended to read as follows:

695G.166 1. Except as otherwise provided in this section, a health care plan which provides coverage for prescription drugs must not limit or exclude coverage for a drug if the drug:

(a) Had previously been approved for coverage by the managed care organization for a medical condition of an insured and the insured's provider of health care determines, after conducting a reasonable investigation, that none of the drugs which are otherwise currently approved for coverage are medically appropriate for the insured; and

(b) Is appropriately prescribed and considered safe and effective for treating the medical condition of the insured.

2. The provisions of subsection 1 do not:

(a) Apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the Food and Drug Administration;

(b) Prohibit:

(1) The organization from charging a deductible, copayment or coinsurance for the provision of benefits for prescription drugs to the insured or from establishing, by contract, limitations on the maximum coverage for prescription drugs;

(2) A provider of health care from prescribing another drug covered by the plan that is medically appropriate for the insured; or

(3) The substitution of another drug pursuant to NRS 639.23286 or 639.2583 to 639.2597, inclusive ~~};~~, **and sections 4 and 5 of this act;** or

(c) Require any coverage for a drug after the term of the plan.

3. Any provision of a health care plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2001, which is in conflict with this section is void.

Sec. 21. This act becomes effective:

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

2. On January 1, 2018, for all other purposes.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 249.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 429.

AN ACT relating to health care; requiring the State Plan for Medicaid to provide certain benefits relating to contraception ~~; [at no additional cost to the enrollee; requiring a pharmacist to dispense up to a 12-month supply]~~ **revising provisions relating to dispensing** of contraceptives ~~[in certain circumstances];~~ **;** requiring all health insurance plans to provide certain benefits relating to contraception ~~; [at no additional cost to the insured];~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires most health insurance plans which cover prescription drugs and outpatient care to also include coverage for contraceptive drugs and devices without an additional copay, coinsurance or a higher deductible than that which may be charged for other prescription drugs and outpatient care under the plan. (NRS 689A.0415, 689A.0417, 689B.0376, 689B.0377, 695B.1916, 695B.1918, 695C.1694, 695C.1695) Certain plans, including small employer plans, benefit contracts provided by fraternal benefit societies, plans issued by a managed care organization and certain plans offered by governmental entities of this State are not currently subject to these requirements. (Chapters 287, 689C, 695A and 695G of NRS)

The federal Patient Protection and Affordable Care Act, Pub. L. 111-148, as amended, requires certain contraceptive drugs, devices and services to be covered by every health insurance plan without any copay, coinsurance or higher deductible. (42 U.S.C. § 300gg-13(a)(4); 45 C.F.R. § 147.130) **Sections 3, 4 and ~~(6-25)~~ 7-25** of this bill align Nevada law with federal law, requiring all public and private health insurance plans made available in this

State to provide coverage for certain benefits relating to contraception without any copay, coinsurance or a higher deductible. **Sections 3, 4 and ~~16-25~~ 7-25** require ~~for certain additional~~ **all** forms of contraceptive drugs, devices and services **which are approved by the Food and Drug Administration** to be covered by a health insurance plan, including, without limitation, up to a 12-month supply of contraceptives or its therapeutic equivalent, insertion or removal of a contraceptive device, education and counseling relating to contraception, management of side effects relating to contraception and voluntary sterilization for ~~men and~~ women. **Sections 3, 4 and 7-25 allow an insurer to require an insured to pay a higher deductible, copayment or coinsurance for a drug or device for contraception if the insured refuses to accept a therapeutic equivalent of the contraceptive drug or device. In addition, a health insurance plan must include for each method of contraception which is approved by the Food and Drug Administration at least one contraceptive drug or device for which no deductible, copayment or coinsurance may be charged to the insured. Sections 3, 4 and ~~16-25~~ 7-25 authorize an insurer to require** a program of step therapy or prior authorization ~~requirements relating to~~ **obtain coverage for** the contraceptive drugs, devices and services required by this bill. **Sections 3, 4 and ~~16-25~~ 7-25** also require a health insurance plan to provide coverage for certain therapeutic equivalent drugs and devices relating to contraception when a therapeutic equivalent covered by the plan is deemed to be medically inappropriate by a provider of health care. Additionally, **sections ~~3, 4 and 6-25~~ 7, 11, 14, 16, 17, 20 and 25** require that **the** benefits provided by a health insurance plan relating to contraception which are provided to the insured must also be provided to ~~the spouse or~~ **a covered** dependent of an insured.

Existing law allows an insurer ~~that~~ **which** is affiliated with a religious organization and which objects on religious grounds to providing coverage for contraceptive drugs and devices to exclude coverage in its policies, plans or contracts for such drugs and devices. (NRS 689A.0415, 689B.0376, 695B.1916, 695C.1694) **Sections 7, 11, 14, 16, 17, 20 and 25** of this bill ~~remove the~~ **move the** religious exemption ~~and require all insurers to provide~~ coverage for the contraceptive drugs, devices and services required by this bill ~~to~~ **to the new provisions relating to coverage of contraception.**

Existing law requires this State to develop a State Plan for Medicaid which includes, without limitation, a list of the medical services provided to Medicaid ~~beneficiaries~~ **recipients.** (42 U.S.C. § 1396a; NRS 422.063) Existing federal law authorizes a state to charge a copay, coinsurance or deductible for most Medicaid services, but prohibits any copay, coinsurance or deductible for certain ~~family planning services and supplies~~ **contraceptive drugs, devices and services.** (42 U.S.C. § 1396o-1) Existing federal law also authorizes a state to define the parameters of contraceptive coverage provided under Medicaid. (42 U.S.C. § 1396u-7) Existing Nevada law requires a number of specific medical services to be covered under

Medicaid. (NRS 422.2717-422.27241) ~~[Sections]~~ **Section 1** ~~[and 2]~~ of this bill ~~[require]~~ **requires** the State Plan for Medicaid to include certain benefits relating to contraception currently required to be covered by private health insurance plans pursuant to existing Nevada law and the Patient Protection and Affordable Care Act, Pub. L. 111-148, as amended, as well as the additional benefits related to contraception required by **sections 3, 4 and 6-25** ~~7-25 of this bill~~ without any copay, coinsurance or deductible. ~~[Sections 1 and 2 also prohibit the use of a program of step therapy and any requirement to obtain prior authorization relating to such benefits which are covered under the State Plan for Medicaid.]~~ **in most cases. The benefits relating to contraceptive drugs which are provided by section 1 of this bill are subject to step therapy and prior authorization requirements pursuant to existing law.**

Existing law authorizes a pharmacist to dispense up to a 90-day supply of a drug pursuant to a valid prescription **or order** in certain circumstances. (NRS 639.2396) ~~Section 4.5~~ **4.5** of this bill requires a pharmacist to dispense up to a 12-month supply of contraceptives or a therapeutic equivalent ~~upon the request of a patient and~~ pursuant to a valid prescription ~~[.]~~ **or order if: (1) the patient has previously received a 3-month supply of the same drug; (2) the patient has previously received a 9-month supply of the same drug or a supply of the same drug for the balance of the plan year in which the 3-month supply was prescribed or ordered, whichever is less; (3) the patient is insured by the same health insurance plan; and (4) a provider of health care has not specified in the prescription or order that a different supply of the drug is necessary.**

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

Section 1. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director shall include in the State Plan for Medicaid a requirement that the State pay the nonfederal share of expenditures for family planning services and supplies, including, without limitation:

(a) Up to a 12-month supply, per prescription, of any type of drug for contraception or its therapeutic equivalent which is ~~lawfully prescribed or ordered and which has been approved by the Food and Drug Administration~~;

(1) Lawfully prescribed or ordered;

(2) Approved by the Food and Drug Administration; and

(3) Dispensed in accordance with section 4.5 of this act;

(b) Any type of device for contraception or its therapeutic equivalent which is lawfully prescribed or ordered and which has been approved by the Food and Drug Administration;

(c) Insertion or removal of a device for contraception;

(d) Education and counseling relating to ~~contraception;~~ the initiation of the use of contraceptives and any necessary follow-up after initiating such use;

(e) Management of side effects relating to contraception; and

(f) Voluntary sterilization for ~~men and~~ women.

2. If a covered therapeutic equivalent ~~(listed)~~ described in subsection 1 is not available or a provider of health care deems a covered therapeutic equivalent to be medically inappropriate, an alternate therapeutic equivalent prescribed by a provider of health care must be covered by the Plan.

3. ~~For~~ Except as otherwise provided in subsections 5 and 6, to obtain any benefit included in the Plan pursuant to subsection 1, a person enrolled in Medicaid must not be required to:

(a) Pay a higher deductible, any copayment or coinsurance; or

(b) Use a program of step therapy;

~~(c) Obtain prior authorization; or~~

~~(d)~~ Be subject to a longer waiting period or any other condition.

4. The Director shall ensure that the provisions of this section are carried out in a manner which complies with the requirements established by the Drug Use Review Board and set forth in the list of preferred prescription drugs established by the Department pursuant to NRS 422.4025.

5. The Plan may require a person enrolled in Medicaid to pay a higher deductible, copayment or coinsurance for a drug or device for contraception if the person refuses to accept a therapeutic equivalent of the contraceptive drug or device.

6. For each method of contraception which is approved by the Food and Drug Administration, the Plan must include at least one contraceptive drug or device for which no deductible, copayment or coinsurance may be charged to the person enrolled in Medicaid, but the Plan may charge a deductible, copayment or coinsurance for any other contraceptive drug or device that provides the same method of contraception.

7. As used in this section, "therapeutic equivalent" means a drug which:

(a) Contains an identical amount of the same active ingredients in the same dosage and method of administration as another drug;

(b) Is expected to have the same clinical effect when administered to a patient pursuant to a prescription or order as another drug; and

(c) Meets any other criteria required by the Food and Drug Administration for classification as a therapeutic equivalent.

Sec. 2. ~~NRS 422.403 is hereby amended to read as follows:~~

~~422.403 1. [The] Except as otherwise provided in section 1 of this act, the Department shall, by regulation, establish and manage the use by the Medicaid program of step therapy and prior authorization for prescription drugs.~~

~~2. [The] **Except as otherwise provided in section 1 of this act, the Drug Use Review Board shall:**~~

~~(a) Advise the Department concerning the use by the Medicaid program of step therapy and prior authorization for prescription drugs;~~

~~(b) Develop step therapy protocols and prior authorization policies and procedures for use by the Medicaid program for prescription drugs; and~~

~~(c) Review and approve, based on clinical evidence and best clinical practice guidelines and without consideration of the cost of the prescription drugs being considered, step therapy protocols used by the Medicaid program for prescription drugs.~~

~~3. The Department shall not require the Drug Use Review Board to develop, review or approve prior authorization policies or procedures necessary for the operation of the list of preferred prescription drugs developed for the Medicaid program pursuant to NRS 422.4025.~~

~~4. The Department shall accept recommendations from the Drug Use Review Board as the basis for developing or revising step therapy protocols and prior authorization policies and procedures used by the Medicaid program for prescription drugs.] (Deleted by amendment.)~~

Sec. 2.5. NRS 422.401 is hereby amended to read as follows:

422.401 As used in NRS 422.401 to 422.406, inclusive, **and section 1 of this act**, unless the context otherwise requires, the words and terms defined in NRS 422.4015 and 422.402 have the meanings ascribed to them in those sections.

Sec. 3. NRS 287.010 is hereby amended to read as follows:

287.010 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada may:

(a) Adopt and carry into effect a system of group life, accident or health insurance, or any combination thereof, for the benefit of its officers and employees, and the dependents of officers and employees who elect to accept the insurance and who, where necessary, have authorized the governing body to make deductions from their compensation for the payment of premiums on the insurance.

(b) Purchase group policies of life, accident or health insurance, or any combination thereof, for the benefit of such officers and employees, and the dependents of such officers and employees, as have authorized the purchase, from insurance companies authorized to transact the business of such insurance in the State of Nevada, and, where necessary, deduct from the compensation of officers and employees the premiums upon insurance and pay the deductions upon the premiums.

(c) Provide group life, accident or health coverage through a self-insurance reserve fund and, where necessary, deduct contributions to the maintenance of the fund from the compensation of officers and employees and pay the deductions into the fund. The money accumulated for this purpose through deductions from the compensation of officers and

employees and contributions of the governing body must be maintained as an internal service fund as defined by NRS 354.543. The money must be deposited in a state or national bank or credit union authorized to transact business in the State of Nevada. Any independent administrator of a fund created under this section is subject to the licensing requirements of chapter 683A of NRS, and must be a resident of this State. Any contract with an independent administrator must be approved by the Commissioner of Insurance as to the reasonableness of administrative charges in relation to contributions collected and benefits provided. The provisions of NRS 687B.408, 689B.030 to 689B.050, inclusive, **and section 11 of this act** and 689B.287 apply to coverage provided pursuant to this paragraph ~~11~~, **except that the provisions of section 11 of this act only apply to coverage for active officers and employees of the governing body of a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada, or the dependents of such officers and employees.**

(d) Defray part or all of the cost of maintenance of a self-insurance fund or of the premiums upon insurance. The money for contributions must be budgeted for in accordance with the laws governing the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada.

2. If a school district offers group insurance to its officers and employees pursuant to this section, members of the board of trustees of the school district must not be excluded from participating in the group insurance. If the amount of the deductions from compensation required to pay for the group insurance exceeds the compensation to which a trustee is entitled, the difference must be paid by the trustee.

3. In any county in which a legal services organization exists, the governing body of the county, or of any school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada in the county, may enter into a contract with the legal services organization pursuant to which the officers and employees of the legal services organization, and the dependents of those officers and employees, are eligible for any life, accident or health insurance provided pursuant to this section to the officers and employees, and the dependents of the officers and employees, of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency.

4. If a contract is entered into pursuant to subsection 3, the officers and employees of the legal services organization:

(a) Shall be deemed, solely for the purposes of this section, to be officers and employees of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency with which the legal services organization has contracted; and

(b) Must be required by the contract to pay the premiums or contributions for all insurance which they elect to accept or of which they authorize the purchase.

5. A contract that is entered into pursuant to subsection 3:

(a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.

(b) Does not become effective unless approved by the Commissioner.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

6. As used in this section, "legal services organization" means an organization that operates a program for legal aid and receives money pursuant to NRS 19.031.

Sec. 4. NRS 287.04335 is hereby amended to read as follows:

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.162, 695G.164, 695G.1645, 695G.1665, 695G.167, 695G.170 to 695G.173, inclusive, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, and 695G.405, **and section 25 of this act** in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.

Sec. 4.5. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsections 2 and 3, pursuant to a valid prescription or order for a drug to be used for contraception or its therapeutic equivalent which has been approved by the Food and Drug Administration a pharmacist shall:

(a) The first time dispensing the drug or therapeutic equivalent to the patient, dispense up to a 3-month supply of the drug or therapeutic equivalent.

(b) The second time dispensing the drug or therapeutic equivalent to the patient, dispense up to a 9-month supply of the drug, or any amount which covers the remainder of the plan year if the patient is covered by a health care plan, whichever is less.

(c) For a refill in a plan year following the initial dispensing of a drug or therapeutic equivalent pursuant to paragraphs (a) and (b) of subsection 1, dispense up to a 12-month supply of the drug or therapeutic equivalent.

2. The provisions of paragraphs (b) and (c) of subsection 1 only apply if:

(a) The drug for contraception or the therapeutic equivalent of such drug is the same drug or therapeutic equivalent which was previously prescribed or ordered pursuant to paragraph (a) of subsection 1; and

(b) The patient is covered by the same health care plan.

3. If a prescription or order for a drug for contraception or its therapeutic equivalent limits the dispensing of the drug or therapeutic

equivalent to a quantity which is less than the amount otherwise authorized to be dispensed pursuant to subsection 1, the pharmacist must dispense the drug or therapeutic equivalent in accordance with the quantity specified in the prescription or order.

4. As used in this section:

(a) "Health care plan" means a policy, contract, certificate or agreement offered or issued by an insurer, including without limitation, the State Plan for Medicaid, to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services.

(b) "Plan year" means the year in which an insured is covered by a health care plan.

(c) "Therapeutic equivalent" means a drug which:

(1) Contains an identical amount of the same active ingredients in the same dosage and method of administration as another drug;

(2) Is expected to have the same clinical effect when administered to a patient pursuant to a prescription or order as another drug; and

(3) Meets any other criteria required by the Food and Drug Administration for classification as a therapeutic equivalent.

Sec. 5. NRS 639.2396 is hereby amended to read as follows:

639.2396 1. Except as otherwise provided by subsection 2, a prescription which bears specific authorization to refill, given by the prescribing practitioner at the time he or she issued the original prescription, or a prescription which bears authorization permitting the pharmacist to refill the prescription as needed by the patient, may be refilled for the number of times authorized or for the period authorized if it was refilled in accordance with the number of doses ordered and the directions for use.

2. ~~[A] Except as otherwise provided by subsection 3,~~ in section 4.5 of this act, a pharmacist may, in his or her professional judgment and pursuant to a valid prescription that specifies an initial amount of less than a 90-day supply of a drug other than a controlled substance followed by periodic refills of the initial amount of the drug, dispense not more than a 90-day supply of the drug if:

(a) The patient has used an initial 30-day supply of the drug or the drug has previously been prescribed to the patient in a 90-day supply;

(b) The total number of dosage units that are dispensed pursuant to the prescription does not exceed the total number of dosage units, including refills, that are authorized on the prescription by the prescribing practitioner; and

(c) The prescribing practitioner has not specified on the prescription that dispensing the prescription in an initial amount of less than a 90-day supply followed by periodic refills of the initial amount of the drug is medically necessary.

3. ~~[A pharmacist shall, upon the request of a patient and pursuant to a valid prescription for a drug to be used for contraception or its therapeutic equivalent which has been approved by the Food and Drug Administration~~

~~that specifies an initial amount of less than a 12-month supply followed by periodic refills of the initial amount of the drug, dispense up to the amount authorized in the prescription including refills, not to exceed a 12-month supply of the drug or its therapeutic equivalent.~~

~~4.]~~ Nothing in this section shall be construed to alter the coverage provided under any contract or policy of health insurance, health plan or program or other agreement arrangement that provides health coverage.

Sec. 6. ~~NRS 687B.225 is hereby amended to read as follows:~~

~~687B.225 1. Except as otherwise provided in NRS 689A.0405, 689A.0413, 689A.044, 689A.0445, 689B.031, 689B.0313, 689B.0317, 689B.0374, 695B.1912, 695B.1914, 695B.1925, 695B.1942, 695C.1713, 695C.1735, 695C.1745, 695C.1751, 695C.170, 695C.171, [and] 695C.177 [,] and sections 7, 11, 14, 16, 17, 20 and 25 of this act, any contract for group, blanket or individual health insurance or any contract by a nonprofit hospital, medical or dental service corporation or organization for dental care which provides for payment of a certain part of medical or dental care may require the insured or member to obtain prior authorization for that care from the insurer or organization. The insurer or organization shall:~~

~~(a) File its procedure for obtaining approval of care pursuant to this section for approval by the Commissioner; and~~

~~(b) Respond to any request for approval by the insured or member pursuant to this section within 20 days after it receives the request.~~

~~2. The procedure for prior authorization may not discriminate among persons licensed to provide the covered care.] (Deleted by amendment.)~~

Sec. 7. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~1. Except as otherwise provided in subsection 6, an insurer that offers or issues a policy of health insurance shall include in the policy coverage for:~~

~~(a) Up to a 12-month supply, per prescription, of any type of drug for contraception or its therapeutic equivalent which is lawfully prescribed or ordered and which has been approved by the Food and Drug Administration;];~~

(1) Lawfully prescribed or ordered;

(2) Approved by the Food and Drug Administration; and

(3) Dispensed in accordance with section 4.5 of this act;

~~(b) Any type of device for contraception or its therapeutic equivalent, which is lawfully prescribed or ordered and which has been approved by the Food and Drug Administration;~~

~~(c) Insertion or removal of a device for contraception;~~

~~(d) Education and counseling relating to [contraception];~~ the initiation of the use of contraceptives and any necessary follow-up after initiating such use;

~~(e) Management of side effects relating to contraception; and~~

~~(f) Voluntary sterilization for [men and] women.~~

2. If a covered therapeutic equivalent listed in subsection 1 is not available or a provider of health care deems a covered therapeutic equivalent to be medically inappropriate, an alternate therapeutic equivalent prescribed by a provider of health care must be covered by the insurer.

3. ~~Am~~ Except as otherwise provided in subsections 7, 8 and 9, an insurer that offers or issues a policy of health insurance shall not:

(a) Require an insured to pay a higher deductible, any copayment or coinsurance or require a longer waiting period or other condition for coverage to obtain any benefit included in the policy pursuant to subsection 1;

(b) Refuse to issue a policy of health insurance or cancel a policy of health insurance solely because the person applying for or covered by the policy uses or may use any such benefit;

(c) Offer or pay any type of material inducement or financial incentive to an insured to discourage the insured from obtaining any such benefit;

(d) Penalize a provider of health care who provides any such benefit to an insured, including, without limitation, reducing the reimbursement of the provider of health care;

(e) Offer or pay any type of material inducement, bonus or other financial incentive to a provider of health care to deny, reduce, withhold, limit or delay access to any such benefit to an insured; or

(f) Impose any other restrictions or delays on the access of an insured ~~to the services listed in subsection 1, including, without limitation, a program of step therapy or prior authorization,~~ any such benefit.

4. Coverage pursuant to this section for ~~a covered spouse or~~ the covered dependent of an insured must be the same as for the insured.

5. ~~Am~~ Except as otherwise provided in subsection 6, a policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2018, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with this section is void.

6. An insurer that offers or issues a policy of health insurance and which is affiliated with a religious organization is not required to provide the coverage required by subsection 1 if the insurer objects on religious grounds. Such an insurer shall, before the issuance of a policy of health insurance and before the renewal of such a policy, provide to the prospective insured written notice of the coverage that the insurer refuses to provide pursuant to this subsection.

7. An insurer may require an insured to pay a higher deductible, copayment or coinsurance for a drug or device for contraception if the insured refuses to accept a therapeutic equivalent of the contraceptive drug or device.

8. For each method of contraception which is approved by the Food and Drug Administration, a policy of health insurance must include at

least one contraceptive drug or device for which no deductible, copayment or coinsurance may be charged to the insured, but the insurer may charge a deductible, copayment or coinsurance for any other contraceptive drug or device that provides the same method of contraception.

9. An insurer may require an insured to:

(a) Participate in a reasonable program of step therapy to obtain coverage for any benefit required by subsection 1.

(b) Obtain prior authorization before obtaining coverage for any benefit required by subsection 1 as part of a determination by the insurer that the benefit is medically necessary or appropriate for the insured.

10. As used in this section ~~“provider”~~:

(a) “Provider of health care” has the meaning ascribed to it in NRS 629.031.

(b) “Therapeutic equivalent” means a drug which:

(1) Contains an identical amount of the same active ingredients in the same dosage and method of administration as another drug;

(2) Is expected to have the same clinical effect when administered to a patient pursuant to a prescription or order as another drug; and

(3) Meets any other criteria required by the Food and Drug Administration for classification as a therapeutic equivalent.

Sec. 8. NRS 689A.0415 is hereby amended to read as follows:

689A.0415 1. ~~{Except as otherwise provided in subsection 5, an}~~ An insurer that offers or issues a policy of health insurance which provides coverage for prescription drugs or devices shall include in the policy coverage for ~~the~~:

~~—(a) Any type of drug or device for contraception; and~~

~~—(b) Any~~ **any** type of hormone replacement therapy ~~;~~

~~↪~~ which is lawfully prescribed or ordered and which has been approved by the Food and Drug Administration.

2. An insurer that offers or issues a policy of health insurance that provides coverage for prescription drugs shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for a prescription for ~~for a contraceptive or~~ hormone replacement therapy than is required for other prescription drugs covered by the policy;

(b) Refuse to issue a policy of health insurance or cancel a policy of health insurance solely because the person applying for or covered by the policy uses or may use in the future ~~{any of the services listed in subsection 1;}~~ **hormone replacement therapy;**

(c) Offer or pay any type of material inducement or financial incentive to an insured to discourage the insured from accessing ~~{any of the services listed in subsection 1;}~~ **hormone replacement therapy;**

(d) Penalize a provider of health care who provides ~~{any of the services listed in subsection 1;}~~ **hormone replacement therapy** to an insured,

including, without limitation, reducing the reimbursement of the provider of health care; or

(e) Offer or pay any type of material inducement, bonus or other financial incentive to a provider of health care to deny, reduce, withhold, limit or delay ~~any of the services listed in subsection 1;~~ **hormone replacement therapy** to an insured.

3. ~~Except as otherwise provided in subsection 5, a~~ A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 1999, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with this section is void.

4. The provisions of this section do not:

(a) Require an insurer to provide coverage for fertility drugs.

(b) Prohibit an insurer from requiring an insured to pay a deductible, copayment or coinsurance for the coverage required by ~~paragraphs (a) and (b) of~~ subsection 1 that is the same as the insured is required to pay for other prescription drugs covered by the policy.

5. ~~An insurer which offers or issues a policy of health insurance and which is affiliated with a religious organization is not required to provide the coverage required by paragraph (a) of subsection 1 if the insurer objects on religious grounds. Such an insurer shall, before the issuance of a policy of health insurance and before the renewal of such a policy, provide to the prospective insured, written notice of the coverage that the insurer refuses to provide pursuant to this subsection.~~

~~6.]~~ As used in this section, “provider of health care” has the meaning ascribed to it in NRS 629.031.

Sec. 9. NRS 689A.0417 is hereby amended to read as follows:

689A.0417 1. ~~Except as otherwise provided in subsection 5, an~~ An insurer that offers or issues a policy of health insurance which provides coverage for outpatient care shall include in the policy coverage for any health care service related to ~~contraceptives or~~ hormone replacement therapy.

2. An insurer that offers or issues a policy of health insurance that provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for outpatient care related to ~~contraceptives or~~ hormone replacement therapy than is required for other outpatient care covered by the policy;

(b) Refuse to issue a policy of health insurance or cancel a policy of health insurance solely because the person applying for or covered by the policy uses or may use in the future ~~any of the services listed in subsection 1;~~ **hormone replacement therapy;**

(c) Offer or pay any type of material inducement or financial incentive to an insured to discourage the insured from accessing ~~any of the services listed in subsection 1;~~ **hormone replacement therapy;**

(d) Penalize a provider of health care who provides ~~any of the services listed in subsection 1;~~ **hormone replacement therapy** to an insured, including, without limitation, reducing the reimbursement of the provider of health care; or

(e) Offer or pay any type of material inducement, bonus or other financial incentive to a provider of health care to deny, reduce, withhold, limit or delay ~~any of the services listed in subsection 1;~~ **hormone replacement therapy** to an insured.

3. ~~Except as otherwise provided in subsection 5, a~~ A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 1999, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with this section is void.

4. The provisions of this section do not prohibit an insurer from requiring an insured to pay a deductible, copayment or coinsurance for the coverage required by subsection 1 that is the same as the insured is required to pay for other outpatient care covered by the policy.

5. ~~An insurer which offers or issues such a policy of health insurance and which is affiliated with a religious organization is not required to provide the coverage for health care service related to contraceptives required by this section if the insurer objects on religious grounds. Such an insurer shall, before the issuance of a policy of health insurance and before the renewal of such a policy, provide to the prospective insured written notice of the coverage that the insurer refuses to provide pursuant to this subsection.~~
~~6.~~ As used in this section, "provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 10. NRS 689A.330 is hereby amended to read as follows:

689A.330 If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the insurance commissioner or corresponding public officer of that other state has informed the Commissioner that the policy is not subject to approval or disapproval by that officer, the Commissioner may by ruling require that the policy meet the standards set forth in NRS 689A.030 to 689A.320, inclusive ~~1~~, **and section 7 of this act.**

Sec. 11. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~An~~ **Except as otherwise provided in subsection 6, an insurer that offers or issues a policy of group health insurance shall include in the policy coverage for:**

(a) **Up to a 12-month supply, per prescription, of any type of drug for contraception or its therapeutic equivalent which is lawfully prescribed or**

~~ordered and which has been approved by the Food and Drug Administration;~~

(1) Lawfully prescribed or ordered;

(2) Approved by the Food and Drug Administration; and

(3) Dispensed in accordance with section 4.5 of this act;

(b) Any type of device for contraception or its therapeutic equivalent, which is lawfully prescribed or ordered and which has been approved by the Food and Drug Administration;

(c) Insertion or removal of a device for contraception;

(d) Education and counseling relating to ~~contraception;~~ the initiation of the use of contraceptives and any necessary follow-up after initiating such use;

(e) Management of side effects relating to contraception; and

(f) Voluntary sterilization for ~~men and~~ women.

2. If a covered therapeutic equivalent listed in subsection 1 is not available or a provider of health care deems a covered therapeutic equivalent to be medically inappropriate, an alternate therapeutic equivalent prescribed by a provider of health care must be covered by the insurer.

3. ~~Any~~ Except as otherwise provided in subsections 8, 9 and 10, an insurer that offers or issues a policy of group health insurance shall not:

(a) Require an insured to pay a higher deductible, any copayment or coinsurance or require a longer waiting period or other condition to obtain any benefit included in the policy pursuant to subsection 1;

(b) Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use any such benefit;

(c) Offer or pay any type of material inducement or financial incentive to an insured to discourage the insured from obtaining any such benefit;

(d) Penalize a provider of health care who provides any such benefit to an insured, including, without limitation, reducing the reimbursement to the provider of health care;

(e) Offer or pay any type of material inducement, bonus or other financial incentive to a provider of health care to deny, reduce, withhold, limit or delay access to any such benefit to an insured; or

(f) Impose any other restrictions or delays on the access of an insured to any such benefit . , including, without limitation, a program of step therapy or prior authorization.

4. Coverage pursuant to this section for ~~a covered spouse or~~ the covered dependent of an insured must be the same as for the insured.

5. ~~Any~~ Except as otherwise provided in subsection 6, a policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2018, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with this section is void.

6. An insurer that offers or issues a policy of group health insurance and which is affiliated with a religious organization is not required to provide the coverage required by subsection 1 if the insurer objects on religious grounds. Such an insurer shall, before the issuance of a policy of group health insurance and before the renewal of such a policy, provide to the group policyholder or prospective insured, as applicable, written notice of the coverage that the insurer refuses to provide pursuant to this subsection.

7. If an insurer refuses, pursuant to subsection 6, to provide the coverage required by subsection 1, an employer may otherwise provide for the coverage for the employees of the employer.

8. An insurer may require an insured to pay a higher deductible, copayment or coinsurance for a drug or device for contraception if the insured refuses to accept a therapeutic equivalent of the contraceptive drug or device.

9. For each method of contraception which is approved by the Food and Drug Administration, a policy of group health insurance must include at least one contraceptive drug or device for which no deductible, copayment or coinsurance may be charged to the insured, but the insurer may charge a deductible, copayment or coinsurance for any other contraceptive drug or device that provides the same method of contraception.

10. An insurer may require an insured to:

(a) Participate in a reasonable program of step therapy to obtain coverage for any benefit required by subsection 1.

(b) Obtain prior authorization before obtaining coverage for any benefit required by subsection 1 as part of a determination by the insurer that the benefit is medically necessary or appropriate for the insured.

11. As used in this section ~~“provider”~~:

(a) “Provider of health care” has the meaning ascribed to it in NRS 629.031.

(b) “Therapeutic equivalent” means a drug which:

(1) Contains an identical amount of the same active ingredients in the same dosage and method of administration as another drug;

(2) Is expected to have the same clinical effect when administered to a patient pursuant to a prescription or order as another drug; and

(3) Meets any other criteria required by the Food and Drug Administration for classification as a therapeutic equivalent.

Sec. 12. NRS 689B.0376 is hereby amended to read as follows:

689B.0376 1. ~~{Except as otherwise provided in subsection 5, an}~~ An insurer that offers or issues a policy of group health insurance which provides coverage for prescription drugs or devices shall include in the policy coverage for ~~[-~~

~~—(a) Any type of drug or device for contraception; and~~

~~—(b) Any ~~any~~ type of hormone replacement therapy ~~[-~~~~

~~↔~~ which is lawfully prescribed or ordered and which has been approved by the Food and Drug Administration.

2. An insurer that offers or issues a policy of group health insurance that provides coverage for prescription drugs shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for a prescription for ~~a contraceptive or~~ hormone replacement therapy than is required for other prescription drugs covered by the policy;

(b) Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use in the future ~~any of the services listed in subsection 1;~~ **hormone replacement therapy;**

(c) Offer or pay any type of material inducement or financial incentive to an insured to discourage the insured from accessing ~~any of the services listed in subsection 1;~~ **hormone replacement therapy;**

(d) Penalize a provider of health care who provides ~~any of the services listed in subsection 1~~ **hormone replacement therapy** to an insured, including, without limitation, reducing the reimbursement of the provider of health care; or

(e) Offer or pay any type of material inducement, bonus or other financial incentive to a provider of health care to deny, reduce, withhold, limit or delay ~~any of the services listed in subsection 1~~ **hormone replacement therapy** to an insured.

3. ~~Except as otherwise provided in subsection 5, a~~ A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 1999, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with this section is void.

4. The provisions of this section do not:

(a) Require an insurer to provide coverage for fertility drugs.

(b) Prohibit an insurer from requiring an insured to pay a deductible, copayment or coinsurance for the coverage required by ~~paragraphs (a) and (b) of~~ subsection 1 that is the same as the insured is required to pay for other prescription drugs covered by the policy.

5. ~~An insurer which offers or issues a policy of group health insurance and which is affiliated with a religious organization is not required to provide the coverage required by paragraph (a) of subsection 1 if the insurer objects on religious grounds. Such an insurer shall, before the issuance of a policy of group health insurance and before the renewal of such a policy, provide to the group policyholder or prospective insured, as applicable, written notice of the coverage that the insurer refuses to provide pursuant to this subsection. The insurer shall provide notice to each insured, at the time the insured receives his or her certificate of coverage or evidence of coverage, that the insurer refused to provide coverage pursuant to this subsection.~~

~~6. If an insurer refuses, pursuant to subsection 5, to provide the coverage required by paragraph (a) of subsection 1, an employer may otherwise provide for the coverage for the employees of the employer.~~

~~7.]~~ As used in this section, “provider of health care” has the meaning ascribed to it in NRS 629.031.

Sec. 13. NRS 689B.0377 is hereby amended to read as follows:

689B.0377 1. ~~{Except as otherwise provided in subsection 5, an}~~ **An** insurer that offers or issues a policy of group health insurance which provides coverage for outpatient care shall include in the policy coverage for any health care service related to ~~{contraceptives or}~~ hormone replacement therapy.

2. An insurer that offers or issues a policy of group health insurance that provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for outpatient care related to ~~{contraceptives or}~~ hormone replacement therapy than is required for other outpatient care covered by the policy;

(b) Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use in the future ~~{any of the services listed in subsection 1;}~~ **hormone replacement therapy;**

(c) Offer or pay any type of material inducement or financial incentive to an insured to discourage the insured from accessing ~~{any of the services listed in subsection 1;}~~ **hormone replacement therapy;**

(d) Penalize a provider of health care who provides ~~{any of the services listed in subsection 1}~~ **hormone replacement therapy** to an insured, including, without limitation, reducing the reimbursement of the provider of health care; or

(e) Offer or pay any type of material inducement, bonus or other financial incentive to a provider of health care to deny, reduce, withhold, limit or delay ~~{any of the services listed in subsection 1}~~ **hormone replacement therapy** to an insured.

3. ~~{Except as otherwise provided in subsection 5, a}~~ **A** policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 1999, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with this section is void.

4. The provisions of this section do not prohibit an insurer from requiring an insured to pay a deductible, copayment or coinsurance for the coverage required by subsection 1 that is the same as the insured is required to pay for other outpatient care covered by the policy.

5. ~~{An insurer which offers or issues a policy of group health insurance and which is affiliated with a religious organization is not required to provide the coverage for health care service related to contraceptives required by this~~

section if the insurer objects on religious grounds. Such an insurer shall, before the issuance of a policy of group health insurance and before the renewal of such a policy, provide to the group policyholder or prospective insured, as applicable, written notice of the coverage that the insurer refuses to provide pursuant to this subsection. The insurer shall provide notice to each insured, at the time the insured receives his or her certificate of coverage or evidence of coverage, that the insurer refused to provide coverage pursuant to this subsection.

—6. If an insurer refuses, pursuant to subsection 5, to provide the coverage required by paragraph (a) of subsection 1, an employer may otherwise provide for the coverage for the employees of the employer.

—7. As used in this section, “provider of health care” has the meaning ascribed to it in NRS 629.031.

Sec. 14. Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~{A}~~ Except as otherwise provided in subsection 6, a carrier that offers or issues a health benefit plan shall include in the plan coverage for:

(a) Up to a 12-month supply, per prescription, of any type of drug for contraception or its therapeutic equivalent which is ~~lawfully prescribed or ordered and which has been approved by the Food and Drug Administration~~;

(1) Lawfully prescribed or ordered;

(2) Approved by the Food and Drug Administration; and

(3) Dispensed in accordance with section 4.5 of this act;

(b) Any type of device for contraception or its therapeutic equivalent which is lawfully prescribed or ordered and which has been approved by the Food and Drug Administration;

(c) Insertion or removal of a device for contraception;

(d) Education and counseling relating to ~~contraception~~ the initiation of the use of contraceptives and any necessary follow-up after initiating such use;

(e) Management of side effects relating to contraception; and

(f) Voluntary sterilization for ~~men and~~ women.

2. If a covered therapeutic equivalent listed in subsection 1 is not available or a provider of health care deems a covered therapeutic equivalent to be medically inappropriate, an alternate therapeutic equivalent prescribed by a provider of health care must be covered by the carrier.

3. ~~{A}~~ Except as otherwise provided in subsections 7, 8 and 9, a carrier that offers or issues a health benefit plan shall not:

(a) Require an insured to pay a higher deductible, any copayment or coinsurance or require a longer waiting period or other condition to obtain any benefit included in the health benefit plan pursuant to subsection 1;

(b) Refuse to issue a health benefit plan or cancel a health benefit plan solely because the person applying for or covered by the plan uses or may use any such benefit;

(c) Offer or pay any type of material inducement or financial incentive to an insured to discourage the insured from obtaining any such benefit;

(d) Penalize a provider of health care who provides any such benefit to an insured, including, without limitation, reducing the reimbursement to the provider of health care;

(e) Offer or pay any type of material inducement, bonus or other financial incentive to a provider of health care to deny, reduce, withhold, limit or delay access to any such benefit to an insured; or

(f) Impose any other restrictions or delays on the access of an insured to any such benefit ~~, including, without limitation, a program of step therapy or prior authorization.~~

4. Coverage pursuant to this section for ~~for a covered spouse or~~ the covered dependent of an insured must be the same as for the insured.

5. ~~{A}~~ Except as otherwise provided in subsection 6, a health benefit plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2018, has the legal effect of including the coverage required by subsection 1, and any provision of the plan or the renewal which is in conflict with this section is void.

6. A carrier that offers or issues a health benefit plan and which is affiliated with a religious organization is not required to provide the coverage required by subsection 1 if the carrier objects on religious grounds. Such a carrier shall, before the issuance of a health benefit plan and before the renewal of such a plan, provide to the prospective insured written notice of the coverage that the carrier refuses to provide pursuant to this subsection.

7. A carrier may require an insured to pay a higher deductible, copayment or coinsurance for a drug or device for contraception if the insured refuses to accept a therapeutic equivalent of the contraceptive drug or device.

8. For each method of contraception which is approved by the Food and Drug Administration, a health benefit plan must include at least one contraceptive drug or device for which no deductible, copayment or coinsurance may be charged to the insured, but the carrier may charge a deductible, copayment or coinsurance for any other contraceptive drug or device that provides the same method of contraception.

9. A carrier may require an insured to:

(a) Participate in a reasonable program of step therapy to obtain coverage for any benefit required by subsection 1.

(b) Obtain prior authorization before obtaining coverage for any benefit required by subsection 1 as part of a determination by the carrier that the benefit is medically necessary or appropriate for the insured.

10. As used in this section ~~for a provider~~:

(a) “Provider of health care” has the meaning ascribed to it in NRS 629.031.

(b) “Therapeutic equivalent” means a drug which:

(1) Contains an identical amount of the same active ingredients in the same dosage and method of administration as another drug;

(2) Is expected to have the same clinical effect when administered to a patient pursuant to a prescription or order as another drug; and

(3) Meets any other criteria required by the Food and Drug Administration for classification as a therapeutic equivalent.

Sec. 15. NRS 689C.425 is hereby amended to read as follows:

689C.425 A voluntary purchasing group and any contract issued to such a group pursuant to NRS 689C.360 to 689C.600, inclusive, are subject to the provisions of NRS 689C.015 to 689C.355, inclusive, **and section 14 of this act**, to the extent applicable and not in conflict with the express provisions of NRS 687B.408 and 689C.360 to 689C.600, inclusive.

Sec. 16. Chapter 695A of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~{A}~~ Except as otherwise provided in subsection 6, a society that offers or issues a benefit contract which provides coverage for prescription drugs or devices shall include in the contract coverage for:

(a) Up to a 12-month supply, per prescription, of any type of drug for contraception or its therapeutic equivalent which is lawfully prescribed or ordered and which has been approved by the Food and Drug Administration;:

(1) Lawfully prescribed or ordered;

(2) Approved by the Food and Drug Administration; and

(3) Dispensed in accordance with section 4.5 of this act;

(b) Any type of device for contraception or its therapeutic equivalent which is lawfully prescribed or ordered and which has been approved by the Food and Drug Administration;

(c) Insertion or removal of a device for contraception;

(d) Education and counseling relating to ~~contraception;~~ the initiation of the use of contraceptives and any necessary follow-up after initiating such use;

(e) Management of side effects relating to contraception; and

(f) Voluntary sterilization for ~~men and~~ women.

2. If a covered therapeutic equivalent listed in subsection 1 is not available or a provider of health care deems a covered therapeutic equivalent to be medically inappropriate, an alternate therapeutic equivalent prescribed by a provider of health care must be covered by the society.

3. ~~{A}~~ Except as otherwise provided in subsections 7, 8 and 9, a society that offers or issues a benefit contract shall not:

(a) Require an insured to pay a higher deductible, any copayment or coinsurance or require a longer waiting period or other condition for

coverage for any benefit included in the benefit contract pursuant to subsection 1;

(b) Refuse to issue a benefit contract or cancel a benefit contract solely because the person applying for or covered by the contract uses or may use any such benefit;

(c) Offer or pay any type of material inducement or financial incentive to an insured to discourage the insured from obtaining any such benefit;

(d) Penalize a provider of health care who provides any such benefit to an insured, including, without limitation, reducing the reimbursement to the provider of health care;

(e) Offer or pay any type of material inducement, bonus or other financial incentive to a provider of health care to deny, reduce, withhold, limit or delay access to any such benefit to an insured; or

(f) Impose any other restrictions or delays on the access of an insured to any such benefit ~~. including, without limitation, a program of step therapy or prior authorization.~~

4. Coverage pursuant to this section for ~~the covered spouse or~~ the covered dependent of an insured must be the same as for the insured.

5. ~~At~~ Except as otherwise provided in subsection 6, a benefit contract subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2018, has the legal effect of including the coverage required by subsection 1, and any provision of the contract or the renewal which is in conflict with this section is void.

6. A society that offers or issues a benefit contract and which is affiliated with a religious organization is not required to provide the coverage required by subsection 1 if the society objects on religious grounds. Such a society shall, before the issuance of a benefit contract and before the renewal of such a contract, provide to the prospective insured written notice of the coverage that the society refuses to provide pursuant to this subsection.

7. A society may require an insured to pay a higher deductible, copayment or coinsurance for a drug or device for contraception if the insured refuses to accept a therapeutic equivalent of the contraceptive drug or device.

8. For each method of contraception which is approved by the Food and Drug Administration, a benefit contract must include at least one contraceptive drug or device for which no deductible, copayment or coinsurance may be charged to the insured, but the society may charge a deductible, copayment or coinsurance for any other contraceptive drug or device that provides the same method of contraception.

9. A society may require an insured to:

(a) Participate in a reasonable program of step therapy to obtain coverage for any benefit required by subsection 1.

(b) Obtain prior authorization before obtaining coverage for any benefit required by subsection 1 as part of a determination by the society that the benefit is medically necessary or appropriate for the insured.

10. As used in this section ~~“provider”~~:

(a) “Provider of health care” has the meaning ascribed to it in NRS 629.031.

(b) “Therapeutic equivalent” means a drug which:

(1) Contains an identical amount of the same active ingredients in the same dosage and method of administration as another drug;

(2) Is expected to have the same clinical effect when administered to a patient pursuant to a prescription or order as another drug; and

(3) Meets any other criteria required by the Food and Drug Administration for classification as a therapeutic equivalent.

Sec. 17. Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Am~~ Except as otherwise provided in subsection 6, an insurer that offers or issues a contract for hospital or medical service shall include in the contract coverage for:

(a) Up to a 12-month supply, per prescription, of any type of drug for contraception or its therapeutic equivalent which is ~~lawfully prescribed or ordered and which has been approved by the Food and Drug Administration~~;

(1) Lawfully prescribed or ordered;

(2) Approved by the Food and Drug Administration; and

(3) Dispensed in accordance with section 4.5 of this act;

(b) Any type of device for contraception or its therapeutic equivalent which is lawfully prescribed or ordered and which has been approved by the Food and Drug Administration;

(c) Insertion or removal of a device for contraception;

(d) Education and counseling relating to ~~contraception~~ the initiation of the use of contraceptives and any necessary follow-up after initiating such use;

(e) Management of side effects relating to contraception; and

(f) Voluntary sterilization for ~~men and~~ women.

2. If a covered therapeutic equivalent listed in subsection 1 is not available or a provider of health care deems a covered therapeutic equivalent to be medically inappropriate, an alternate therapeutic equivalent prescribed by a provider of health care must be covered by the insurer.

3. ~~Am~~ Except as otherwise provided in subsections 8, 9 and 10, an insurer that offers or issues a contract for hospital or medical service shall not:

(a) Require an insured to pay a higher deductible, any copayment or coinsurance or require a longer waiting period or other condition to obtain

any benefit included in the contract for hospital or medical service pursuant to subsection 1;

(b) Refuse to issue a contract for hospital or medical service or cancel a contract for hospital or medical service solely because the person applying for or covered by the contract uses or may use any such benefit;

(c) Offer or pay any type of material inducement or financial incentive to an insured to discourage the insured from obtaining any such benefit;

(d) Penalize a provider of health care who provides any such benefit to an insured, including, without limitation, reducing the reimbursement to the provider of health care;

(e) Offer or pay any type of material inducement, bonus or other financial incentive to a provider of health care to deny, reduce, withhold, limit or delay access to any such benefit to an insured; or

(f) Impose any other restrictions or delays on the access of an insured to any such benefit ~~. including, without limitation, a program of step therapy or prior authorization.~~

4. Coverage pursuant to this section for ~~the covered spouse or~~ the covered dependent of an insured must be the same as for the insured.

5. ~~4.~~ Except as otherwise provided in subsection 6, a contract for hospital or medical service subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2018, has the legal effect of including the coverage required by subsection 1, and any provision of the contract or the renewal which is in conflict with this section is void.

6. An insurer that offers or issues a contract for hospital or medical service and which is affiliated with a religious organization is not required to provide the coverage required by subsection 1 if the insurer objects on religious grounds. Such an insurer shall, before the issuance of a contract for hospital or medical service and before the renewal of such a contract, provide to the prospective insured written notice of the coverage that the insurer refuses to provide pursuant to this subsection.

7. If an insurer refuses, pursuant to subsection 6, to provide the coverage required by subsection 1, an employer may otherwise provide for the coverage for the employees of the employer.

8. An insurer may require an insured to pay a higher deductible, copayment or coinsurance for a drug or device for contraception if the insured refuses to accept a therapeutic equivalent of the contraceptive drug or device.

9. For each method of contraception which is approved by the Food and Drug Administration, a contract for hospital or medical service must include at least one contraceptive drug or device for which no deductible, copayment or coinsurance may be charged to the insured, but the insurer may charge a deductible, copayment or coinsurance for any other contraceptive drug or device that provides the same method of contraception.

10. An insurer may require an insured to:(a) Participate in a reasonable program of step therapy to obtain coverage for any benefit required by subsection 1.(b) Obtain prior authorization before obtaining coverage for any benefit required by subsection 1 as part of a determination by the insurer that the benefit is medically necessary or appropriate for the insured.11. As used in this section ~~by "provider"~~:(a) "Provider of health care" has the meaning ascribed to it in NRS 629.031.(b) "Therapeutic equivalent" means a drug which:(1) Contains an identical amount of the same active ingredients in the same dosage and method of administration as another drug;(2) Is expected to have the same clinical effect when administered to a patient pursuant to a prescription or order as another drug; and(3) Meets any other criteria required by the Food and Drug Administration for classification as a therapeutic equivalent.

Sec. 18. NRS 695B.1916 is hereby amended to read as follows:

695B.1916 1. ~~{Except as otherwise provided in subsection 5, an}~~ An insurer that offers or issues a contract for hospital or medical service which provides coverage for prescription drugs or devices shall include in the contract coverage for ~~the~~:

~~—(a) Any type of drug or device for contraception; and~~

~~—(b) Any} any type of hormone replacement therapy ~~the~~~~

~~↔} which is lawfully prescribed or ordered and which has been approved by the Food and Drug Administration.~~

2. An insurer that offers or issues a contract for hospital or medical service that provides coverage for prescription drugs shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for a prescription for ~~the contraceptive or~~ hormone replacement therapy than is required for other prescription drugs covered by the contract;

(b) Refuse to issue a contract for hospital or medical service or cancel a contract for hospital or medical service solely because the person applying for or covered by the contract uses or may use in the future ~~any of the services listed in subsection 1;~~ **hormone replacement therapy;**

(c) Offer or pay any type of material inducement or financial incentive to an insured to discourage the insured from accessing ~~any of the services listed in subsection 1;~~ **hormone replacement therapy;**

(d) Penalize a provider of health care who provides ~~any of the services listed in subsection 1;~~ **hormone replacement therapy** to an insured, including, without limitation, reducing the reimbursement of the provider of health care; or

(e) Offer or pay any type of material inducement, bonus or other financial incentive to a provider of health care to deny, reduce, withhold, limit or delay

~~[any of the services listed in subsection 1]~~ **hormone replacement therapy** to an insured.

3. ~~[Except as otherwise provided in subsection 5, a]~~ A contract subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 1999, has the legal effect of including the coverage required by subsection 1, and any provision of the contract or the renewal which is in conflict with this section is void.

4. The provisions of this section do not:

(a) Require an insurer to provide coverage for fertility drugs.
 (b) Prohibit an insurer from requiring an insured to pay a deductible, copayment or coinsurance for the coverage required by ~~paragraphs (a) and (b) of~~ subsection 1 that is the same as the insured is required to pay for other prescription drugs covered by the contract.

5. ~~[An insurer which offers or issues a contract for hospital or medical service and which is affiliated with a religious organization is not required to provide the coverage required by paragraph (a) of subsection 1 if the insurer objects on religious grounds. Such an insurer shall, before the issuance of a contract for hospital or medical service and before the renewal of such a contract, provide to the group policyholder or prospective insured, as applicable, written notice of the coverage that the insurer refuses to provide pursuant to this subsection. The insurer shall provide notice to each insured, at the time the insured receives his or her certificate of coverage or evidence of coverage, that the insurer refused to provide coverage pursuant to this subsection.]~~

~~— 6. If an insurer refuses, pursuant to subsection 5, to provide the coverage required by paragraph (a) of subsection 1, an employer may otherwise provide for the coverage for the employees of the employer.~~

~~— 7.]~~ As used in this section, “provider of health care” has the meaning ascribed to it in NRS 629.031.

Sec. 19. NRS 695B.1918 is hereby amended to read as follows:

695B.1918 1. ~~[Except as otherwise provided in subsection 5, an]~~ **An** insurer that offers or issues a contract for hospital or medical service which provides coverage for outpatient care shall include in the contract coverage for any health care service related to ~~[contraceptives or]~~ hormone replacement therapy.

2. An insurer that offers or issues a contract for hospital or medical service that provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for outpatient care related to ~~[contraceptives or]~~ hormone replacement therapy than is required for other outpatient care covered by the contract;

(b) Refuse to issue a contract for hospital or medical service or cancel a contract for hospital or medical service solely because the person applying

for or covered by the contract uses or may use in the future ~~any of the services listed in subsection 1;~~ **hormone replacement therapy;**

(c) Offer or pay any type of material inducement or financial incentive to an insured to discourage the insured from accessing ~~any of the services listed in subsection 1;~~ **hormone replacement therapy;**

(d) Penalize a provider of health care who provides ~~any of the services listed in subsection 1;~~ **hormone replacement therapy** to an insured, including, without limitation, reducing the reimbursement of the provider of health care; or

(e) Offer or pay any type of material inducement, bonus or other financial incentive to a provider of health care to deny, reduce, withhold, limit or delay ~~any of the services listed in subsection 1;~~ **hormone replacement therapy** to an insured.

3. ~~Except as otherwise provided in subsection 5, a~~ A contract subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 1999, has the legal effect of including the coverage required by subsection 1, and any provision of the contract or the renewal which is in conflict with this section is void.

4. The provisions of this section do not prohibit an insurer from requiring an insured to pay a deductible, copayment or coinsurance for the coverage required by subsection 1 that is the same as the insured is required to pay for other outpatient care covered by the contract.

5. ~~An insurer which offers or issues a contract for hospital or medical service and which is affiliated with a religious organization is not required to provide the coverage for health care service related to contraceptives required by this section if the insurer objects on religious grounds. Such an insurer shall, before the issuance of a contract for hospital or medical service and before the renewal of such a contract, provide to the group policyholder or prospective insured, as applicable, written notice of the coverage that the insurer refuses to provide pursuant to this subsection. The insurer shall provide notice to each insured, at the time the insured receives his or her certificate of coverage or evidence of coverage, that the insurer refused to provide coverage pursuant to this subsection.~~

~~6. If an insurer refuses, pursuant to subsection 5, to provide the coverage required by paragraph (a) of subsection 1, an employer may otherwise provide for the coverage for the employees of the employer.~~

~~7.~~ As used in this section, “provider of health care” has the meaning ascribed to it in NRS 629.031.

Sec. 20. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~1.~~ **Except as otherwise provided in subsection 6, a health maintenance organization that offers or issues a health care plan shall include in the plan coverage for:**

(a) **Up to a 12-month supply, per prescription, of any type of drug for contraception or its therapeutic equivalent which is lawfully prescribed or**

~~ordered and which has been approved by the Food and Drug Administration;~~

(1) Lawfully prescribed or ordered;

(2) Approved by the Food and Drug Administration; and

(3) Dispensed in accordance with section 4.5 of this act;

(b) Any type of device for contraception or its therapeutic equivalent which is lawfully prescribed or ordered and which has been approved by the Food and Drug Administration;

(c) Insertion or removal of a device for contraception;

(d) Education and counseling relating to ~~contraception;~~ the initiation of the use of contraceptives and any necessary follow-up after initiating such use;

(e) Management of side effects relating to contraception; and

(f) Voluntary sterilization for ~~men and~~ women.

2. If a covered therapeutic equivalent listed in subsection 1 is not available or a provider of health care deems a covered therapeutic equivalent to be medically inappropriate, an alternate therapeutic equivalent prescribed by a provider of health care must be covered by the health maintenance organization.

3. ~~1A~~ Except as otherwise provided in subsections 8, 9 and 10, a health maintenance organization that offers or issues a health care plan shall not:

(a) Require an enrollee to pay a higher deductible, any copayment or coinsurance or require a longer waiting period or other condition to obtain any benefit included in the health care plan pursuant to subsection 1;

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use any such benefit;

(c) Offer or pay any type of material inducement or financial incentive to an enrollee to discourage the enrollee from obtaining any such benefit;

(d) Penalize a provider of health care who provides any such benefit to an enrollee, including, without limitation, reducing the reimbursement of the provider of health care;

(e) Offer or pay any type of material inducement, bonus or other financial incentive to a provider of health care to deny, reduce, withhold, limit or delay access to any such benefit to an enrollee; or

(f) Impose any other restrictions or delays on the access of an enrollee to any such benefit . , including, without limitation, a program of step therapy or prior authorization.

4. Coverage pursuant to this section for ~~a covered spouse or~~ the covered dependent of an enrollee must be the same as for the enrollee.

5. ~~1A~~ Except as otherwise provided in subsection 6, a health care plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2018, has the legal effect of including the coverage required by subsection 1, and any provision of the plan or the renewal which is in conflict with this section is void.

6. A health maintenance organization that offers or issues a health care plan and which is affiliated with a religious organization is not required to provide the coverage required by subsection 1 if the health maintenance organization objects on religious grounds. Such an organization shall, before the issuance of a health care plan and before the renewal of such a plan, provide to the prospective enrollee written notice of the coverage that the health maintenance organization refuses to provide pursuant to this subsection.

7. If a health maintenance organization, pursuant to subsection 6, refuses to provide the coverage required by subsection 1, an employer may otherwise provide for the coverage for the employees of the employer.

8. A health maintenance organization may require an enrollee to pay a higher deductible, copayment or coinsurance for a drug or device for contraception if the enrollee refuses to accept a therapeutic equivalent of the contraceptive drug or device.

9. For each method of contraception which is approved by the Food and Drug Administration, a health care plan must include at least one contraceptive drug or device for which no deductible, copayment or coinsurance may be charged to the enrollee, but the health maintenance organization may charge a deductible, copayment or coinsurance for any other contraceptive drug or device that provides the same method of contraception.

10. A health maintenance organization may require an enrollee to:

(a) Participate in a reasonable program of step therapy to obtain coverage for any benefit required by subsection 1.

(b) Obtain prior authorization before obtaining coverage for any benefit required by subsection 1 as part of a determination by the health maintenance organization that the benefit is medically necessary or appropriate for the enrollee.

11. As used in this section ~~by "provider"~~:

(a) "Provider of health care" has the meaning ascribed to it in NRS 629.031.

(b) "Therapeutic equivalent" means a drug which:

(1) Contains an identical amount of the same active ingredients in the same dosage and method of administration as another drug;

(2) Is expected to have the same clinical effect when administered to a patient pursuant to a prescription or order as another drug; and

(3) Meets any other criteria required by the Food and Drug Administration for classification as a therapeutic equivalent.

Sec. 21. NRS 695C.050 is hereby amended to read as follows:

695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated

pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170, 695C.1703, 695C.1705, 695C.1709 to 695C.173, inclusive, 695C.1733, 695C.17335, 695C.1734, 695C.1735 to 695C.1755, inclusive, 695C.176 to 695C.200, inclusive, and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

5. The provisions of NRS 695C.1694, 695C.1695, 695C.1708, 695C.1731, 695C.17345, ~~and~~ 695C.1757 **and section 20 of this act** apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

Sec. 22. NRS 695C.1694 is hereby amended to read as follows:

695C.1694 1. ~~{Except as otherwise provided in subsection 5, a} A~~ health maintenance organization which offers or issues a health care plan that provides coverage for prescription drugs or devices shall include in the plan coverage for ~~1:~~

~~—(a) Any type of drug or device for contraception; and~~

~~—(b) Any} any type of hormone replacement therapy ~~1:~~~~

~~→} which is lawfully prescribed or ordered and which has been approved by the Food and Drug Administration.~~

2. A health maintenance organization that offers or issues a health care plan that provides coverage for prescription drugs shall not:

(a) Require an enrollee to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for ~~{a prescription for a contraceptive or}~~ hormone replacement therapy than is required for other prescription drugs covered by the plan;

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future ~~{any of the services listed in subsection 1;}~~ **hormone replacement therapy;**

(c) Offer or pay any type of material inducement or financial incentive to an enrollee to discourage the enrollee from accessing ~~any of the services listed in subsection 1;~~ **hormone replacement therapy;**

(d) Penalize a provider of health care who provides ~~any of the services listed in subsection 1;~~ **hormone replacement therapy** to an enrollee, including, without limitation, reducing the reimbursement of the provider of health care; or

(e) Offer or pay any type of material inducement, bonus or other financial incentive to a provider of health care to deny, reduce, withhold, limit or delay ~~any of the services listed in subsection 1;~~ **hormone replacement therapy** to an enrollee.

3. ~~Except as otherwise provided in subsection 5, evidence~~ **Evidence** of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 1999, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with this section is void.

4. The provisions of this section do not:

(a) Require a health maintenance organization to provide coverage for fertility drugs.

(b) Prohibit a health maintenance organization from requiring an enrollee to pay a deductible, copayment or coinsurance for the coverage required by ~~paragraphs (a) and (b) of~~ subsection 1 that is the same as the enrollee is required to pay for other prescription drugs covered by the plan.

5. ~~A health maintenance organization which offers or issues a health care plan and which is affiliated with a religious organization is not required to provide the coverage required by paragraph (a) of subsection 1 if the health maintenance organization objects on religious grounds. The health maintenance organization shall, before the issuance of a health care plan and before renewal of enrollment in such a plan, provide to the group policyholder or prospective enrollee, as applicable, written notice of the coverage that the health maintenance organization refuses to provide pursuant to this subsection. The health maintenance organization shall provide notice to each enrollee, at the time the enrollee receives his or her evidence of coverage, that the health maintenance organization refused to provide coverage pursuant to this subsection.~~

~~6. If a health maintenance organization refuses, pursuant to subsection 5, to provide the coverage required by paragraph (a) of subsection 1, an employer may otherwise provide for the coverage for the employees of the employer.~~

~~7.~~ As used in this section, “provider of health care” has the meaning ascribed to it in NRS 629.031.

Sec. 23. NRS 695C.1695 is hereby amended to read as follows:

695C.1695 1. ~~Except as otherwise provided in subsection 5, a~~ A health maintenance organization that offers or issues a health care plan which

provides coverage for outpatient care shall include in the plan coverage for any health care service related to ~~{contraceptives or}~~ hormone replacement therapy.

2. A health maintenance organization that offers or issues a health care plan that provides coverage for outpatient care shall not:

(a) Require an enrollee to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for outpatient care related to ~~{contraceptives or}~~ hormone replacement therapy than is required for other outpatient care covered by the plan;

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future ~~{any of the services listed in subsection 1;}~~ ***hormone replacement therapy;***

(c) Offer or pay any type of material inducement or financial incentive to an enrollee to discourage the enrollee from accessing ~~{any of the services listed in subsection 1;}~~ ***hormone replacement therapy;***

(d) Penalize a provider of health care who provides ~~{any of the services listed in subsection 1}~~ ***hormone replacement therapy*** to an enrollee, including, without limitation, reducing the reimbursement of the provider of health care; or

(e) Offer or pay any type of material inducement, bonus or other financial incentive to a provider of health care to deny, reduce, withhold, limit or delay ~~{any of the services listed in subsection 1}~~ ***hormone replacement therapy*** to an enrollee.

3. ~~{Except as otherwise provided in subsection 5, evidence}~~ ***Evidence*** of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 1999, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with this section is void.

4. The provisions of this section do not prohibit a health maintenance organization from requiring an enrollee to pay a deductible, copayment or coinsurance for the coverage required by subsection 1 that is the same as the enrollee is required to pay for other outpatient care covered by the plan.

5. ~~{A health maintenance organization which offers or issues a health care plan and which is affiliated with a religious organization is not required to provide the coverage for health care service related to contraceptives required by this section if the health maintenance organization objects on religious grounds. The health maintenance organization shall, before the issuance of a health care plan and before renewal of enrollment in such a plan, provide to the group policyholder or prospective enrollee, as applicable, written notice of the coverage that the health maintenance organization refuses to provide pursuant to this subsection. The health maintenance organization shall provide notice to each enrollee, at the time the enrollee~~

~~receives his or her evidence of coverage, that the health maintenance organization refused to provide coverage pursuant to this subsection.~~

~~— 6. — If a health maintenance organization refuses, pursuant to subsection 5, to provide the coverage required by paragraph (a) of subsection 1, an employer may otherwise provide for the coverage for the employees of the employer.~~

~~— 7. —~~ As used in this section, “provider of health care” has the meaning ascribed to it in NRS 629.031.

Sec. 24. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if the Commissioner finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, **and section 20 of this act** or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The Commissioner certifies that the health maintenance organization:

(1) Does not meet the requirements of subsection 1 of NRS 695C.080;

or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as the Commissioner may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 25. Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~1A~~ Except as otherwise provided in subsection 6, a managed care organization that offers or issues a health care plan shall include in the plan coverage for:

(a) Up to a 12-month supply, per prescription, of any type of drug for contraception or its therapeutic equivalent which is ~~lawfully prescribed or ordered and which has been approved by the Food and Drug Administration~~;

(1) Lawfully prescribed or ordered;

(2) Approved by the Food and Drug Administration; and

(3) Dispensed in accordance with section 4.5 of this act;

(b) Any type of device for contraception or its therapeutic equivalent which is lawfully prescribed or ordered and which has been approved by the Food and Drug Administration;

(c) Insertion or removal of a device for contraception;

(d) Education and counseling relating to ~~contraception~~ the initiation of the use of contraceptives and any necessary follow-up after initiating such use;

(e) Management of side effects relating to contraception; and

(f) Voluntary sterilization for ~~men and~~ women.

2. If a covered therapeutic equivalent listed in subsection 1 is not available or a provider of health care deems a covered therapeutic

equivalent to be medically inappropriate, an alternate therapeutic equivalent prescribed by a provider of health care must be covered by the managed care organization.

3. ~~4.~~ Except as otherwise provided in subsections 7, 8 and 9, a managed care organization that offers or issues a health care plan shall not:

(a) Require an insured to pay a higher deductible, any copayment or coinsurance or require a longer waiting period or other condition to obtain any benefit included in the health care plan pursuant to subsection 1;

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use any such benefits;

(c) Offer or pay any type of material inducement or financial incentive to an insured to discourage the insured from obtaining any such benefits;

(d) Penalize a provider of health care who provides any such benefits to an insured, including, without limitation, reducing the reimbursement of the provider of health care;

(e) Offer or pay any type of material inducement, bonus or other financial incentive to a provider of health care to deny, reduce, withhold, limit or delay access to any such benefits to an insured; or

(f) Impose any other restrictions or delays on the access of an insured to any such benefits. ~~It, including, without limitation, a program of step therapy or prior authorization.~~

4. Coverage pursuant to this section for ~~a covered spouse or~~ the covered dependent of an insured must be the same as for the insured.

5. ~~4.~~ Except as otherwise provided in subsection 6, a health care plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2018, has the legal effect of including the coverage required by subsection 1, and any provision of the plan or the renewal which is in conflict with this section is void.

6. A managed care organization that offers or issues a health care plan and which is affiliated with a religious organization is not required to provide the coverage required by subsection 1 if the managed care organization objects on religious grounds. Such an organization shall, before the issuance of a health care plan and before the renewal of such a plan, provide to the prospective insured written notice of the coverage that the managed care organization refuses to provide pursuant to this subsection.

7. A managed care organization may require an insured to pay a higher deductible, copayment or coinsurance for a drug or device for contraception if the insured refuses to accept a therapeutic equivalent of the contraceptive drug or device.

8. For each method of contraception which is approved by the Food and Drug Administration, a health care plan must include at least one contraceptive drug or device for which no deductible, copayment or

coinsurance may be charged to the insured, but the managed care organization may charge a deductible, copayment or coinsurance for any other contraceptive drug or device that provides the same method of contraception.

9. A managed care organization may require an insured to:

(a) Participate in a reasonable program of step therapy to obtain coverage for any benefit required by subsection 1.

(b) Obtain prior authorization before obtaining coverage for any benefit required by subsection 1 as part of a determination by the managed care organization that the benefit is medically necessary or appropriate for the insured.

10. As used in this section ~~by “provider”~~ :

(a) “Provider of health care” has the meaning ascribed to it in NRS 629.031.

(b) “Therapeutic equivalent” means a drug which:

(1) Contains an identical amount of the same active ingredients in the same dosage and method of administration as another drug;

(2) Is expected to have the same clinical effect when administered to a patient pursuant to a prescription or order as another drug; and

(3) Meets any other criteria required by the Food and Drug Administration for classification as a therapeutic equivalent.

Sec. 26. 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. 27. This act becomes effective on January 1, 2018.

Assemblyman Sprinkle moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 259.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 337.

AN ACT relating to criminal procedure; providing for the vacating of certain judgments of conviction and sealing of certain records relating to marijuana; authorizing a court to depart from prescribed minimum terms of imprisonment for the possession of controlled substances in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes a court to grant a motion to vacate a judgment of conviction in certain circumstances. (NRS 176.515) Existing law also establishes a process for sealing certain records of criminal proceedings. (NRS 179.245-179.301) With certain limited exceptions, if the court orders a person’s record of criminal history sealed, all proceedings

recounted in the record are deemed never to have occurred. (NRS 179.285)

~~Section 1.1~~ 1.2 of this bill ~~additionally authorizes a court to grant a motion to vacate a judgment of conviction if: (1) the judgment is a conviction for~~ provides that if a person is convicted of a misdemeanor for: (1) the possession of 1 ounce or less of marijuana; or (2) a violation of any provision of law concerning certain offenses involving marijuana and the act constituting the offense is a lawful act in this State on or after January 1, 2017 ~~is and (2)~~, the person may petition the court to vacate the judgment and seal all documents relating to the case. Section 1.2 establishes the circumstances in which the court is required or authorized to grant such a petition. If granting such a petition is within the discretion of the court, the ~~court notifies~~ petitioner is required to notify the office of the prosecuting attorney who prosecuted the ~~defendant~~ petitioner for the crime and ~~allows~~ the prosecuting attorney must be allowed to testify and present evidence before the court decides whether to grant the ~~motion~~ petition. Section ~~1.1~~ 1.2 also ~~requires~~ authorizes a court to ~~grant a motion~~ enter an interim order to vacate a judgment of conviction if the petitioner satisfies all requirements necessary for the judgment ~~is a conviction for the possession of 1 ounce or less of marijuana.~~ to be vacated but the petition is deficient with respect to the sealing of the petitioner's record. Section 1.2 provides that if the court enters such an interim order, the court is also required to order sealed the records of the petitioner which relate to the judgment being vacated. Sections 1.3-1.7 of this bill make conforming changes.

Existing law generally prohibits a person from knowingly or intentionally possessing a controlled substance and sets forth the penalties for violating such a provision. The severity of the penalty generally depends on the type of controlled substance the person possessed and the number of times the person has committed the offense. (NRS 453.336) **Section 2** of this bill provides that if a person is convicted of knowingly or intentionally possessing a controlled substance and the penalty for such possession requires that the person serve a minimum term of imprisonment, the court is authorized to depart from the prescribed minimum term of imprisonment in certain specified circumstances.

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

Section 1. ~~{NRS 176.515 is hereby amended to read as follows:~~
~~176.515 1. The court may grant a new trial to a defendant if required as a matter of law or on the ground of newly discovered evidence.~~
~~2. If trial was by the court without a jury, the court may vacate the judgment if entered, take additional testimony and direct the entry of a new judgment.~~

~~2. Except as otherwise provided in NRS 176.09187, a motion for a new trial based on the ground of newly discovered evidence may be made only within 2 years after the verdict or finding of guilt.~~

~~4. A motion for a new trial based on any other grounds must be made within 7 days after the verdict or finding of guilt or within such further time as the court may fix during the 7 day period.~~

~~5. **The court:**~~

~~(a) **Shall grant a motion to vacate a judgment if the judgment is a conviction for the possession of 1 ounce or less of marijuana in violation of subsection 4 of NRS 453.336.**~~

~~(b) **Except as otherwise provided in paragraph (a), may grant a motion to vacate a judgment if the judgment is a conviction for a violation of any provision of law concerning an offense involving marijuana, if the act constituting the offense is a lawful act in this State on or after January 1, 2017.**~~

~~6. The court may grant a motion to vacate a judgment if:~~

~~(a) The judgment is a conviction for a violation of:~~

~~(1) NRS 201.354, for engaging in prostitution or solicitation for prostitution, provided that the defendant was not alleged to be a customer of a prostitute;~~

~~(2) NRS 207.200, for unlawful trespass;~~

~~(3) Paragraph (b) of subsection 1 of NRS 463.350, for loitering; or~~

~~(4) A county, city or town ordinance, for loitering for the purpose of solicitation or prostitution;~~

~~(b) The participation of the defendant in the offense was the result of the defendant having been a victim of:~~

~~(1) Trafficking in persons as described in the Trafficking Victims Protection Act of 2000, 22 U.S.C. §§ 7101 et seq.; or~~

~~(2) Involuntary servitude as described in NRS 200.463 or 200.4631; and~~

~~(c) The defendant makes a motion under this subsection with due diligence after the defendant has ceased being a victim of trafficking or involuntary servitude or has sought services for victims of such trafficking or involuntary servitude.~~

~~[6.] 7. In deciding whether to grant a motion made pursuant to :~~

~~(a) **Paragraph (b) of subsection 5, the court must notify the prosecuting attorney who prosecuted the defendant for the crime and allow the prosecuting attorney to testify and present evidence before the court decides whether to grant the motion.**~~

~~(b) **Subsection 6,** the court shall take into consideration any reasonable concerns for the safety of the defendant, family members of the defendant or other victims that may be jeopardized by the bringing of such a motion.~~

~~[7.] 8. If the court grants a motion made pursuant to subsection 5 [.] or 6, the court:~~

~~(a) Shall vacate the judgment and dismiss the accusatory pleading; and~~

~~(b) May take any additional action that the court deems appropriate under the circumstances.~~ **(Deleted by amendment.)**

Sec. 1.2. Chapter 179 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a person has been convicted of a misdemeanor for the possession of 1 ounce or less of marijuana in violation of subsection 4 of NRS 453.336 or for a violation of any other provision of law concerning an offense involving marijuana, if the act constituting such an offense is a lawful act in this State on or after January 1, 2017, the person may petition the court in which he or she was convicted or, if the person wishes to file more than one petition and would otherwise need to file a petition in more than one court, the district court, for an order:

(a) Vacating the judgment; and

(b) Sealing all documents, papers and exhibits in the 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.

2. A petition filed pursuant to subsection 1 must satisfy the requirements of subsection 2 of NRS 179.245.

3. Except as otherwise provided in subsection 6, the court:

(a) Shall grant a petition filed pursuant to subsection 1 if the judgment is a misdemeanor conviction for the possession of 1 ounce or less of marijuana in violation of subsection 4 of NRS 453.336.

(b) Except as otherwise provided in paragraph (a), may grant a petition filed pursuant to subsection 1 if the judgment is a misdemeanor conviction for a violation of any provision of law concerning an offense involving marijuana and the act constituting the offense is a lawful act in this State on or after January 1, 2017.

4. Before the court decides whether to grant a petition pursuant to paragraph (b) of subsection 3:

(a) The petitioner must notify the office of the prosecuting attorney who prosecuted the petitioner for the crime; and

(b) The prosecuting attorney must be allowed to testify and present evidence.

5. If the court grants a petition filed pursuant to subsection 1, the court:

(a) Shall vacate the judgment and dismiss the accusatory pleading;

(b) Shall order sealed all documents, papers and exhibits in the petitioner'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; and

(c) May take any additional action that the court deems appropriate under the circumstances.

6. If a petition filed pursuant to subsection 1 does not satisfy the requirements of subsection 2 of NRS 179.245 or the court determines that

the petition is otherwise deficient with respect to the sealing of the petitioner's record, the court may enter an interim order to vacate the judgment and dismiss the accusatory pleading if the petitioner satisfies all requirements necessary for the judgment to be vacated.

7. If the court enters an interim order pursuant to subsection 6, the court shall also order sealed the records of the petitioner which relate to the judgment being vacated in accordance with paragraph (b) of subsection 5, regardless of whether any records relating to other convictions are ineligible for sealing, either by operation of law or because of a deficiency in the petition.

Sec. 1.3. NRS 179.241 is hereby amended to read as follows:

179.241 As used in NRS 179.241 to 179.301, inclusive, and section 1.2 of this act, unless the context otherwise requires, the words and terms defined in NRS 179.242, 179.243 and 179.244 have the meanings ascribed to them in those sections.

Sec. 1.4. NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 5 and NRS 176A.265, 176A.295, 179.259, 453.3365 and 458.330, and section 1.2 of this act, a person may petition the court in which the person was convicted for the sealing of all records relating to a conviction of:

(a) A category A or B felony after 15 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(b) A category C or D felony after 12 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(c) A category E felony after 7 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(d) Except as otherwise provided in paragraph (e), any gross misdemeanor after 5 years from the date of release from actual custody or discharge from probation, whichever occurs later;

(e) A violation of NRS 422.540 to 422.570, inclusive, other than a felony, a violation of NRS 484C.110 or 484C.120 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later; or

(f) Any other misdemeanor after 2 years from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 must:

(a) Be accompanied by the petitioner's current, verified records received from:

(1) The Central Repository for Nevada Records of Criminal History; and

(2) All agencies of criminal justice which maintain such records within the city or county in which the conviction was entered;

(b) If the petition references NRS 453.3365 or 458.330, include a certificate of acknowledgment or the disposition of the proceedings for the records to be sealed from all agencies of criminal justice which maintain such records;

(c) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

(d) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed, including, without limitation, the:

(1) Date of birth of the petitioner;

(2) Specific conviction to which the records to be sealed pertain; and

(3) Date of arrest relating to the specific conviction to which the records to be sealed pertain.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and the prosecuting attorney, including, without limitation, the Attorney General, who prosecuted the petitioner for the crime. The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of any agency of criminal justice or any public or private agency, company, official or other custodian of records in the State of Nevada, and may also order all such records of the petitioner returned to the file of the court where the proceeding was commenced from, including, without limitation, the Federal Bureau of Investigation, the California Bureau of Criminal Identification and Information and all other agencies of criminal justice which maintain such records and which are reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of:

(a) A crime against a child;

(b) A sexual offense;

(c) A violation of NRS 484C.110 or 484C.120 that is punishable as a felony pursuant to paragraph (c) of subsection 1 of NRS 484C.400;

(d) A violation of NRS 484C.430;

(e) 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;

(f) A violation of NRS 488.410 that is punishable as a felony pursuant to NRS 488.427; or

(g) A violation of NRS 488.420 or 488.425.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

7. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.0357.

(b) "Sexual offense" means:

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

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.

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

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

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

(9) Incest pursuant to NRS 201.180.

(10) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.

(11) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

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

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

(14) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.

(15) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.

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

(17) An attempt to commit an offense listed in this paragraph.

Sec. 1.5. NRS 179.275 is hereby amended to read as follows:

179.275 Where the court orders the sealing of a record pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330, **or section 1.2 of this act**, a copy of the order must be sent to:

1. The Central Repository for Nevada Records of Criminal History; and
2. Each agency of criminal justice and each public or private company, agency, official or other custodian of records named in the order, and that person shall seal the records in his or her custody which relate to the matters contained in the order, shall advise the court of compliance and shall then seal the order.

Sec. 1.6. NRS 179.285 is hereby amended to read as follows:

179.285 Except as otherwise provided in NRS 179.301:

1. If the court orders a record sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 ~~or~~ **or section 1.2 of this act**:

(a) All proceedings recounted in the record are deemed never to have occurred, and the person to whom the order pertains may properly answer accordingly to any inquiry, including, without limitation, an inquiry relating to an application for employment, concerning the arrest, conviction, dismissal or acquittal and the events and proceedings relating to the arrest, conviction, dismissal or acquittal.

(b) The person is immediately restored to the following civil rights if the person's civil rights previously have not been restored:

- (1) The right to vote;
- (2) The right to hold office; and
- (3) The right to serve on a jury.

2. Upon the sealing of the person's records, a person who is restored to his or her civil rights pursuant to subsection 1 must be given:

(a) An official document which demonstrates that the person has been restored to the civil rights set forth in paragraph (b) of subsection 1; and

(b) A written notice informing the person that he or she has not been restored to the right to bear arms, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms.

3. A person who has had his or her records sealed in this State or any other state and whose official documentation of the restoration of civil rights is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has had his or her records sealed, the court shall issue an order restoring the person to the civil rights to vote, to hold office and to serve on a jury. A person must not be required to pay a fee to receive such an order.

4. A person who has had his or her records sealed in this State or any other state may present official documentation that the person has been restored to his or her civil rights or a court order restoring civil rights as

proof that the person has been restored to the right to vote, to hold office and to serve as a juror.

Sec. 1.7. NRS 179.295 is hereby amended to read as follows:

179.295 1. The person who is the subject of the records that are sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 **or section 1.2 of this act** may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court may order such inspection. Except as otherwise provided in this section, subsection 8 of NRS 179.255 and NRS 179.259 and 179.301, the court may not order the inspection of the records under any other circumstances.

2. If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of the records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or a similar offense and that there is sufficient evidence reasonably to conclude that the person will stand trial for the offense.

3. The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of such records for the purpose of obtaining information relating to persons who were involved in the incident recorded.

4. This section does not prohibit a court from considering a conviction for which records have been sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 **or section 1.2 of this act** in determining whether to grant a petition pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 for a conviction of another offense.

Sec. 2. NRS 453.336 is hereby amended to read as follows:

453.336 1. Except as otherwise provided in subsection ~~5~~, **6**, a person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician, optometrist, advanced practice registered nurse or veterinarian while acting in the course of his or her professional practice, or except as otherwise authorized by the provisions of NRS 453.005 to 453.552, inclusive.

2. Except as otherwise provided in subsections 3, ~~and~~ **4 and 5** and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160, 453.3385, 453.339 or 453.3395, a person who violates this section shall be punished:

(a) For the first or second offense, if the controlled substance is listed in schedule I, II, III or IV, for a category E felony as provided in NRS 193.130.

(b) For a third or subsequent offense, if the controlled substance is listed in schedule I, II, III or IV, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United

States or of any state, territory or district relating to a controlled substance, for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than \$20,000.

(c) For the first offense, if the controlled substance is listed in schedule V, for a category E felony as provided in NRS 193.130.

(d) For a second or subsequent offense, if the controlled substance is listed in schedule V, for a category D felony as provided in NRS 193.130.

3. ~~Unless~~ **Except as otherwise provided in subsection 5 and unless** a greater penalty is provided in NRS 212.160, 453.337 or 453.3385, a person who is convicted of the possession of flunitrazepam or gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

4. ~~Unless~~ **Except as otherwise provided in subsection 5 and unless** a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of 1 ounce or less of marijuana:

(a) For the first offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$600; or

(2) Examined by a treatment provider approved by the court to determine whether the person is a drug addict and is likely to be rehabilitated through treatment and, if the examination reveals that the person is a drug addict and is likely to be rehabilitated through treatment, assigned to a program of treatment and rehabilitation pursuant to NRS 453.580. As used in this subparagraph, "treatment provider" has the meaning ascribed to it in NRS 458.010.

(b) For the second offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$1,000; or

(2) Assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.

(c) For the third offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.

(d) For a fourth or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. **Notwithstanding any other provision of law, if a person is convicted of a violation of any provision of this section which is punishable by the imposition of a minimum term of imprisonment, the court may, upon a showing of good cause by the person, depart from the prescribed minimum term of imprisonment if:**

(a) *The offense for which the person was convicted did not involve the use, attempted use or threatened use of physical force against another person or result in any physical injury to another person;*

(b) *During the commission of the offense for which the person was convicted, the person was not in possession of, and did not threaten the use*

of, display or represent by words or conduct that he or she was in possession of, any weapon listed in subsection 1 of NRS 202.265;

(c) The provisions of this subsection have not previously been applied to the person; and

(d) At the time of sentencing, the court states the reasons for imposing a particular sentence upon the person and the specific reason for imposing a sentence that departs from the prescribed minimum term of imprisonment.

6. It is not a violation of this section if a person possesses a trace amount of a controlled substance and that trace amount is in or on a hypodermic device obtained from a sterile hypodermic device program pursuant to NRS 439.985 to 439.994, inclusive.

~~{6.}~~ 7. As used in this section:

(a) “Controlled substance” includes flunitrazepam, gamma-hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

(b) “Marijuana” does not include concentrated cannabis.

(c) “Sterile hypodermic device program” has the meaning ascribed to it in NRS 439.986.

Sec. 3. The amendatory provisions of section 2 of this act apply to an offense committed:

1. On or after July 1, 2017; and

2. Before July 1, 2017, if the person is convicted on or after July 1, 2017.

Sec. 4. This act becomes effective on July 1, 2017.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 260.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 398.

ASSEMBLYMEN TOLLES, OSCARSON; **BENITEZ-THOMPSON**, HAMBRICK, KRASNER, MILLER, PICKARD, ~~AND~~ **WHEELER**, **WOODBURY AND YEAGER**

SUMMARY—Revises provisions relating to the crime of prostitution. (BDR ~~{18-821}~~) **1-821**)

AN ACT relating to crimes; ~~requiring the appointment of a Committee on Prostitution and Human Trafficking; requiring the Committee to adopt regulations for the evaluation, certification and monitoring of programs for the treatment of certain persons convicted of solicitation for prostitution; enacting various provisions governing the certification of such programs;~~ authorizing justice courts and municipal courts to suspend the sentence of certain persons convicted of solicitation for prostitution ~~++~~ **upon the condition that the person complete a program for treatment of persons convicted of solicitation for prostitution;** revising provisions and penalties for certain acts relating to prostitution; **enacting various provisions**

pertaining to the program of treatment; providing for the sealing of certain records related to the solicitation of prostitution; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person who engages in solicitation for prostitution, or offers or agrees to engage in prostitution, for the first offense, is guilty of a misdemeanor. (NRS 201.354, 207.030) **Section 4** of this bill ~~[increases the penalty for engaging in solicitation for prostitution if a person offers to pay another person a fee, monetary consideration or other thing of value with the intent to engage in sexual conduct. A person]~~ **provides that a prostitute who engages in prostitution or solicitation for prostitution under certain circumstances is guilty of a misdemeanor. Section 4 also provides that a customer** who is found guilty of ~~[such an offense]~~ **engaging in prostitution or soliciting prostitution** for a: (1) first offense, is guilty of a misdemeanor and a mandatory fine of not less than \$400; (2) second offense, is guilty of a gross misdemeanor and a mandatory fine of not less than \$800; and (3) third and subsequent offense, is guilty of a gross misdemeanor and a mandatory fine of not less than \$1,300. **Section 4** additionally requires the court to impose a civil penalty on a ~~[person]~~ **customer** who is found guilty of such an offense, and provides that the civil penalties collected be used only for: (1) enforcing certain crimes relating to solicitation for prostitution; and (2) programs of treatment for persons who solicit prostitution. ~~[Section 1 of this bill: (1) requires the Attorney General to appoint a Committee on Prostitution and Human Trafficking; (2) sets forth the membership for the Committee; (3) requires the Committee to adopt regulations for the evaluation, certification and monitoring of programs for treatment for persons who are convicted of a first time offense of solicitation for prostitution; (4) requires certain information to be included in such programs for treatment; and (5) prescribes other duties of the Committee.]~~ **which are certified by the Division of Public and Behavioral Health of the Department of Health and Human Services. Section 4 authorizes a court to suspend further proceedings of certain eligible defendants, without entering a judgment of conviction, and to place the defendant on probation with terms and conditions that include successful completion of the program of treatment. Section 4 additionally requires a court, under certain circumstances, to seal documents relating to a case involving a defendant who was assigned to a program of treatment for persons who solicit prostitution after the defendant is discharged.**

Existing law authorizes a justice of the peace or municipal judge to suspend the sentence of a person convicted of a misdemeanor that constitutes domestic violence upon the conditions that the person participate in certain programs for treatment and comply with any other condition ordered by the justice of the peace or municipal judge. (NRS 4.373, 5.055) **Sections 2 and 3** of this bill similarly authorize a justice of the peace or municipal judge to suspend the sentence of a person who is convicted of a misdemeanor that

constitutes solicitation for prostitution on the condition that the person actively participates in a program for the treatment of persons who solicit prostitution and comply with any other conditions ordered by the justice of the peace or municipal judge.

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

Section 1. ~~[Chapter 228 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Attorney General shall appoint a Committee on Prostitution and Human Trafficking comprised of:~~

~~(a) One staff member of a program for victims of sex trafficking;~~

~~(b) One staff member of a program for the treatment of persons who solicit prostitution;~~

~~(c) One representative from an office of the district attorney with experience in prosecuting criminal offenses;~~

~~(d) One representative from an office of the city attorney with experience in prosecuting criminal offenses;~~

~~(e) One law enforcement officer;~~

~~(f) One provider of mental health care;~~

~~(g) Two victims of sex trafficking; and~~

~~(h) One justice of the peace or municipal judge.~~

~~2. At least two members of the Committee must be residents of a county whose population is less than 100,000.~~

~~3. In carrying out the duties set forth in this section, the Committee shall consult with and solicit input from the following entities and interests:~~

~~(a) Mental health professionals;~~

~~(b) As determined appropriate by the Committee, other persons and entities with expertise in matters relevant to prostitution and sex trafficking; and~~

~~(c) Any other person determined appropriate by the Committee.~~

~~4. The Committee shall:~~

~~(a) Adopt regulations for the evaluation, certification and monitoring of programs for the treatment of persons who solicit prostitution;~~

~~(b) Review, monitor and certify programs for the treatment of persons who solicit prostitution;~~

~~(c) Review and evaluate programs provided to peace officers for training related to prostitution and sex trafficking and make recommendations to the Peace Officers' Standards and Training Commission regarding such training;~~

~~(d) To the extent that money is available, arrange for the provision of legal services, including, without limitation, assisting a person in a motion to vacate a judgment if the judgment is a conviction for a violation of NRS~~

~~201.354 for engaging in prostitution or solicitation for prostitution pursuant to subsection 5 of NRS 176.515; and~~

~~— (e) Submit on or before March 1 of each odd-numbered year a report to the Director of the Legislative Counsel Bureau for distribution to the regular session of the Legislature. The report must include, without limitation, a summary of the work of the Committee and recommendations for any necessary legislation concerning prostitution or sex trafficking.~~

~~— 5. The regulations governing certification of programs for the treatment of persons who solicit prostitution adopted pursuant to paragraph (a) of subsection 4 must include, without limitation:~~

~~— (a) A program of treatment that includes information, counseling and services regarding:~~

~~— (1) Sex addiction;~~

~~— (2) Sexually transmitted diseases;~~

~~— (3) Mental health;~~

~~— (4) Substance abuse; and~~

~~— (5) The prevention of prostitution.~~

~~— (b) A list of employees or volunteers which may provide the treatment required by a program described in paragraph (a) and such list may include, without limitation, a person who is a:~~

~~— (1) Physician pursuant to chapter 630 of NRS;~~

~~— (2) Psychologist pursuant to chapter 641 of NRS;~~

~~— (3) Clinical professional counselor pursuant to chapter 641A of NRS;~~

~~— (4) Clinical social worker pursuant to chapter 641B of NRS;~~

~~— (5) Former prostitute as defined in NRS 201.295;~~

~~— (6) Family member of a person arrested for soliciting prostitution;~~

~~— (7) Representative of a neighborhood association or community that is adversely affected by prostitution or sex trafficking; or~~

~~— (8) Representative of an organization created for the awareness or prevention of sex trafficking, or the advocacy of victims of sex trafficking.~~

~~— (c) Include, without limitation, provisions allowing a program that is located in another state to become certified in this State to provide treatment to persons who:~~

~~— (1) Reside in this State; and~~

~~— (2) Are ordered by a court in this State to participate in a program for the treatment of persons who solicit prostitution.~~

~~— 6. The Committee shall, at its first meeting and annually thereafter, elect a Chair from among its members.~~

~~— 7. The Committee shall meet regularly at least semiannually and may meet at other times upon the call of the Chair. Any five members of the Committee constitute a quorum for the purpose of voting. A majority vote of the quorum is required to take action with respect to any matter.~~

~~— 8. The Attorney General shall provide the Committee with such staff as is necessary to carry out the duties of the Committee.~~

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

~~10. As used in this section:~~

~~(a) "Mental health professional" has the meaning ascribed to it in NRS 629.550.~~

~~(b) "Prostitution" has the meaning ascribed to it in NRS 201.295.~~

~~(b) "Sex trafficking" means a violation of subsection 2 of NRS 201.300.~~

(Deleted by amendment.)

Sec. 2. NRS 4.373 is hereby amended to read as follows:

4.373 1. Except as otherwise provided in ~~subsection 2,~~ **subsections 2 and 3**, NRS 211A.127 or another specific statute, or unless the suspension of a sentence is expressly forbidden, a justice of the peace may suspend, for not more than 2 years, the sentence of a person convicted of a misdemeanor. If the circumstances warrant, the justice of the peace may order as a condition of suspension that the offender:

(a) Make restitution to the owner of any property that is lost, damaged or destroyed as a result of the commission of the offense;

(b) Engage in a program of community service, for not more than 200 hours;

(c) Actively participate in a program of professional counseling at the expense of the offender;

(d) Abstain from the use of alcohol and controlled substances;

(e) Refrain from engaging in any criminal activity;

(f) Engage or refrain from engaging in any other conduct deemed appropriate by the justice of the peace;

(g) Submit to a search and seizure by the chief of a department of alternative sentencing, an assistant alternative sentencing officer or any other law enforcement officer at any time of the day or night without a search warrant; and

(h) Submit to periodic tests to determine whether the offender is using a controlled substance or consuming alcohol.

2. If a person is convicted of a misdemeanor that constitutes domestic violence pursuant to NRS 33.018, the justice of the peace may, after the person has served any mandatory minimum period of confinement, suspend the remainder of the sentence of the person for not more than 3 years upon the condition that the person actively participate in:

(a) A program of treatment for the abuse of alcohol or drugs which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services;

(b) A program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470; or

(c) The programs set forth in paragraphs (a) and (b),

➔ and that the person comply with any other condition of suspension ordered by the justice of the peace.

3. ~~44~~ Except as otherwise provided in this subsection, if a person is convicted of a misdemeanor that constitutes solicitation for prostitution pursuant to NRS 201.354 or paragraph (b) of subsection 1 of NRS 207.030, the justice of the peace may suspend the sentence for not more than ~~12~~ 2 years upon the condition that the person:

(a) Actively participate in a program for the treatment of persons who solicit prostitution ~~(that has been)~~ which is certified ~~(pursuant to section 1 of this act)~~ by the Division of Public and Behavioral Health of the Department of Health and Human Services; and

(b) Comply with any other condition of suspension ordered by the justice of the peace.

↪ The justice of the peace may not suspend the sentence of a person pursuant to this subsection if the person has previously participated in a program for the treatment of persons who solicit prostitution which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

4. The justice of the peace may order reports from a person whose sentence is suspended at such times as the justice of the peace deems appropriate concerning the compliance of the offender with the conditions of suspension. If the offender complies with the conditions of suspension to the satisfaction of the justice of the peace, the sentence may be reduced to not less than the minimum period of confinement established for the offense.

~~44~~ 5. The justice of the peace may issue a warrant for the arrest of an offender who violates or fails to fulfill a condition of suspension.

Sec. 3. NRS 5.055 is hereby amended to read as follows:

5.055 1. Except as otherwise provided in ~~subsection 2,~~ **subsections 2 and 3**, NRS 211A.127 or another specific statute, or unless the suspension of a sentence is expressly forbidden, a municipal judge may suspend, for not more than 2 years, the sentence of a person convicted of a misdemeanor. If the circumstances warrant, the municipal judge may order as a condition of suspension that the offender:

(a) Make restitution to the owner of any property that is lost, damaged or destroyed as a result of the commission of the offense;

(b) Engage in a program of community service, for not more than 200 hours;

(c) Actively participate in a program of professional counseling at the expense of the offender;

(d) Abstain from the use of alcohol and controlled substances;

(e) Refrain from engaging in any criminal activity;

(f) Engage or refrain from engaging in any other conduct deemed appropriate by the municipal judge;

(g) Submit to a search and seizure by the chief of a department of alternative sentencing, an assistant alternative sentencing officer or any other law enforcement officer at any time of the day or night without a search warrant; and

(h) Submit to periodic tests to determine whether the offender is using any controlled substance or alcohol.

2. If a person is convicted of a misdemeanor that constitutes domestic violence pursuant to NRS 33.018, the municipal judge may, after the person has served any mandatory minimum period of confinement, suspend the remainder of the sentence of the person for not more than 3 years upon the condition that the person actively participate in:

(a) A program of treatment for the abuse of alcohol or drugs which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services;

(b) A program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470; or

(c) The programs set forth in paragraphs (a) and (b),
 ➤ and that the person comply with any other condition of suspension ordered by the municipal judge.

3. ~~4. Except as otherwise provided in this subsection, if a person is convicted of a misdemeanor that constitutes solicitation for prostitution pursuant to NRS 201.354 or paragraph (b) of subsection 1 of NRS 207.030, the municipal judge may suspend the sentence for not more than 2 years upon the condition that the person:~~

~~(a) Actively participate in a program for the treatment of persons who solicit prostitution (that has been) which is certified (pursuant to section 1 of this act) by the Division of Public and Behavioral Health of the Department of Health and Human Services; and~~

~~(b) Comply with any other condition of suspension ordered by the municipal judge.~~

➤ The municipal judge may not suspend the sentence of a person pursuant to this subsection if the person has previously participated in a program for the treatment of persons who solicit prostitution which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

4. The municipal judge may order reports from a person whose sentence is suspended at such times as the municipal judge deems appropriate concerning the compliance of the offender with the conditions of suspension. If the offender complies with the conditions of suspension to the satisfaction of the municipal judge, the sentence may be reduced to not less than the minimum period of confinement established for the offense.

~~4.~~ 5. The municipal judge may issue a warrant for the arrest of an offender who violates or fails to fulfill a condition of suspension.

Sec. 3.2. NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 5 and NRS 176A.265, 176A.295, 179.259, 201.354, 453.3365 and 458.330, a person may petition the court in which the person was convicted for the sealing of all records relating to a conviction of:

(a) A category A or B felony after 15 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(b) A category C or D felony after 12 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(c) A category E felony after 7 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(d) Except as otherwise provided in paragraph (e), any gross misdemeanor after 5 years from the date of release from actual custody or discharge from probation, whichever occurs later;

(e) A violation of NRS 422.540 to 422.570, inclusive, other than a felony, a violation of NRS 484C.110 or 484C.120 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later; or

(f) Any other misdemeanor after 2 years from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 must:

(a) Be accompanied by the petitioner's current, verified records received from:

(1) The Central Repository for Nevada Records of Criminal History; and

(2) All agencies of criminal justice which maintain such records within the city or county in which the conviction was entered;

(b) If the petition references NRS 453.3365 or 458.330, include a certificate of acknowledgment or the disposition of the proceedings for the records to be sealed from all agencies of criminal justice which maintain such records;

(c) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

(d) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed, including, without limitation, the:

(1) Date of birth of the petitioner;

(2) Specific conviction to which the records to be sealed pertain; and

(3) Date of arrest relating to the specific conviction to which the records to be sealed pertain.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and the prosecuting attorney, including, without limitation, the Attorney General, who prosecuted the petitioner for the crime. The prosecuting

attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of any agency of criminal justice or any public or private agency, company, official or other custodian of records in the State of Nevada, and may also order all such records of the petitioner returned to the file of the court where the proceeding was commenced from, including, without limitation, the Federal Bureau of Investigation, the California Bureau of Criminal Identification and Information and all other agencies of criminal justice which maintain such records and which are reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of:

- (a) A crime against a child;
- (b) A sexual offense;
- (c) A violation of NRS 484C.110 or 484C.120 that is punishable as a felony pursuant to paragraph (c) of subsection 1 of NRS 484C.400;
- (d) A violation of NRS 484C.430;
- (e) 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;
- (f) A violation of NRS 488.410 that is punishable as a felony pursuant to NRS 488.427; or
- (g) A violation of NRS 488.420 or 488.425.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

7. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.0357.

(b) "Sexual offense" means:

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

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.

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

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

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

(9) Incest pursuant to NRS 201.180.

(10) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.

(11) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

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

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

(14) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.

(15) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.

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

(17) An attempt to commit an offense listed in this paragraph.

Sec. 3.4. NRS 179.275 is hereby amended to read as follows:

179.275 Where the court orders the sealing of a record pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 201.354, 453.3365 or 458.330, a copy of the order must be sent to:

1. The Central Repository for Nevada Records of Criminal History; and
2. Each agency of criminal justice and each public or private company, agency, official or other custodian of records named in the order, and that person shall seal the records in his or her custody which relate to the matters contained in the order, shall advise the court of compliance and shall then seal the order.

Sec. 3.6. NRS 179.285 is hereby amended to read as follows:

179.285 Except as otherwise provided in NRS 179.301:

1. If the court orders a record sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 201.354, 453.3365 or 458.330:

(a) All proceedings recounted in the record are deemed never to have occurred, and the person to whom the order pertains may properly answer accordingly to any inquiry, including, without limitation, an inquiry relating

to an application for employment, concerning the arrest, conviction, dismissal or acquittal and the events and proceedings relating to the arrest, conviction, dismissal or acquittal.

(b) The person is immediately restored to the following civil rights if the person's civil rights previously have not been restored:

- (1) The right to vote;
- (2) The right to hold office; and
- (3) The right to serve on a jury.

2. Upon the sealing of the person's records, a person who is restored to his or her civil rights pursuant to subsection 1 must be given:

(a) An official document which demonstrates that the person has been restored to the civil rights set forth in paragraph (b) of subsection 1; and

(b) A written notice informing the person that he or she has not been restored to the right to bear arms, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms.

3. A person who has had his or her records sealed in this State or any other state and whose official documentation of the restoration of civil rights is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has had his or her records sealed, the court shall issue an order restoring the person to the civil rights to vote, to hold office and to serve on a jury. A person must not be required to pay a fee to receive such an order.

4. A person who has had his or her records sealed in this State or any other state may present official documentation that the person has been restored to his or her civil rights or a court order restoring civil rights as proof that the person has been restored to the right to vote, to hold office and to serve as a juror.

Sec. 3.8. NRS 179.295 is hereby amended to read as follows:

179.295 1. The person who is the subject of the records that are sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 201.354, 453.3365 or 458.330 may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court may order such inspection. Except as otherwise provided in this section, subsection 8 of NRS 179.255 and NRS 179.259 and 179.301, the court may not order the inspection of the records under any other circumstances.

2. If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of the records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or a similar offense and that there is sufficient evidence reasonably to conclude that the person will stand trial for the offense.

3. The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of

such records for the purpose of obtaining information relating to persons who were involved in the incident recorded.

4. This section does not prohibit a court from considering a conviction for which records have been sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, **201.354**, 453.3365 or 458.330 in determining whether to grant a petition pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 for a conviction of another offense.

Sec. 4. NRS 201.354 is hereby amended to read as follows:

201.354 1. It is unlawful for any person to engage in prostitution or solicitation therefor, except in a licensed house of prostitution.

2. ~~{Except as otherwise provided in subsection subsections 3, and 5, a person}~~ **A prostitute** who violates subsection 1 is guilty of a misdemeanor.

3. ~~{A person} Except as otherwise provided in subsection 5, a customer who violates subsection 1 : {by offering to pay another person a fee, monetary consideration or other thing of value with the intent to engage in sexual conduct.}~~

(a) *For a first offense, is guilty of a misdemeanor and shall be punished as provided in NRS 193.150, and by a fine of not less than \$400.*

(b) *For a second offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140, and by a fine of not less than \$800.*

(c) *For a third or subsequent offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140, and by a fine of not less than \$1,300.*

4. *In addition to any other penalty imposed, the court shall order a person who violates subsection 3 to pay a civil penalty of not less than \$200 per offense. The civil penalty must be paid to the district attorney or city attorney of the jurisdiction in which the violation occurred. If the civil penalty imposed pursuant to this subsection:*

(a) Is not within the person's present ability to pay, in lieu of paying the penalty, the court may allow the person to perform community service for a reasonable number of hours, the value of which would be commensurate with the civil penalty.

(b) Is not entirely within the person's present ability to pay, in lieu of paying the entire civil penalty, the court may allow the person to perform community service for a reasonable number of hours, the value of which would be commensurate with the amount of the reduction of the civil penalty.

5. A ~~{person}~~ **customer** who violates subsection 1 by soliciting a child for prostitution:

(a) For a first offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130, and by a fine of not more than \$5,000.

(b) For a second offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(c) For a third or subsequent offense, is guilty of a category C felony and shall be punished as provided in NRS 193.130. The court shall not grant

probation to or suspend the sentence of a person punished pursuant to this paragraph.

6. Any civil penalty collected by a district attorney or city attorney pursuant to subsection 4 must be deposited in the county or city treasury, as applicable, to be used for:

(a) The enforcement of this section; and

(b) Programs of treatment for persons who solicit prostitution which are certified ~~pursuant to section 1 of this act~~ by the Division of Public and Behavioral Health of the Department of Health and Human Services.

↪ Not less than 50 percent of the money deposited in the county or city treasury, as applicable, pursuant to this subsection must be used for the enforcement of this section.

7. If a person who violates subsection 1 is ordered pursuant to NRS 4.373 or 5.055 to participate in a program for the treatment of persons who solicit prostitution, upon fulfillment of the terms and conditions of the program, the court may discharge the person and dismiss the proceedings against the person. If the court discharges the person and dismisses the proceedings against the person, a nonpublic record of the discharge and dismissal must be transmitted to and retained by the Division of Parole and Probation of the Department of Public Safety solely for the use of the courts in determining whether, in later proceedings, the person qualifies under this section for participation in a program of treatment for persons who solicit prostitution. Except as otherwise provided in this subsection, discharge and dismissal under this subsection is without adjudication of guilt and is not a conviction for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for a second or subsequent conviction or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation of the law, to the status occupied before the proceedings. The person may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge the proceedings in response to an inquiry made of the person for any purpose. Discharge and dismissal under this subsection may occur only once with respect to any person. A professional licensing board may consider a proceeding under this subsection in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to the applicant or licensee.

8. Except as limited by subsection 9, if a person is discharged and the proceedings against the person are dismissed pursuant to subsection 7, the court shall, without a hearing, order sealed all documents, papers and exhibits in that 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

shall cause a copy of the order to be sent 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.

9. 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.

Sec. 5. ~~{The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.}~~ **(Deleted by amendment.)**

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 262.

Bill read second time.

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

Amendment No. 554.

AN ACT relating to contracts for the sale of vehicles; expanding the circumstances under which certain actions taken by a seller against a buyer of a vehicle are deceptive trade practices; ~~{defining the term “knowingly” for the purposes of provisions governing deceptive trade practices;}~~ revising provisions relating to sureties who issue bonds to brokers, dealers, special dealers, rebuilders, distributors and manufacturers of vehicles and dealers, lessors and manufacturers of off-highway vehicles; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law defines certain conduct by a person who is engaging in his or her business or occupation as a deceptive trade practice. (NRS 598.092)

Section 3 of this bill adds to the list of conduct that is considered a deceptive trade practice a person ~~; ~~knowingly~~~~; (1) repossessing a vehicle from a debtor before default; or (2) committing any act against a consumer who contracted with the person for the sale of a vehicle which entitles the consumer to certain remedies provided in law pursuant to the Uniform Commercial Code. (NRS 104.9625) ~~{Section 1 of this bill defines “knowingly” for the purposes of the provisions governing deceptive trade practices. Sections 2 and 4-6 of this bill make conforming changes.}~~

Existing law requires certain brokers, dealers, special dealers, rebuilders, distributors and manufacturers of vehicles and dealers, lessors and manufacturers of off-highway vehicles to procure and file with the Department of Motor Vehicles a bond, which is a prerequisite to licensure by the Department. The surety issuing the bond is required to appoint the Secretary of State as its agent to accept service of notice or process in any action upon the bond. (NRS 482.3333, 482.345, 490.278) **Sections 7-9** of this bill instead require the surety to appoint the Commissioner of Insurance

as its agent. **Sections 7-9** also add to the description of the uses of the bond by a consumer to include violations of the chapters of NRS governing: (1) particular cases concerning persons, including, without limitation, certain acts of fraud against a consumer; (2) retail installment sales of goods and services; (3) the Uniform Commercial Code, as adopted in NRS; and (4) deceptive trade practices. **Section 7 also adds to the list of the uses of the bond by a consumer against a broker to include conversion, negligent misrepresentation and abuse of process by the broker.**

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

Section 1. ~~{Chapter 598 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~“**Knowingly**” imports a knowledge that the facts exist which constitute the act or omission, and does not require knowledge of the prohibition against the act or omission. Knowledge of any particular fact may be inferred from the knowledge of such other facts as should put an ordinarily prudent person upon inquiry.} (Deleted by amendment.)~~

Sec. 2. ~~{NRS 598.0903 is hereby amended to read as follows:
598.0903 As used in NRS 598.0903 to 598.0999, inclusive, and section 1 of this act, unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947, inclusive, and section 1 of this act have the meanings ascribed to them in those sections.} (Deleted by amendment.)~~

Sec. 3. NRS 598.092 is hereby amended to read as follows:

598.092 A person engages in a “deceptive trade practice” when in the course of his or her business or occupation he or she:

1. Knowingly fails to identify goods for sale or lease as being damaged by water.

2. Solicits by telephone or door to door as a lessor or seller, unless the lessor or seller identifies himself or herself, whom he or she represents and the purpose of his or her call within 30 seconds after beginning the conversation.

3. Knowingly states that services, replacement parts or repairs are needed when no such services, replacement parts or repairs are actually needed.

4. Fails to make delivery of goods or services for sale or lease within a reasonable time or to make a refund for the goods or services, if he or she allows refunds.

5. Advertises or offers an opportunity for investment and:

(a) Represents that the investment is guaranteed, secured or protected in a manner which he or she knows or has reason to know is false or misleading;

(b) Represents that the investment will earn a rate of return which he or she knows or has reason to know is false or misleading;

(c) Makes any untrue statement of a material fact or omits to state a material fact which is necessary to make another statement, considering the circumstances under which it is made, not misleading;

(d) Fails to maintain adequate records so that an investor may determine how his or her money is invested;

(e) Fails to provide information to an investor after a reasonable request for information concerning his or her investment;

(f) Fails to comply with any law or regulation for the marketing of securities or other investments; or

(g) Represents that he or she is licensed by an agency of the State to sell or offer for sale investments or services for investments if he or she is not so licensed.

6. Charges a fee for advice with respect to investment of money and fails to disclose:

(a) That he or she is selling or offering to lease goods or services and, if he or she is, their identity; or

(b) That he or she is licensed by an agency of any state or of the United States to sell or to offer for sale investments or services for investments or holds any other license related to the service he or she is providing.

7. Notifies any person, by any means, as a part of an advertising plan or scheme, that he or she has won a prize and that as a condition of receiving the prize he or she must purchase or lease goods or services.

8. Knowingly misrepresents the legal rights, obligations or remedies of a party to a transaction.

9. Fails, in a consumer transaction that is rescinded, cancelled or otherwise terminated in accordance with the terms of an agreement, advertisement, representation or provision of law, to promptly restore to a person entitled to it a deposit, down payment or other payment or, in the case of property traded in but not available, the agreed value of the property or fails to cancel within a specified time or an otherwise reasonable time an acquired security interest. This subsection does not apply to a person who is holding a deposit, down payment or other payment on behalf of another if all parties to the transaction have not agreed to the release of the deposit, down payment or other payment.

10. ~~Knowingly:~~

~~(a) Repossesses a vehicle from a debtor pursuant to NRS 104.9609 before default by the debtor as defined in the form for the contract for the sale of the vehicle prescribed by the Commissioner of Financial Institutions pursuant to NRS 97.299. ~~for~~~~

~~(b) 11. Commits an act against a consumer who entered into a contract for the sale of a vehicle with the person which entitles the consumer to any remedy available pursuant to NRS 104.9625.~~

~~11.~~ 12. Fails to inform customers, if he or she does not allow refunds or exchanges, that he or she does not allow refunds or exchanges by:

- (a) Printing a statement on the face of the lease or sales receipt;
- (b) Printing a statement on the face of the price tag; or
- (c) Posting in an open and conspicuous place a sign at least 8 by 10 inches in size with boldface letters,

↪ specifying that no refunds or exchanges are allowed.

~~{11. 12.}~~ **13.** Knowingly and willfully violates NRS 597.7118 or 597.7125.

~~{12. 13.}~~ **14.** Knowingly takes advantage of another person's inability reasonably to protect his or her own rights or interests in a consumer transaction when such an inability is due to illiteracy, or to a mental or physical infirmity or another similar condition which manifests itself as an incapability to understand the language or terms of any agreement.

Sec. 4. ~~{NRS 598.0955 is hereby amended to read as follows:~~

~~598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, and section 1 of this act do not apply to:~~

~~(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency;~~

~~(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters or printers engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character;~~

~~(c) Actions or appeals pending on July 1, 1973.~~

~~2. The provisions of NRS 598.0903 to 598.0999, inclusive, and section 1 of this act do not apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name or other trade identification which was used and not abandoned prior to July 1, 1973, if the use was in good faith and is otherwise lawful except for the provisions of NRS 598.0903 to 598.0999, inclusive [.] , and section 1 of this act.]~~
(Deleted by amendment.)

Sec. 5. ~~{NRS 598.0971 is hereby amended to read as follows:~~

~~598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, and section 1 of this act, the Commissioner may issue an order directed to the person to show cause why the Director should not order the person to cease and desist from engaging in the practice and to pay an administrative fine. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.~~

~~2. An administrative hearing on any action brought by the Commissioner must be conducted before the Director or his or her designee.~~

~~3. If, after conducting a hearing pursuant to the provisions of subsection 2, the Director or his or her designee determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, and section 1 of this act, or if the person fails to appear for the hearing after being properly~~

~~served with the statement of charges and notice of hearing, the Director or his or her designee shall issue an order setting forth his or her findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the Director or his or her designee determines in the report that such a violation has occurred, he or she may order the violator to:~~

~~—(a) Cease and desist from engaging in the practice or other activity constituting the violation;~~

~~—(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the Director or his or her designee free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive [;], and section 1 of this act;~~

~~—(c) Provide restitution for any money or property improperly received or obtained as a result of the violation; and~~

~~—(d) Impose an administrative fine of \$1,000 or treble the amount of restitution ordered, whichever is greater.~~

~~➤ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.~~

~~—4. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 3 or who is aggrieved by the order may petition for judicial review in the manner provided in chapter 232B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.~~

~~—5. If a person fails to comply with any provision of an order issued pursuant to subsection 3, the Commissioner or the Director may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his or her principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.~~

~~—6. If the court finds that:~~

~~—(a) The violation complained of is a deceptive trade practice;~~

~~—(b) The proceedings by the Director or his or her designee concerning the written report and any order issued pursuant to subsection 3 are in the interest of the public; and~~

~~—(c) The findings of the Director or his or her designee are supported by the weight of the evidence;~~

~~➤ the court shall issue an order enforcing the provisions of the order of the Director or his or her designee.~~

~~—7. An order issued pursuant to subsection 6 may include:~~

~~— (a) A provision requiring the payment to the Consumer Affairs Division of the Department of Business and Industry of a penalty of not more than \$5,000 for each act amounting to a failure to comply with the Director's or designee's order;~~

~~— (b) An order that the person cease doing business within this State; and~~

~~— (c) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.~~

~~— 8. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.~~

~~— 9. Upon the violation of any judgment, order or decree issued pursuant to subsection 6 or 7, the Commissioner, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999. (Deleted by amendment.)~~

Sec. 6. [NRS 598.0999 is hereby amended to read as follows:

~~— 598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act** upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than \$10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive [.] **and section 1 of this act.**~~

~~— 2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act**, if the court finds that a person has willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed \$5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.~~

~~— 3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:~~

~~— (a) For the first offense, is guilty of a misdemeanor.~~

~~— (b) For the second offense, is guilty of a gross misdemeanor.~~

~~— (c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.~~

~~→ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.~~

~~4. Any offense which occurred within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.~~

~~5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, and section 1 of this act, 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:~~

~~(a) The suspension of the person's privilege to conduct business within this State; or~~

~~(b) If the defendant is a corporation, dissolution of the corporation.~~

~~The court may grant or deny the relief sought or may order other appropriate relief.~~

~~6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:~~

~~(a) The suspension of the person's privilege to conduct business within this State; or~~

~~(b) If the defendant is a corporation, dissolution of the corporation.~~

~~The court may grant or deny the relief sought or may order other appropriate relief.] (Deleted by amendment.)~~

Sec. 7. NRS 482.3333 is hereby amended to read as follows:

482.3333 1. Before a person may be licensed as a broker, the person must procure and file with the Department a good and sufficient bond in the amount of \$100,000 with a corporate surety thereon licensed to do business within the State of Nevada, approved as to form by the Attorney General, and conditioned that the applicant shall conduct business as a broker without breaching a consumer contract or engaging in a deceptive trade practice, fraud or fraudulent representation, and without violation of the provisions of this chapter.

2. The Department may allow a broker who provides services for more than one category of vehicle described in subsection 1 of NRS 482.345 at a principal place of business or at any branch location within the same county as the principal place of business to provide a good and sufficient bond for a single category of vehicle and may consider that single bond sufficient coverage to include all other categories of vehicles.

3. The bond must be continuous in form, and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

4. The undertaking on the bond is for the use and benefit of the consumer and includes any breach of a consumer contract, deceptive trade practice, fraud, fraudulent representation, **negligent misrepresentation, abuse of process, conversion** or violation of any of the provisions of this chapter **or chapter 41, 97, 104, 104A or 598 of NRS** by any employee of the licensed broker who acts on behalf of the broker and within the scope of his or her employment.

5. The bond must provide that it is for the use and benefit of any consumer of the broker or an employee of the broker for any loss or damage established, including, without limitation:

- (a) Actual damages;
- (b) Consequential damages;
- (c) Incidental damages;
- (d) Statutory damages;
- (e) Damages for noneconomic loss; and
- (f) Attorney's fees and costs.

→ The surety issuing the bond shall appoint the ~~Secretary of State~~ **Commissioner of Insurance** as its agent to accept service of notice or process for the surety in any action upon the bond brought in a court of competent jurisdiction or brought before the Director.

6. If a consumer has a claim for relief against a broker or an employee of the broker, the consumer may:

(a) Bring and maintain an action in any court of competent jurisdiction. If the court enters:

(1) A judgment on the merits against the broker or employee, the judgment is binding on the surety.

(2) A judgment other than on the merits against the broker or employee, including, without limitation, a default judgment, the judgment is binding on the surety only if the surety was given notice and an opportunity to defend at least 20 days before the date on which the judgment was entered against the broker or employee.

(b) Apply to the Director, for good cause shown, for compensation from the bond. The Director may determine the amount of compensation and the consumer to whom it is to be paid. The surety shall then make the payment.

(c) Settle the matter with the broker or employee. If such a settlement is made, the settlement must be reduced to writing, signed by both parties and acknowledged before any person authorized to take acknowledgments in this State, and submitted to the Director with a request for compensation from the bond. If the Director determines that the settlement was reached in good faith and there is no evidence of collusion or fraud between the parties in reaching the settlement, the surety shall make the payment to the consumer in the amount agreed upon in the settlement.

7. Any judgment entered by a court in favor of a consumer and against a broker or an employee of the broker may be executed through a writ of attachment, garnishment, execution or other legal process, or the consumer in whose favor the judgment was entered may apply to the Director for compensation from the bond of the broker or employee.

8. As used in this section, “consumer” means any person who comes into possession of a vehicle as a final user for any purpose other than offering it for sale.

Sec. 8. NRS 482.345 is hereby amended to read as follows:

482.345 1. Before any dealer’s license, dealer’s plate, special dealer’s plate, rebuilder’s license or rebuilder’s plate, distributor’s license or distributor’s plate or manufacturer’s license or manufacturer’s plate is furnished to a manufacturer, distributor, dealer or rebuilder as provided in this chapter, the Department shall require that the applicant make an application for such a license and plate upon a form to be furnished by the Department, and the applicant shall furnish such information as the Department requires, including proof that the applicant has an established place of business in this State, procure and file with the Department a good and sufficient bond with a corporate surety thereon, duly licensed to do business within the State of Nevada, approved as to form by the Attorney General, and conditioned that the applicant or any employee who acts on behalf of the applicant within the scope of his or her employment shall conduct business as a dealer, distributor, manufacturer or rebuilder without breaching a consumer contract or engaging in a deceptive trade practice, fraud or fraudulent representation, and without violation of the provisions of this chapter. The bond must be:

(a) For a manufacturer, distributor, rebuilder or dealer who manufactures, distributes or sells motorcycles, \$50,000.

(b) For a manufacturer, distributor, rebuilder or dealer who sells vehicles other than motorcycles, trailers or travel trailers, \$100,000.

(c) For a manufacturer, distributor, rebuilder or dealer who sells travel trailers or other dual purpose trailers that include living quarters in their design, \$100,000.

(d) For a manufacturer, distributor, rebuilder or dealer who sells horse trailers designed without living quarters or special purpose trailers with an unladen weight of 3,501 pounds or more, \$50,000.

(e) For a manufacturer, distributor, rebuilder or dealer who sells utility trailers or other special use trailers with an unladen weight of 3,500 pounds or less or trailers designed to carry boats, \$10,000.

2. The Department may, pursuant to a written agreement with any manufacturer, distributor, rebuilder or dealer who has been licensed to do business in this State for at least 5 years, allow a reduction in the amount of the bond of the manufacturer, distributor, rebuilder or dealer, if the business has been conducted in a manner satisfactory to the Department for the

preceding 5 years. No bond may be reduced to less than 50 percent of the bond required pursuant to subsection 1.

3. The Department may allow a manufacturer, distributor, rebuilder or dealer who sells more than one category of vehicle as described in subsection 1 at a principal place of business or at any branch location within the same county as the principal place of business to provide a good and sufficient bond for a single category of vehicle and may consider that single bond sufficient coverage to include all other categories of vehicles.

4. The bond must be continuous in form, and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

5. The undertaking on the bond is for the use and benefit of the consumer and includes any breach of a consumer contract, deceptive trade practice, fraud, fraudulent representation or violation of any of the provisions of this chapter **or chapter 41, 97, 104, 104A or 598 of NRS** by the representative of any licensed distributor or the salesperson of any licensed dealer, manufacturer or rebuilder who acts for the dealer, distributor, manufacturer or rebuilder on his or her behalf and within the scope of the employment of the representative or salesperson.

6. The bond must provide that it is for the use and benefit of any consumer of the dealer, distributor, rebuilder, manufacturer, representative or salesperson for any loss or damage established, including, without limitation:

- (a) Actual damages;
- (b) Consequential damages;
- (c) Incidental damages;
- (d) Statutory damages;
- (e) Damages for noneconomic loss; and
- (f) Attorney's fees and costs.

↪ The surety issuing the bond shall appoint the ~~{Secretary of State}~~ **Commissioner of Insurance** as its agent to accept service of notice or process for the surety in any action upon the bond brought in a court of competent jurisdiction or brought before the Director.

7. If a consumer has a claim for relief against a dealer, distributor, rebuilder, manufacturer, representative or salesperson, the consumer may:

(a) Bring and maintain an action in any court of competent jurisdiction. If the court enters:

(1) A judgment on the merits against the dealer, distributor, rebuilder, manufacturer, representative or salesperson, the judgment is binding on the surety.

(2) A judgment other than on the merits against the dealer, distributor, rebuilder, manufacturer, representative or salesperson, including, without limitation, a default judgment, the judgment is binding on the surety only if the surety was given notice and an opportunity to defend at least 20 days before the date on which the judgment was entered against the dealer, distributor, rebuilder, manufacturer, representative or salesperson.

(b) Apply to the Director, for good cause shown, for compensation from the bond. The Director may determine the amount of compensation and the consumer to whom it is to be paid. The surety shall then make the payment.

(c) Settle the matter with the dealer, distributor, rebuilder, manufacturer, representative or salesperson. If such a settlement is made, the settlement must be reduced to writing, signed by both parties and acknowledged before any person authorized to take acknowledgments in this State, and submitted to the Director with a request for compensation from the bond. If the Director determines that the settlement was reached in good faith and there is no evidence of collusion or fraud between the parties in reaching the settlement, the surety shall make the payment to the consumer in the amount agreed upon in the settlement.

8. Any judgment entered by a court in favor of a consumer and against a dealer, distributor, rebuilder, manufacturer, representative or salesperson may be executed through a writ of attachment, garnishment, execution or other legal process, or the consumer in whose favor the judgment was entered may apply to the Director for compensation from the bond of the dealer, distributor, rebuilder, manufacturer, representative or salesperson.

9. The Department shall not issue a license or plate pursuant to subsection 1 to a manufacturer, distributor, rebuilder or dealer who does not have and maintain an established place of business in this State.

10. As used in this section, “consumer” means any person who comes into possession of a vehicle as a final user for any purpose other than offering it for sale.

Sec. 9. NRS 490.270 is hereby amended to read as follows:

490.270 1. Except as otherwise provided in subsection 9 and NRS 490.280, before any off-highway vehicle dealer, long-term or short-term lessor or manufacturer is issued a license pursuant to this chapter, the Department shall require that the applicant procure and file with the Department a good and sufficient bond with a corporate surety thereon, duly licensed to do business within the State of Nevada, approved as to form by the Attorney General and conditioned that the applicant or any employee who acts on the applicant’s behalf within the scope of his or her employment shall conduct his or her business as an off-highway vehicle dealer, long-term or short-term lessor or manufacturer without breaching a consumer contract or engaging in a deceptive trade practice, fraud or fraudulent representation and without violation of the provisions of this chapter. The bond must be in the amount of \$50,000.

2. The Department may, pursuant to a written agreement with any off-highway vehicle dealer, long-term or short-term lessor or manufacturer who has been licensed to do business in this State for at least 5 years, allow a reduction in the amount of the bond of the off-highway vehicle dealer, lessor or manufacturer if such business has been conducted in a manner satisfactory to the Department for the preceding 5 years. No bond may be reduced to less than 50 percent of the bond required pursuant to subsection 1.

3. The bond must be continuous in form, and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

4. The undertaking on the bond includes any breach of a consumer contract, deceptive trade practice, fraud, fraudulent representation or violation of any of the provisions of this chapter **or chapter 41, 97, 104, 104A or 598 of NRS** by the representative or off-highway vehicle salesperson of any licensed off-highway vehicle dealer, long-term or short-term lessor or manufacturer who acts on behalf of the off-highway vehicle dealer, lessor or manufacturer and within the scope of the employment of the representative or off-highway vehicle salesperson.

5. The bond must provide that any person injured by the action of the off-highway vehicle dealer, long-term or short-term lessor, manufacturer, representative or off-highway vehicle salesperson in violation of any provision of this chapter may apply to the Director, for good cause shown, for compensation from the bond. The surety issuing the bond shall appoint the ~~Secretary of State~~ **Commissioner of Insurance** as its agent to accept service of notice or process for the surety in any action upon the bond brought in a court of competent jurisdiction or brought before the Director.

6. If a person is injured by the actions of an off-highway vehicle dealer, long-term or short-term lessor, manufacturer, representative or off-highway vehicle salesperson, the person may:

(a) Bring and maintain an action in any court of competent jurisdiction. If the court enters:

(1) A judgment on the merits against the off-highway vehicle dealer, lessor, manufacturer, representative or off-highway vehicle salesperson, the judgment is binding on the surety.

(2) A judgment other than on the merits against the off-highway vehicle dealer, lessor, manufacturer, representative or off-highway vehicle salesperson, including, without limitation, a default judgment, the judgment is binding on the surety only if the surety was given notice and an opportunity to defend at least 20 days before the date on which the judgment was entered against the off-highway vehicle dealer, lessor, manufacturer, representative or off-highway vehicle salesperson.

(b) Apply to the Director, for good cause shown, for compensation from the bond. The Director may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

(c) Settle the matter with the off-highway vehicle dealer, lessor, manufacturer, representative or off-highway vehicle salesperson. If such a settlement is made, the settlement must be reduced to writing, signed by both parties and acknowledged before any person authorized to take acknowledgments in this State and submitted to the Director with a request for compensation from the bond. If the Director determines that the settlement was reached in good faith and there is no evidence of collusion or fraud between the parties in reaching the settlement, the surety shall make the payment to the injured person in the amount agreed upon in the settlement.

7. Any judgment entered by a court against an off-highway vehicle dealer, long-term or short-term lessor, manufacturer, representative or off-highway vehicle salesperson may be executed through a writ of attachment, garnishment, execution or other legal process, or the person in whose favor the judgment was entered may apply to the Director for compensation from the bond of the off-highway vehicle dealer, lessor, manufacturer, representative or off-highway vehicle salesperson.

8. The Department shall not issue a license pursuant to subsection 1 to an off-highway vehicle dealer, long-term or short-term lessor or manufacturer who does not have and maintain an established place of business in this State.

9. The provisions of this section do not apply to any off-highway vehicle dealer, long-term or short-term lessor or manufacturer who has met the requirements of NRS 482.3333, 482.345 or 482.346 with respect to:

(a) A bond greater than or equal to the amount prescribed in subsection 1 if the undertaking on the bond includes the activities described in subsection 4; or

(b) A deposit greater than or equal to the amount of the bond that would otherwise be required by subsection 1.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 266.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 580.

SUMMARY—~~[Authorizes tax credits]~~ **Provides for [employers who provide] a deduction from certain taxes for certain wages paid by an employer under a qualifying paid family medical leave [for employees.] policy.** (BDR 32-709)

AN ACT relating to taxation; ~~[authorizing credits against]~~ **providing a deduction from** the payroll tax ~~[or commerce tax imposed on a business]~~ for certain amounts **of wages** paid by ~~[the business for]~~ **an employer under a qualifying paid family medical leave policy** for employees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes a tax, commonly known as the modified business tax, on financial institutions and other businesses based on the amount of wages paid to employees each calendar quarter. (NRS 363A.130, 363B.110) ~~[Existing law also imposes an annual commerce tax on each business entity engaged in business in this State whose Nevada gross revenue in a fiscal year exceeds \$4,000,000 at a rate that is based on the industry in which the business entity is primarily engaged. (NRS 363C.200)]~~

~~Sections 1 and 2 of this bill [entitle] authorize an employer [who provides paid] to deduct from the total amount of wages reported and upon which the tax is imposed the family medical leave [to a credit against the modified business tax based on the amount] wages paid by the employer [for paid family medical leave to the employees of the employer. Section 3 of this bill entitles a business entity to such a credit against the commerce tax if the business entity has not also applied for a credit against the modified business tax based on paid family medical leave paid in the same quarter.] to an employee who has taken leave under the employer's paid family medical leave policy: (1) for the birth of a child or placement of a child with the employee for adoption or foster care; (2) to care for a spouse, domestic partner, child, ward, grandchild or parent who has a serious health condition; (3) for a serious health condition that makes the employee unable to perform the essential functions of his or her position; or (4) for any exigency arising out of the fact that a spouse, child or parent of the employee is a member of the Armed Forces of the United States assigned to active duty or called to active duty. To be eligible for the [credit, deduction, an employer must provide paid family medical leave under a family medical leave policy that satisfies certain requirements. The amount of the [credit, deduction] is equal to the family medical leave wages paid by the employer during the period for which the tax is paid, but an employer is not allowed to receive a [credit, deduction] for any [portion of the] family medical leave wages [paid to an employee] that [exceeds] exceed \$500 per employee per week. [for for family]. In addition, an employer is not authorized to receive a deduction for family medical leave wages paid to an employee [for a period of more than] after the employee has taken 12 weeks.]. Sections 1-3 also authorize the credit to be carried forward to future years under certain circumstances, except that any credit expires on the date that is 5 years after the end of the period in which the credit is claimed and prohibit the carry forward or application of the credit to any tax liability of the employer incurred after that date.] of leave in a 12-month period. Finally, an employer is not authorized to receive a deduction for family medical leave wages paid to an employee if the employer receives from a governmental agency any benefit or compensation directly relating to the family medical leave wages paid to the employee.~~

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

Section 1. Chapter 363A of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[An employer is entitled to a credit against the tax imposed upon the employer by] Except as otherwise provided in subsections 2 and 3, an employer may deduct from the total amount of wages reported and upon which the excise tax is imposed pursuant to NRS 363A.130 [in an amount provided for in subsection 2, which is based on the amount of] the family~~

medical leave wages paid in a calendar quarter by the employer to an employee ~~of the employer pursuant to~~ under a paid family medical leave policy that satisfies the requirements of subsections ~~3~~ 4 and ~~4~~ 5, if the employee has taken leave under the policy for one or more of the following reasons:

(a) The birth of a child or placement of a child with the employee for adoption or foster care.

(b) To care for a spouse, domestic partner as defined in NRS 122A.030, child, ward, grandchild or parent of the employee who has a serious health condition.

(c) For a serious health condition that makes the employee unable to perform the essential functions of his or her position.

(d) For any qualifying exigency arising out of the fact that a spouse, child or parent of the employee is a member of the Armed Forces of the United States assigned to active duty or called to active duty.

2. ~~Except as otherwise provided in this subsection, a credit authorized by subsection 1 must be in an amount equal to the family medical leave wages paid by the employer to employees of the employer during the calendar quarter for which the tax is paid. An employer may not receive credit for the portion of the~~ The total amount of the family medical leave wages paid to an employee that exceeds that may be deducted pursuant to subsection 1 may not exceed \$500 per employee per week for for, and no family medical leave wages paid to an employee may be deducted for any employee receiving family medical leave wages for a period of more than any leave taken after the employee has taken 12 weeks of leave in a 12-month period.

3. An employer may not claim a deduction for family medical leave wages paid to an employee if the employer receives from a governmental agency any benefit or compensation directly relating to the family medical leave wages paid to the employee.

4. To qualify for a credit authorized by subsection 1, an employer must provide paid family medical leave to employees of the employer pursuant to a family medical leave policy that must:

(a) ~~Must allow~~ Allow an employee to take up to 12 weeks of leave in a 12-month period for one or more of the ~~following~~ reasons:

~~(1) The birth of a child or placement of a child with the employee for adoption or foster care.~~

~~(2) To care for a spouse, child or parent who has a serious health condition.~~

~~(3) For a serious health condition that makes the employee unable to perform the essential functions of his or her position.~~

~~(4) For any qualifying exigency arising out of the fact that a spouse, child or parent is a member of the Armed Forces of the United States assigned to active duty or called to active duty.~~ set forth in paragraphs (a) to (d), inclusive, of subsection 1.

(b) ~~{Must require}~~ Provide for the payment of family medical leave wages to the employee while the employee is taking leave that may not be less than 75 percent of his or her normal wages.

(c) ~~{Upon approval of the employer, may allow an employee to take paid family medical leave on an intermittent or reduced schedule basis.~~

~~—(d) Must provide~~ Provide that the health coverage of the employee under any health insurance or health benefit plan provided by the employer is maintained on the same terms as if the employee had not taken leave and that the taking of leave may not result in the loss of any employment benefit that accrued before the start of his or her leave.

~~{(e) Must provide}~~

(d) Provide that upon the employee's return from leave, the employee is restored to his or her original or equivalent position with equivalent pay, benefits and other terms of employment.

~~{4.}~~ 5. A paid family medical leave policy that meets the requirements of subsection {3} 4 may: ~~{require an employee to}~~

(a) ~~{Request}~~ Allow an employee, upon approval of the employer, to take paid family medical leave on an intermittent or reduced-schedule basis.

(b) Require an employee to request leave under the family medical leave policy within a reasonable time before taking the leave except that such time may not be significantly different from the time required to request paid time off, sick leave, annual leave or other leave offered by the employer.

~~{(b) Provide}~~

(c) Require an employee to provide to the employer certification {from a provider of health care} that confirms or supports the reason the employee provided for requesting leave.

~~{(c) Use}~~

(d) Require an employee to use any other accrued paid leave before taking paid family medical leave.

~~{5. A credit described in subsection 1 must not be applied retroactively.}~~

6. {If the amount of a credit described in subsection 1 exceeds the tax liability of an employer pursuant to this chapter for the calendar quarter in which the credit is claimed, the excess amount of the credit may be carried forward and applied to the tax liability of the employer pursuant to this chapter for the next following calendar quarter or calendar quarters for which the employer has a tax liability pursuant to this chapter, except that any credit or the excess amount of any credit expires on the date that is 5 years after the end of the calendar quarter in which the credit is claimed and must not be applied to any tax liability of the employer incurred pursuant to this chapter on or after that date. If the excess amounts of credits for more than 1 calendar quarter are carried forward by an employer pursuant to this subsection, the excess amount of the credit from the earliest calendar quarter must be applied first.} To claim a deduction pursuant to subsection 1, the employer must:

(a) Obtain from each employee to whom family medical leave wages are paid documentation to verify that the employee took leave for one or more of the reasons specified in paragraphs (a) to (d), inclusive, of subsection 1; and

(b) Submit to the Department an affidavit under penalty of perjury stating that the requirements for claiming the deduction pursuant to this section have been satisfied.

7. An employer claiming the deduction allowed pursuant to this section shall, upon the request of the Department, provide the Department with such documentation as the Department deems appropriate to substantiate that claim.

8. As used in this section:

(a) "Employee" means an employee whose wages are included within the measure of the tax imposed upon an employer by NRS 363A.120.

(b) "Family", "family medical leave wages" means wages paid to an employee while the employee is taking paid family medical leave.

Sec. 2. Chapter 363B of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~{An employer is entitled to a credit against the tax imposed upon the employer by}~~ Except as otherwise provided in subsections 2 and 3, an employer may deduct from the total amount of wages reported and upon which the excise tax is imposed pursuant to NRS 363B.110 ~~{in an amount provided for in subsection 2, which is based on the amount of}~~ the family medical leave wages paid in a calendar quarter by the employer to an employee ~~{of the employer pursuant to}~~ under a paid family medical leave policy that satisfies the requirements of subsections ~~{3}~~ 4 and ~~{4}~~ 5, if the employee has taken leave under the policy for one or more of the following reasons:

(a) The birth of a child or placement of a child with the employee for adoption or foster care.

(b) To care for a spouse, domestic partner as defined in NRS 122A.030, child, ward, grandchild or parent of the employee who has a serious health condition.

(c) For a serious health condition that makes the employee unable to perform the essential functions of his or her position.

(d) For any qualifying exigency arising out of the fact that a spouse, child or parent of the employee is a member of the Armed Forces of the United States assigned to active duty or called to active duty.

2. ~~{Except as otherwise provided in this subsection, a credit authorized by subsection 1 must be in an amount equal to the family medical leave wages paid by the employer to employees of the employer during the calendar quarter for which the tax is paid. An employer may not receive credit for the portion of the}~~ The total amount of the family medical leave wages ~~{paid to an employee that exceeds}~~ that may be deducted pursuant to subsection 1 may not exceed \$500 per employee per week ~~{or for}~~ and no

family medical leave wages ~~paid to an employee~~ may be deducted for any employee receiving family medical leave wages for ~~a period of more than~~ any leave taken after the employee has taken 12 weeks ~~of~~ of leave in a 12-month period.

3. An employer may not claim a deduction for family medical leave wages paid to an employee if the employer receives from a governmental agency any benefit or compensation directly relating to the family medical leave wages paid to the employee.

4. To qualify for a credit authorized by subsection 1, an employer must provide paid family medical leave to employees of the employer pursuant to a family medical leave policy that ~~it~~ must:

(a) ~~Must allow~~ Allow an employee to take up to 12 weeks of leave in a 12-month period for one or more of the ~~following~~ reasons ~~it~~:

~~(1) The birth of a child or placement of a child with the employee for adoption or foster care.~~

~~(2) To care for a spouse, child or parent who has a serious health condition.~~

~~(3) For a serious health condition that makes the employee unable to perform the essential functions of his or her position.~~

~~(4) For any qualifying exigency arising out of the fact that a spouse, child or parent is a member of the Armed Forces of the United States assigned to active duty or called to active duty.~~ set forth in paragraphs (a) to (d), inclusive, of subsection 1.

(b) ~~Must require~~ Provide for the payment of family medical leave wages to the employee while the employee is taking leave that may not be less than 75 percent of his or her normal wages.

(c) ~~Upon approval of the employer, may allow an employee to take paid family medical leave on an intermittent or reduced schedule basis.~~

~~(d) Must provide~~ Provide that the health coverage of the employee under any health insurance or health benefit plan provided by the employer is maintained on the same terms as if the employee had not taken leave and that the taking of leave may not result in the loss of any employment benefit that accrued before the start of his or her leave.

~~(e) Must provide~~

(d) Provide that upon the employee's return from leave, the employee is restored to his or her original or equivalent position with equivalent pay, benefits and other terms of employment.

~~4. 5.~~ A paid family medical leave policy that meets the requirements of subsection ~~3~~ 4 may ~~require an employee to~~

(a) ~~Request~~ Allow an employee, upon approval of the employer, to take paid family medical leave on an intermittent or reduced-schedule basis.

(b) Require an employee to request leave under the family medical leave policy within a reasonable time before taking the leave except that such time may not be significantly different from the time required to request

paid time off, sick leave, annual leave or other leave offered by the employer.

~~[(b) Provide]~~

~~(c) Require an employee to provide to the employer certification from a provider of health care that confirms or supports the reason the employee provided for requesting leave.~~

~~[(c) Use]~~

~~(d) Require an employee to use any other accrued paid leave before taking paid family medical leave.~~

~~[5. A credit described in subsection 1 must not be applied retroactively.]~~

~~6. If the amount of a credit described in subsection 1 exceeds the tax liability of an employer pursuant to this chapter for the calendar quarter in which the credit is claimed, the excess amount of the credit may be carried forward and applied to the tax liability of the employer pursuant to this chapter for the next following calendar quarter or calendar quarters for which the employer has a tax liability pursuant to this chapter, except that any credit or the excess amount of any credit expires on the date that is 5 years after the end of the calendar quarter in which the credit is claimed and must not be applied to any tax liability of the employer incurred pursuant to this chapter on or after that date. If the excess amounts of credits for more than 1 calendar quarter are carried forward by an employer pursuant to this subsection, the excess amount of the credit from the earliest calendar quarter must be applied first.] To claim a deduction pursuant to subsection 1, the employer must:~~

~~(a) Obtain from each employee to whom family medical leave wages are paid documentation to verify that the employee took leave for one or more of the reasons specified in paragraphs (a) to (d), inclusive, of subsection 1; and~~

~~(b) Submit to the Department an affidavit under penalty of perjury stating that the requirements for claiming the deduction pursuant to this section have been satisfied.~~

~~7. An employer claiming the deduction allowed pursuant to this section shall, upon the request of the Department, provide the Department with such documentation as the Department deems appropriate to substantiate that claim.~~

~~8. As used in this section:~~

~~(a) "Employee" means an employee whose wages are included within the measure of the tax imposed upon an employer by NRS 363B.110.~~

~~(b) "Family", "family medical leave wages" means wages paid to an employee while the employee is taking paid family medical leave.~~

~~Sec. 3. [Chapter 363C of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. A business entity is entitled to a credit against the tax imposed upon the business entity by NRS 363C.200 in an amount provided for in subsection 2, which is based on the amount of family medical leave wages~~

~~paid by the business entity to an employee of the business entity pursuant to a family medical leave policy that satisfies the requirements of subsections 3 and 4.~~

~~2. Except as otherwise provided in this subsection, a credit authorized by subsection 1 must be in an amount equal to the family medical leave wages paid by the business entity to employees of the business entity during the taxable year. An employer may not receive credit for the portion of the family medical leave wages paid to an employee that exceeds \$500 per week or for family medical leave wages paid to an employee for a period of more than 12 weeks.~~

~~3. To qualify for a credit authorized by subsection 1, the business entity must provide paid family medical leave pursuant to a family medical leave policy that:~~

~~(a) Must allow an employee to take up to 12 weeks of leave in a 12-month period for one or more of the following reasons:~~

~~(1) The birth of a child or placement of a child with the employee for adoption or foster care.~~

~~(2) To care for a spouse, child or parent who has a serious health condition.~~

~~(3) For a serious health condition that makes the employee unable to perform the essential functions of his or her position.~~

~~(4) For any qualifying exigency arising out of the fact that a spouse, child or parent is a member of the Armed Forces of the United States assigned to active duty or called to active duty.~~

~~(b) Must require the payment of family medical leave wages to the employee while the employee is taking leave that may not be less than 75 percent of his or her normal wages.~~

~~(c) Upon approval of the business entity, may allow an employee to take paid family medical leave on an intermittent or reduced schedule basis.~~

~~(d) Must provide that the health coverage of the employee under any health insurance or health benefit plan provided by the business entity is maintained on the same terms as if the employee had not taken leave and that the taking of leave may not result in the loss of any employment benefit that accrued before the start of his or her leave.~~

~~(e) Must provide that upon the employee's return from leave, the employee is restored to his or her original or equivalent position with equivalent pay, benefits and other terms of employment.~~

~~4. A paid family medical leave policy that meets the requirements of subsection 3 may require an employee to:~~

~~(a) Request leave under the family medical leave policy within a reasonable time before taking the leave except that such time may not be significantly different from the time required to request paid time off, sick leave, annual leave or other leave offered by the business entity.~~

~~—(b) Provide to the business entity certification from a provider of health care that confirms or supports the reason the employee provided for requesting leave.~~

~~—(c) Use any accrued paid leave before taking paid family medical leave.~~

~~—5. A credit described in subsection 1 must not be applied retroactively.~~

~~—6. If the amount of a credit described in subsection 1 exceeds the tax liability of a business entity pursuant to this chapter for the taxable year in which the credit is claimed, the excess amount of the credit may be carried forward and applied to the tax liability of the business entity pursuant to this chapter for the next following taxable year or taxable years for which the business entity has a tax liability pursuant to this chapter, except that any credit or the excess amount of any credit expires on the date that is 5 years after the end of the taxable year in which the credit is claimed and must not be applied to any tax liability of the business entity incurred pursuant to this chapter on or after that date. If the excess amounts of credits for more than 1 taxable year are carried forward by a business entity pursuant to this subsection, the excess amount of the credit from the earliest taxable year must be applied first.~~

~~—7. A business entity that receives a credit pursuant to section 1 or 2 of this act for any wages paid during a calendar quarter is not entitled to the credit described in subsection 1 for any wages paid during the same calendar quarter.~~

~~—8. As used in this section:~~

~~—(a) “Employee” means a natural person whose manner and means of performance of work are subject to the right of control of, or are controlled by, the business entity. The term does not include independent contractors or persons rendering professional services to a business entity on a fee, retainer or contract basis.~~

~~—(b) “Family medical leave wages” means wages paid to an employee while the employee is taking paid family medical leave.~~ (Deleted by amendment.)

Sec. 4. 1. 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.

2. This section and sections 1 and 2 of this act become effective on January 1, 2018, for all other purposes.

~~3. Section 3 of this act becomes effective on July 1, 2018, for all other purposes.~~

Assemblywoman Neal moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 267.

Bill read second time.

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

Amendment No. 537.

AN ACT relating to industrial insurance; revising provisions governing prohibitions on the payment of compensation for disability caused by certain occupational diseases under certain circumstances; restricting the dissemination and use of the results of certain physical examinations required of certain firefighters, arson investigators and police officers for insurance coverage of cancer, lung disease and heart disease; providing for the payment of a claimant's reasonable attorney's fees and other associated costs under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the payment of compensation under chapter 617 of NRS for temporary or permanent disability or death for the occupational diseases of lung disease and heart disease for certain firefighters, arson investigators and police officers. Existing law provides that these occupational diseases are conclusively presumed to have arisen out of and in the course of the employment under certain circumstances. (NRS 617.455, 617.457) **Sections 4 and 5** of this bill provide that if an employer, insurer or third-party administrator denies a claim for compensation for these occupational diseases and the claimant ultimately prevails, the employer, insurer or third-party administrator must pay ~~all~~ the claimant's reasonable attorney's fees and associated costs. **Sections 4 and 5 further set forth that reasonable attorney's fees and associated costs do not include any attorney's fees and associated costs that are incurred by the claimant on or before the date of the hearing before the hearing officer.**

Existing law requires certain tests when administering certain physical examinations to firefighters, arson investigators and police officers regarding the occupational diseases of lung and heart disease for the purposes of industrial insurance coverage. **(NRS 617.454) Section 3** of this bill restricts: (1) to whom the results of such physical examinations may be disseminated; and (2) the use of such results. **Section 3 additionally authorizes the employer's officer who is responsible for risk management or human resources or a similar position to release to certain persons a report only containing certain information based on the results of a physical examination.**

Existing law prohibits the payment of compensation for disability because of an occupational injury or disease which does not incapacitate the employee for at least 5 cumulative days within a 20-day period from earning full wages. (NRS 616C.400, 617.420) **Section 1** of this bill exempts a claim for compensation under chapters 616A to 616D of NRS for disability for the occupational diseases of cancer, lung disease and heart disease from that prohibition. **Section 2** of this bill: (1) revises the prohibition as it relates to

occupational diseases to apply exclusively to compensation for temporary total disability; and (2) clarifies that the prohibition does not apply to medical benefits for the occupational diseases of cancer, lung disease or heart disease.

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

Section 1. NRS 616C.400 is hereby amended to read as follows:

616C.400 1. Temporary compensation benefits must not be paid under chapters 616A to 616D, inclusive, of NRS for an injury which does not incapacitate the employee for at least 5 consecutive days, or 5 cumulative days within a 20-day period, from earning full wages, but if the incapacity extends for 5 or more consecutive days, or 5 cumulative days within a 20-day period, compensation must then be computed from the date of the injury.

2. The period prescribed in this section does not apply to:

(a) Accident benefits, whether they are furnished pursuant to NRS 616C.255 or 616C.265, if the injured employee is otherwise covered by the provisions of chapters 616A to 616D, inclusive, of NRS and entitled to those benefits.

(b) Compensation paid to the injured employee pursuant to subsection 1 of NRS 616C.477.

(c) A claim which is filed pursuant to NRS 617.453, 617.455 or 617.457.

Sec. 2. NRS 617.420 is hereby amended to read as follows:

617.420 1. No compensation may be paid under this chapter for **temporary total** disability which does not incapacitate the employee for at least 5 cumulative days within a 20-day period from earning full wages, but if the incapacity extends for 5 or more days within a 20-day period, the compensation must then be computed from the date of disability.

2. The limitations in this section do not apply to medical benefits, **including, without limitation, medical benefits pursuant to NRS 617.453, 617.455 or 617.457**, which must be paid from the date of application for payment of medical benefits.

Sec. 3. NRS 617.454 is hereby amended to read as follows:

617.454 1. Any physical examination administered pursuant to NRS 617.455 or 617.457 must include:

- (a) A thorough test of the functioning of the hearing of the employee; and
- (b) A purified protein derivative skin test to screen for exposure to tuberculosis.

2. Except as otherwise provided in subsection 8 of NRS 617.457, the tests required by this section must be paid for by the employer.

3. **Except as otherwise provided by the provisions governing privacy in the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and applicable regulations, or an employee's collective bargaining agreement, whichever is more restrictive ~~from the~~ :**

(a) The results of a physical examination administered pursuant to NRS 617.455 or 617.457 may only be ~~for~~

~~(a) Provided to the~~ provided to:

~~(1) The examining physician, the~~ (1) The examining physician, the;

~~(2) The employee and the~~ (2) The employee and the;

~~(3) The employer's officer who is responsible for risk management or human resources or a similar position; and~~

~~(b) Used~~

~~(4) If the employee has filed a claim pursuant to NRS 617.455 or 617.457, the insurer.~~

(b) A person who receives the results of a physical examination pursuant to paragraph (a) may only use the results for the purposes of complying:

(1) Complying with the requirements of NRS 617.455 or 617.457, as applicable; or

(2) Creating a report pursuant to paragraph (c).

(c) The employer's officer who is responsible for risk management or human resources or a similar position may create and release a report that is based on the results of a physical examination administered pursuant to NRS 617.455 or 617.457 to any person whom the employer's officer determines has a need to know the information in the report. The report must only contain the following information:

(1) The name of the employee who was the subject of the physical examination; and

(2) A statement that the employee, as applicable:

(I) Satisfies the physical qualifications required for his or her employment; or

(II) Does not satisfy the physical qualifications required for his or her employment.

Sec. 4. NRS 617.455 is hereby amended to read as follows:

617.455 1. Notwithstanding any other provision of this chapter, diseases of the lungs, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases, arising out of and in the course of the employment of a person who, for 2 years or more, has been:

(a) Employed in this State in a full-time salaried occupation of fire fighting or the investigation of arson for the benefit or safety of the public;

(b) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; or

(c) Employed in a full-time salaried occupation as a police officer in this State.

2. Except as otherwise provided in subsection 3, each employee who is to be covered for diseases of the lungs pursuant to the provisions of this section shall submit to a physical examination, including a thorough test of the functioning of his or her lungs and the making of an X-ray film of the

employee's lungs, upon employment, upon commencement of the coverage, once every 2 years until the employee is 40 years of age or older and thereafter on an annual basis during his or her employment.

3. Each volunteer firefighter who is to be covered for diseases of the lungs pursuant to the provisions of this section shall submit to:

(a) A physical examination upon employment and upon commencement of the coverage; and

(b) The making of an X-ray film of the volunteer firefighter's lungs once every 3 years after the physical examination that is required upon commencement of the coverage,

➡ until the volunteer firefighter reaches the age of 50 years. Each volunteer firefighter who is 50 years of age or older shall submit to a physical examination once every 2 years during his or her employment. As used in this subsection, "physical examination" includes the making of an X-ray film of the volunteer firefighter's lungs but excludes a thorough test of the functioning of his or her lungs.

4. All physical examinations required pursuant to subsections 2 and 3 must be paid for by the employer.

5. A disease of the lungs is conclusively presumed to have arisen out of and in the course of the employment of a person who has been employed in a full-time continuous, uninterrupted and salaried occupation as a police officer, firefighter or arson investigator for 2 years or more before the date of disablement if the disease is diagnosed and causes the disablement:

(a) During the course of that employment;

(b) If the person ceases employment before completing 20 years of service as a police officer, firefighter or arson investigator, during the period after separation from employment which is equal to the number of years worked; or

(c) If the person ceases employment after completing 20 years or more of service as a police officer, firefighter or arson investigator, at any time during the person's life.

➡ Service credit which is purchased in a retirement system must not be calculated towards the years of service of a person for the purposes of this section.

6. Frequent or regular use of a tobacco product within 1 year, or a material departure from a physician's prescribed plan of care by a person within 3 months, immediately preceding the filing of a claim for compensation excludes a person who has separated from service from the benefit of the conclusive presumption provided in subsection 5.

7. Failure to correct predisposing conditions which lead to lung disease when so ordered in writing by the examining physician after a physical examination required pursuant to subsection 2 or 3 excludes the employee from the benefits of this section if the correction is within the ability of the employee.

8. A person who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter, police officer or arson investigator,

➤ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

9. A person who files a claim for a disease of the lungs specified in this section after he or she retires from employment as a police officer, firefighter or arson investigator is not entitled to receive any compensation for that disease other than medical benefits.

10. ~~##~~ Except as otherwise provided in this subsection, if an employer, insurer or third-party administrator denies a claim that was filed pursuant to this section and the claimant ultimately prevails, the employer, insurer or third-party administrator, as applicable, must pay all the claimant's reasonable attorney's fees and associated costs. Such fees and costs are payable in addition to any benefits to which the claimant is entitled under the claim and any fines and penalties imposed by the Administrator pursuant to NRS 616D.120. If a hearing before a hearing officer is requested pursuant to NRS 616C.315 and held pursuant to NRS 616C.330, such fees and costs do not include any attorney's fees and associated costs that are incurred by the claimant on or before the date of the hearing before the hearing officer.

Sec. 5. NRS 617.457 is hereby amended to read as follows:

617.457 1. Notwithstanding any other provision of this chapter, diseases of the heart of a person who, for 2 years or more, has been employed in a full-time continuous, uninterrupted and salaried occupation as a firefighter, arson investigator or police officer in this State before the date of disablement are conclusively presumed to have arisen out of and in the course of the employment if the disease is diagnosed and causes the disablement:

(a) During the course of that employment;

(b) If the person ceases employment before completing 20 years of service as a police officer, firefighter or arson investigator, during the period after separation from employment which is equal to the number of years worked; or

(c) If the person ceases employment after completing 20 years or more of service as a police officer, firefighter or arson investigator, at any time during the person's life.

➤ Service credit which is purchased in a retirement system must not be calculated towards the years of service of a person for the purposes of this section.

2. Frequent or regular use of a tobacco product within 1 year, or a material departure from a physician's prescribed plan of care by a person within 3 months, immediately preceding the filing of a claim for

compensation excludes a person who has separated from service from the benefit of the conclusive presumption provided in subsection 1.

3. Notwithstanding any other provision of this chapter, diseases of the heart, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by extreme overexertion in times of stress or danger and a causal relationship can be shown by competent evidence that the disability or death arose out of and was caused by the performance of duties as a volunteer firefighter by a person entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145 and who, for 5 years or more, has served continuously as a volunteer firefighter in this State by continuously maintaining an active status on the roster of a volunteer fire department.

4. Except as otherwise provided in subsection 5, each employee who is to be covered for diseases of the heart pursuant to the provisions of this section shall submit to a physical examination, including an examination of the heart, upon employment, upon commencement of coverage and thereafter on an annual basis during his or her employment.

5. During the period in which a volunteer firefighter is continuously on active status on the roster of a volunteer fire department, a physical examination for the volunteer firefighter is required:

- (a) Upon employment;
- (b) Upon commencement of coverage; and

(c) Once every 3 years after the physical examination that is required pursuant to paragraph (b),

↪ until the firefighter reaches the age of 50 years. Each volunteer firefighter who is 50 years of age or older shall submit to a physical examination once every 2 years during his or her employment.

6. The employer of the volunteer firefighter is responsible for scheduling the physical examination. The employer shall mail to the volunteer firefighter a written notice of the date, time and place of the physical examination at least 10 days before the date of the physical examination and shall obtain, at the time of mailing, a certificate of mailing issued by the United States Postal Service.

7. Failure to submit to a physical examination that is scheduled by his or her employer pursuant to subsection 6 excludes the volunteer firefighter from the benefits of this section.

8. The chief of a volunteer fire department may require an applicant to pay for any physical examination required pursuant to this section if the applicant:

- (a) Applies to the department for the first time as a volunteer firefighter; and
- (b) Is 50 years of age or older on the date of his or her application.

9. The volunteer fire department shall reimburse an applicant for the cost of a physical examination required pursuant to this section if the applicant:

- (a) Paid for the physical examination in accordance with subsection 8;
 - (b) Is declared physically fit to perform the duties required of a firefighter;
- and

(c) Becomes a volunteer with the volunteer fire department.

10. Except as otherwise provided in subsection 8, all physical examinations required pursuant to subsections 4 and 5 must be paid for by the employer.

11. Failure to correct predisposing conditions which lead to heart disease when so ordered in writing by the examining physician subsequent to a physical examination required pursuant to subsection 4 or 5 excludes the employee from the benefits of this section if the correction is within the ability of the employee.

12. A person who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter, arson investigator or police officer,
 ➔ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

13. Claims filed under this section may be reopened at any time during the life of the claimant for further examination and treatment of the claimant upon certification by a physician of a change of circumstances related to the occupational disease which would warrant an increase or rearrangement of compensation.

14. A person who files a claim for a disease of the heart specified in this section after he or she retires from employment as a firefighter, arson investigator or police officer is not entitled to receive any compensation for that disease other than medical benefits.

15. ~~##~~ **Except as otherwise provided in this subsection, if an employer, insurer or third-party administrator denies a claim that was filed pursuant to this section and the claimant ultimately prevails, the employer, insurer or third-party administrator, as applicable, must pay all the claimant's reasonable attorney's fees and associated costs. Such fees and costs are payable in addition to any benefits to which the claimant is entitled under the claim and any fines and penalties imposed by the Administrator pursuant to NRS 616D.120. If a hearing before a hearing officer is requested pursuant to NRS 616C.315 and held pursuant to NRS 616C.330, such fees and costs do not include any attorney's fees and associated costs that are incurred by the claimant on or before the date of the hearing before the hearing officer.**

Sec. 6. The amendatory provisions of sections 1, 2, 4 and 5 of this act apply only to claims filed on or after October 1, 2017.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 268.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 434.

AN ACT relating to criminal procedure; authorizing certain persons to file a postconviction petition to pay the cost of a genetic marker analysis; requiring a court to order a genetic marker analysis upon the filing of such a petition; **authorizing the State to charge a reasonable fee for the cataloging of evidence subject to such a genetic marker analysis and the transferring of such evidence to a forensic laboratory in certain circumstances;** requiring a petitioner to pay the cost of such a genetic marker analysis before the analysis is performed; **providing that the provisions of this act are not severable;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a person convicted of a felony to file a postconviction petition requesting a genetic marker analysis of evidence within the possession or custody of the State which may contain genetic marker information relating to the investigation or prosecution that resulted in the judgment of conviction. After such a petition is filed, the court may schedule a hearing on the petition. (NRS 176.0918) Existing law requires the court to order a genetic marker analysis if, after considering the information contained in the petition and any other evidence, the court makes certain findings. (NRS 176.09183) Existing law further requires the petitioner to pay for the cost of the genetic marker analysis unless: (1) the petitioner is incarcerated at the time he or she files the petition and is found to be indigent; and (2) the results of the genetic marker analysis are favorable to the petitioner. If the petitioner is not required to pay the cost of the genetic marker analysis, the expense is a charge against the Department of Corrections. (NRS 176.09187)

Section 1 of this bill authorizes a person convicted of a felony to file a postconviction petition requesting to pay the cost of a genetic marker analysis. **Section 1** provides that such a petition is generally subject to the same requirements imposed for a postconviction petition for a genetic marker analysis filed pursuant to existing law, but there is no requirement for a hearing on such a petition. **Section 1 also requires a petitioner to: (1) indicate in such a petition whether he or she prefers to have a specific forensic laboratory conduct the genetic marker analysis; and (2) select from certain forensic laboratories in certain circumstances.** **Section 3** of this bill requires a court to order a genetic marker analysis if such a petition

is filed. Section 3 also provides that if the court selects a forensic laboratory that is not operated by this State or one of its political subdivisions to conduct or oversee such a genetic marker analysis, the State is authorized to charge the petitioner a reasonable fee for the cataloging of the evidence subject to the genetic marker analysis and the transferring of such evidence to the forensic laboratory. Section 4 of this bill provides that a petitioner who files ~~(such)~~ a petition requesting to pay the cost of a genetic marker analysis is required to pay the cost ~~for the genetic marker analysis~~ before the analysis is performed and is not eligible for an exemption from payment. Sections 2 and 5 of this bill make conforming changes.

Section 5.5 of this bill provides that the provisions of this bill are not severable and, if any portion of this bill is held to be unconstitutional or invalid for any reason by a court of competent jurisdiction, the remaining provisions of this bill shall be deemed to be invalid.

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person convicted of a felony may file a postconviction petition requesting to pay the cost of a genetic marker analysis of evidence within the possession or custody of the State which may contain genetic marker information relating to the investigation or prosecution that resulted in the judgment of conviction. If the case involves a sentence of death, the petition must include, without limitation, the date scheduled for the execution, if it has been scheduled.

2. Such a petition must be filed with the clerk of the district court for the county in which the petitioner was convicted on a form prescribed by the Department of Corrections. A copy of the petition must be served by registered mail upon:

(a) The Attorney General; and

(b) The district attorney in the county in which the petitioner was convicted.

3. A petition filed pursuant to this section must be accompanied by a declaration under penalty of perjury attesting that the information contained in the petition does not contain any material misrepresentation of fact and that the petitioner has a good faith basis relying on particular facts for the request. The petition must include, without limitation:

(a) Information identifying specific evidence either known or believed to be in the possession or custody of the State that can be subject to genetic marker analysis;

(b) An identification of the type of genetic marker analysis the petitioner is requesting to be conducted on the evidence identified in paragraph (a);
~~*and*~~

(c) If applicable, the results of all prior genetic marker ~~analysis~~ analyses performed on evidence in the trial which resulted in the petitioner's conviction ~~if~~; and

(d) An indication as to whether, subject to the provisions of subsection 5, the petitioner prefers to have a specific forensic laboratory conduct the genetic marker analysis.

4. If a petition is filed pursuant to this section, the court shall determine which person or agency has possession or custody of the evidence and shall immediately issue an order requiring each person or agency in possession or custody of the evidence to:

(a) Preserve all evidence within the possession or custody of the person or agency that may be subjected to genetic marker analysis pursuant to this section;

(b) Within 90 days, prepare an inventory of all evidence relevant to the claims in the petition within the possession or custody of the person or agency that may be subjected to genetic marker analysis pursuant to this section; and

(c) Within 90 days, submit a copy of the inventory to the petitioner, the prosecuting attorney and the court.

5. If a petitioner does not wish to have a forensic laboratory that is operated by this State or one of its political subdivisions conduct the genetic marker analysis requested pursuant to this section and this State or one of its political subdivisions has a contract with two or more private forensic laboratories that are capable of conducting a genetic marker analysis, the petitioner shall, when indicating any preference for a forensic laboratory to conduct the genetic marker analysis pursuant to paragraph (d) of subsection 3, select such a private forensic laboratory with which the State or one of its political subdivisions has a contract.

6. If a petitioner files a petition pursuant to this section and a victim of the crime for which the petitioner was convicted has requested notice pursuant to NRS 178.5698, the district attorney in the county in which the petitioner was convicted shall provide to the victim notice of the fact that the petitioner filed a petition pursuant to this section.

Sec. 2. NRS 176.0911 is hereby amended to read as follows:

176.0911 As used in NRS 176.0911 to 176.0919, inclusive, **and section 1 of this act**, unless the context otherwise requires, the words and terms defined in NRS 176.09111 to 176.09119, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 176.09183 is hereby amended to read as follows:

176.09183 1. The court shall order a genetic marker analysis ~~if~~ **if**:

(a) The petition for the analysis was filed pursuant to NRS 176.0918 and, after considering the information contained in the petition ~~pursuant to subsection 3 of NRS 176.0918~~ and any other evidence, ~~if~~ the court finds that:

~~[(a)]~~ (1) A reasonable possibility exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through a genetic marker analysis of the evidence identified in the petition;

~~[(b)]~~ (2) The evidence to be analyzed exists; and

~~[(c)]~~ (3) Except as otherwise provided in subsection 2, the evidence was not previously subjected to a genetic marker analysis ~~[(4)]~~; **or**

(b) The petition for the analysis was filed pursuant to section 1 of this act.

2. If the evidence was previously subjected to a genetic marker analysis, the court shall order a genetic marker analysis pursuant to **paragraph (a) of subsection 1** if the court finds that:

(a) The result of the previous analysis was inconclusive;

(b) The evidence was not subjected to the type of analysis that is now requested and the requested analysis may resolve an issue not resolved by the previous analysis; or

(c) The requested analysis would provide results that are significantly more accurate and probative of the identity of the perpetrator than the previous analysis.

3. If the court orders a genetic marker analysis pursuant to subsection 1 or 2, the court shall:

(a) ~~Order~~ **Subject to the provisions of subsection 4, order** the analysis to be conducted promptly under reasonable conditions designed to protect the interest of the State and the petitioner in the integrity of the evidence and the analysis process.

(b) Select a forensic laboratory to conduct or oversee the analysis. The forensic laboratory selected by the court must:

(1) ~~Be~~ **If the analysis is ordered pursuant to paragraph (a) of subsection 1, be** operated by this state or one of its political subdivisions, when possible; ~~and~~

(2) **If the analysis is ordered pursuant to paragraph (b) of subsection 1, be the forensic laboratory indicated by the petitioner pursuant to paragraph (d) of subsection 3 of section 1 of this act, when possible, if the petitioner complied with the provisions of subsection 5 of section 1 of this act; and**

(3) Satisfy the standards for quality assurance that are established for forensic laboratories by the Federal Bureau of Investigation.

(c) Order the forensic laboratory selected pursuant to paragraph (b) to perform a genetic marker analysis of evidence. The analysis to be performed and evidence to be analyzed must:

(1) Be specified in the order; and

(2) Include such analysis, testing and comparison of genetic marker information contained in the evidence and the genetic marker information of the petitioner as the court determines appropriate under the circumstances.

(d) Order the production of any reports that are prepared by a forensic laboratory in connection with the analysis and any data and notes upon which the report is based.

(e) Order the preservation of evidence used in ~~the~~ **the** genetic marker analysis ~~performed pursuant to this section and NRS 176.0918 and 176.09187~~ for purposes of a subsequent proceeding or analysis, if any.

(f) Order the results of the genetic marker analysis ~~performed pursuant to this section and NRS 176.0918 and 176.09187~~ to be sent to the State Board of Parole Commissioners if the results of the genetic marker analysis are not favorable to the petitioner.

4. ***Notwithstanding the provisions of paragraph (a) of subsection 3, if the petition for a genetic marker analysis was filed pursuant to section 1 of this act, the forensic laboratory ordered to perform the analysis pursuant to paragraph (c) of subsection 3 shall not perform the analysis until the petitioner pays the cost of the analysis, as required by subsection 3 of NRS 176.09187.***

5. ***If the court selects a forensic laboratory that is not operated by this State or one of its political subdivisions to conduct or oversee a genetic marker analysis pursuant to subparagraph (2) of paragraph (b) of subsection 3, the State may charge the petitioner a reasonable fee for the cataloging of the evidence subject to the genetic marker analysis and the transferring of such evidence to the forensic laboratory.***

6. If the court orders a genetic marker analysis pursuant to subsection 1 or 2, the State may appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution within 30 days after the notice of the entry of the order by filing a notice of appeal with the clerk of the district court.

~~5.6.7~~ 7. The court shall enter an order dismissing a petition filed pursuant to NRS 176.0918 **or section 1 of this act** if:

(a) The requirements for ordering a genetic marker analysis pursuant to this section and NRS 176.0918 and 176.09187 are not satisfied; or

(b) The results of a genetic marker analysis performed ~~pursuant to this section and NRS 176.0918 and 176.09187~~ **as the result of the petition** are not favorable to the petitioner.

~~6.7.7~~ 8. If the court enters an order dismissing a petition filed pursuant to NRS 176.0918 ~~or section 1 of this act~~, the person aggrieved by the order may appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution within 30 days after the notice of the entry of the order by filing a notice of appeal with the clerk of the district court.

Sec. 4. NRS 176.09187 is hereby amended to read as follows:

176.09187 1. If the results of a genetic marker analysis performed **as the result of a petition filed** pursuant to ~~this section and~~ NRS 176.0918 ~~and 176.09187~~ **or section 1 of this act** are favorable to the petitioner:

(a) The petitioner may bring a motion for a new trial based on the ground of newly discovered evidence pursuant to NRS 176.515; and

(b) The restriction on the time for filing the motion set forth in subsection 3 of NRS 176.515 is not applicable.

2. For the purposes of a genetic marker analysis, ~~pursuant to this section and NRS 176.0918 and 176.09183,~~ a person who files a petition pursuant to NRS 176.0918 **or section 1 of this act** shall be deemed to consent to the:

(a) Submission of a biological specimen by the petitioner to determine genetic marker information; and

(b) Release and use of genetic marker information concerning the petitioner.

3. ~~The~~ **Except as otherwise provided in subsection 4, the** petitioner shall pay the cost of a genetic marker analysis performed **as the result of a petition filed** pursuant to ~~this section and~~ NRS 176.0918 ~~and 176.09183, unless~~ **or section 1 of this act. If the petition was filed pursuant to section 1 of this act, the petitioner must pay the cost of the analysis before the analysis is performed.**

4. **The petitioner is not responsible for paying the cost of a genetic marker analysis performed as the result of a petition filed pursuant to NRS 176.0918 if** the petitioner is incarcerated at the time the petitioner files the petition, **is** found to be indigent pursuant to NRS 171.188 and the results of the genetic marker analysis are favorable to the petitioner.

5. If the petitioner is not required to pay the cost of the analysis pursuant to ~~this~~ subsection ~~4~~, the expense of an analysis ~~ordered~~ **performed as the result of a petition filed** pursuant to ~~this section and~~ NRS 176.0918 ~~and 176.09183~~ is a charge against the Department of Corrections and must be paid upon approval by the Board of State Prison Commissioners as other claims against the State are paid.

~~4.~~ 6. The remedy provided by this section and NRS 176.0918 and 176.09183 **and section 1 of this act** is in addition to, is not a substitute for and is not exclusive of any other remedy, right of action or proceeding available to a person convicted of a crime.

Sec. 5. NRS 176.0919 is hereby amended to read as follows:

176.0919 1. After a judge grants a petition requesting a genetic marker analysis pursuant to NRS 176.0918 ~~1, 176.09183 and 176.09187,~~ **or section 1 of this act**, if the case involves a sentence of death and a judge determines that the genetic marker analysis cannot be completed before the date of the execution of the petitioner, the judge shall stay the execution of the judgment of death pending the results of the analysis.

2. If the case involves a sentence of death and the results of an analysis ordered and conducted **as the result of a petition filed** pursuant to NRS 176.0918 ~~1, 176.09183 and 176.09187,~~ **or section 1 of this act** are not favorable to the petitioner:

(a) Except as otherwise provided in paragraph (b), the Director of the Department of Corrections shall, in due course, execute the judgment of death.

(b) If the judgment of death has been stayed pursuant to subsection 1, the judge shall cause a certified copy of the order staying the execution of the judgment and a certified copy of the report of genetic marker analysis that indicates results which are not favorable to the petitioner to be immediately forwarded by the clerk of the court to the district attorney. Upon receipt, the district attorney shall pursue the issuance of a new warrant of execution of the judgment of death in the manner provided in NRS 176.495.

Sec. 5.5. Notwithstanding the provisions of NRS 0.020, the provisions of this act are not severable. If any portion of this act is held to be unconstitutional or invalid for any reason by the decision of any court of competent jurisdiction, the remaining provisions of this act shall be deemed to be invalid.

Sec. 6. This act becomes effective on July 1, ~~2017,~~ **2018.**

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 275.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 597.

SUMMARY—Requires the establishment of a ~~protocol~~ **statewide framework** for providing integrated student supports for certain pupils and their families. (BDR 34-920)

AN ACT relating to education; requiring the Department of Education to establish a ~~protocol~~ **statewide framework** for providing integrated student supports for pupils enrolled in public schools and the families of such pupils; requiring the board of trustees of each school district and the governing body of each charter school to take certain action to provide academic and nonacademic supports for pupils enrolled in the school district or charter school and the families of such pupils; **requiring any request for proposals issued by a local educational agency for integrated student supports to include provisions requiring a provider of integrated student support services to comply with the protocol for providing integrated student supports established by the Department;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the Department of Education to establish a ~~protocol to provide and coordinate~~ **statewide framework for providing and coordinating integrated student supports, which are** academic and nonacademic supports for pupils enrolled in public schools and the families of such pupils, to the extent money is available. **This bill requires the**

framework to: (1) establish minimum standards for the provision of integrated student supports by school districts and charter schools; (2) establish a protocol to provide and coordinate integrated student supports; and (3) include integration and coordination across school and community-based providers of integrated student support services.

~~___ This bill also requires the board of trustees of each school district and the governing body of each charter school to: (1) conduct annually a needs assessment to identify the academic and nonacademic supports needed within the district or charter school; (2) ~~provide~~ ensure that mechanisms for data-driven decision-making are in place and the academic progress of pupils for whom integrated student supports ~~in accordance with the needs assessment conducted for the school district or charter school and the protocol established by the Department;~~ have been provided is tracked; (3) ~~adopt certain policies and take certain action relating to the provision of academic and nonacademic supports to pupils;~~ ensure integration and coordination between providers of integrated student support services; and (4) ~~track and annually report to the Department information concerning the academic progress of pupils to whom integrated student supports have been provided.~~ to the extent money is available, ensure that pupils have access to certain professionals and services. This bill also requires that a request for proposals issued by a local educational agency for integrated student support services include provisions requiring a provider of integrated student support services to comply with the protocol established by the Department.~~

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

Section 1. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall, to the extent money is available, establish a ~~protocol to provide~~ statewide framework for providing and ~~coordinate~~ coordinating integrated student supports for pupils enrolled in public schools and the families of such pupils. The statewide framework must:

(a) Establish minimum standards for the provision of integrated student supports by school districts and charter schools. Such standards must be designed to allow a school district or charter school the flexibility to address the unique needs of the pupils enrolled in the school district or charter school.

(b) Establish a protocol for providing and coordinating integrated student supports. Such a protocol must be designed to:

~~**(a) (1) Support a school-based approach to promoting the success of all pupils by ~~coordinating and~~ establishing a means to identify barriers to academic achievement and ~~nonacademic supports necessary to reduce barriers to the academic achievement and~~ educational attainment of all pupils.**~~

~~(b) Provide any auxiliary support necessary to allow teaching and learning to occur unimpeded in public school classrooms;~~

~~(c) Encourage the establishment or expansion of community-based supports that can be integrated into the academic environment of public schools and school districts;~~

~~(d) Increase public awareness of any evidence that demonstrates that academic outcomes are a result of academic and nonacademic factors; and~~

~~(e) and a method for intervening and providing coordinated supports to reduce those barriers;~~

(2) Encourage the provision of education in a manner that is centered around pupils and their families and is culturally and linguistically appropriate;

(3) Encourage providers of integrated student supports to collaborate to improve academic achievement and educational attainment, including, without limitation, by:

(I) Engaging in shared decision-making;

(II) Establishing a referral process that reduces duplication of services and increases efficiencies in the manner in which barriers to academic achievement and educational attainment are addressed by such providers; and

(III) Establishing productive working relationships between such providers;

(4) Encourage collaboration between the Department and local educational agencies to develop training regarding:

(I) Best practices for providing integrated student supports;

(II) Establishing effective integrated student support teams comprised of persons or governmental entities providing integrated student supports;

(III) Effective communication between providers of integrated student supports; and

(IV) Compliance with applicable state and federal law; and

(5) Support statewide and local organizations in their efforts to provide leadership, coordination, technical assistance, professional development and advocacy to ~~implement high-quality, evidence-based, pupil-centered academic and nonacademic supports in public schools in this State.~~ improve access to integrated student supports and expand upon existing integrated student supports that address the physical, emotional and educational needs of pupils.

(c) Include integration and coordination across school- and community-based providers of integrated student support services through the establishment of partnerships and systems that support this framework.

2. The board of trustees of each school district and the governing body of each charter school shall:

(a) Annually conduct a needs assessment for pupils enrolled in the school district or charter school, as applicable, to identify the academic and

nonacademic supports needed within the district or charter school . ~~¶¶~~ The board of trustees of a school district or the governing body of a charter school shall be deemed to have satisfied this requirement if the board of trustees or the governing body has conducted such a needs assessment for the purpose of complying with any provision of federal law or any other provision of state law that requires the board of trustees or governing body to conduct such a needs assessment.

(b) Ensure that mechanisms for data-driven decision-making are in place and the academic progress of pupils for whom integrated student supports have been provided is tracked.

(c) Ensure integration and coordination between providers of integrated student supports.

~~(d) To the extent money is available, ~~provide integrated student supports in accordance with the needs assessment conducted pursuant to paragraph (a) and the protocol established by the Department pursuant to subsection 1.~~~~

~~(e) Adopt a policy that encourages teachers, administrators and other educational personnel to develop relationships with providers of academic and nonacademic supports to enhance the effectiveness of the protocol established by the Department pursuant to subsection 1.~~

~~(d) Engage community partners in an effort to provide academic and nonacademic integrated student supports to pupils; and~~

~~(e) Track the academic progress of pupils for whom integrated student supports have been provided and annually report such information to the Department.~~ ensure that pupils have access to social workers, mental health workers, counselors, psychologists, nurses, speech-language pathologists, audiologists and other school-based specialized instructional support personnel or community-based medical or behavioral providers of health care.

3. Any request for proposals issued by a local educational agency for integrated student supports must include provisions requiring a provider of integrated student supports to comply with the protocol established by the Department pursuant to subsection 1.

4. As used in this section, "support" means any measure designed to assist a pupil in improving his or her academic achievement and educational attainment and maintaining stability and positivity in his or her life.

Sec. 2. This act becomes effective on July 1, 2017.

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 277.

Bill read second time.

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

Amendment No. 486.

ASSEMBLYMEN YEAGER, FRIERSON, OHRENSCHALL, WATKINS, OSCARSON; ARAUJO, BENITEZ-THOMPSON, BILBRAY-AXELROD, BROOKS, CARLTON, CARRILLO, COHEN, DALY, DIAZ, FLORES, FUMO, JAUREGUI, **JOINER**, MCCURDY II, MILLER, MONROE-MORENO, NEAL, SPRINKLE, SWANK AND THOMPSON

JOINT SPONSORS: SENATORS SEGERBLOM, PARKS, CANCELA, HARRIS; CANNIZZARO, FARLEY, **HAMMOND** AND MANENDO

AN ACT relating to land use planning; ~~restricting certain powers of~~ **establishing uniform statewide standards that** local governments **must strictly comply with** ~~with regard to~~ **when exercising powers of land use planning, subdivision regulation and zoning** ~~with regard to certain lands located in~~ **within or surrounding national conservation areas; repealing provisions relating to land use planning, subdivision regulation and zoning with regard to certain** national conservation areas, national recreation areas and adjacent lands; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Legislature has authorized local governments to exercise certain powers relating to land use planning, subdivision regulation and zoning. (Chapters 244, 268, 269 and 278 of NRS) This bill establishes uniform statewide standards that local governments must strictly comply with when exercising those powers with regard to certain lands within or surrounding any national conservation areas in Nevada.

Currently, the Congress of the United States has designated by federal law the following national conservation areas in Nevada: (1) the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area in Humboldt, Pershing and Washoe Counties (16 U.S.C. §§ 460ppp et seq.); (2) the Sloan Canyon National Conservation Area in Clark County (16 U.S.C. §§ 460qqq et seq.); and (3) the Red Rock Canyon National Conservation Area in Clark County (16 U.S.C. §§ 460ccc et seq.). If Congress designates by federal law any additional national conservation areas in Nevada, this bill would apply to the lands within or surrounding those national conservation areas but only after the enactment of the federal law making the designation.

Section 1.1 of this bill sets forth legislative findings and declarations underlying this bill. In particular, the Legislature finds in section 1.1 that because of the importance of the natural resources found within national conservation areas in Nevada, there is a legitimate and compelling need to enact uniform statewide standards to regulate development on lands within or surrounding national conservation areas

to ensure that development on such lands proceeds at the local level in an orderly and responsible manner without detrimentally and irreversibly impacting the natural resources found within national conservation areas in Nevada. In order to secure, promote and advance these legislative purposes and objectives, the Legislature declares in section 1.1 that it is necessary and essential to: (1) designate and define natural resources overlay lands; (2) establish uniform statewide standards that local governments must strictly comply with when regulating the use of those lands; and (3) provide for judicial review and other appropriate remedies to ensure that local governments strictly comply with those standards.

Section 1.45 of this bill defines “natural resources overlay lands” to mean all parcels of land located: (1) within the boundary of any national conservation area in this State; or (2) not more than one-half mile outside the boundary of any national conservation area in this State. Section 1.45 also provides that if any parcel of land is located partially but not entirely within natural resources overlay lands, the portion of the parcel within natural resources overlay lands is subject to this bill but the remaining portion of the parcel is not subject to this bill, unless a proposed project on the remaining portion includes any part of the portion of the parcel within natural resources overlay lands.

However, sections 1.25, 1.35 and 1.45 of this bill create an exemption from this bill for any parcel of land subject to any development agreement that was approved and recorded under NRS 278.0201-278.0207 before the effective date of this bill. Additionally, section 4.5 of this bill creates an exemption from this bill for any project to develop lands if a local government took final action that approved the project before the effective date of this bill and the local government’s final action of approval remained in effect and was enforceable on the effective date of this bill.

With regard to natural resources overlay lands that are subject to this bill, sections 1.55 and 2-4 of this bill provide that a local government’s powers relating to planning, subdivision regulation and zoning are subordinate to this bill. However, those sections also provide that this bill establishes, as a minimum threshold, uniform statewide standards relating to natural resources overlay lands but this bill does not preempt or otherwise limit a local government from imposing, with regard to those lands, standards relating to planning, subdivision regulation and zoning that are stricter or more protective of natural resources overlay lands than the standards set forth in this bill. In addition, section 1.6 of this bill authorizes a local government to enact ordinances and adopt policies and procedures that implement and facilitate this bill so long as they are consistent with this bill.

Sections 1.2-1.35, 1.5 and 1.65-1.8 of this bill establish uniform statewide standards for any proposed project to develop, improve or

build on natural resources overlay lands that requires final action by a local government, except for any public parks, trailheads, trails or other public recreational facilities that are constructed by a local government or by a developer pursuant to any development agreement.

Under section 1.65, a local government cannot take final action on a proposed project unless: (1) the developer prepares and submits an environmental impact statement; (2) the local government posts the environmental impact statement on its Internet website at least 15 calendar days before the public hearing at which the local government may take final action; and (3) the local government applies and weighs certain factors relating to the impact of the proposed project on natural resources overlay lands. However, if an environmental review relating to the proposed project has already been conducted by an appropriate federal or state agency under law, section 1.65 does not require the developer to prepare and submit an additional environmental impact statement. Instead, the local government must accept and utilize the findings and conclusions made in the federal or state agency's environmental review.

Under section 1.7, when the developer prepares and submits an environmental impact statement, the developer must provide a professional, detailed, thorough and comprehensive analysis and explanation concerning the environmental impacts that the proposed project will have on natural resources overlay lands. In reviewing and analyzing the environmental impact statement, section 1.7 permits the local government to use the regulations adopted by the Council on Environmental Quality pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321 et seq.) as a guide in determining whether the environmental impact statement accurately and appropriately addresses the environmental impacts that the proposed project will have on natural resources overlay lands, but those regulations are not binding or determinative.

Under section 1.75, before the local government takes final action on the proposed project, it must apply and weigh several factors relating to the impact of the proposed project on natural resources overlay lands, including: (1) whether the proposed project will be located near or in close proximity to existing developed or urban lands or existing undeveloped or rural lands; (2) whether the proposed project will be located near or in close proximity to existing infrastructure and utilities or whether the project will require extensive work to build necessary infrastructure and utilities; (3) whether the proposed project will have significant beneficial or adverse environmental impacts; (4) whether the proposed project will restrict or impair open space or public access to open space; and (5) whether the proposed project will protect or preserve or destroy or impair natural terrain, native vegetation, wildlife habitat, watershed areas, scenic views or geological formations. In

addition to these factors, section 1.75 permits the local government to consider other factors relating to planning, subdivision regulation and zoning that are stricter or more protective of natural resources overlay lands.

Under section 1.8, if the local government does not strictly comply with this bill when it takes any final action on the proposed project: (1) the final action is deemed void and is of no legal force or effect; and (2) any person aggrieved by the final action may appeal the final action to the district court by filing a petition for judicial review against the local government within the 25-day appeal period. If an aggrieved party timely files a petition for judicial review, section 1.8 provides that the court must determine, based upon the record, whether the local government strictly complied with this bill and whether the local government's determination was based upon substantial evidence in the record. If the aggrieved party prevails on any claim for relief against the local government, section 1.8 provides that the aggrieved party is entitled to an award of reasonable attorney's fees and court costs. Section 1.8 also provides that the developer cannot be awarded attorney's fees or court costs, regardless of the outcome of the judicial review, unless the court imposes them as a penalty against another party for ethically or procedurally improper conduct that is independently sanctionable under court rules or other laws.

Finally, during the 1993 Legislative Session, the Legislature enacted Senate Bill No. 544 (1993 Red Rock Canyon Act), which is a special act that regulates certain uses of land within the Red Rock Canyon National Conservation Area in Clark County. (Chapter 639, Statutes of Nevada 1993, p. 2673) During the 2003 Legislative Session, the Legislature amended the 1993 Red Rock Canyon Act by enacting Senate Bill No. 358 [of the 2003 Legislative Session, known as the Red Rock Canyon Conservation Area and Adjacent Lands Act,] (2003 Red Rock Canyon Act), which is a special act that restricts the authority of local governments to regulate planning, subdividing and zoning of certain lands located in and adjacent to the Red Rock Canyon National Conservation Area in Clark County. (Chapter 639, Statutes of Nevada 1993, p. 2673, as amended by chapter 105, Statutes of Nevada 2003, p. 595) In 2013, the Nevada Supreme Court ruled that the 2003 Red Rock Canyon Act violates Sections 20, 21 and 25 of Article 4 of the Nevada Constitution on the grounds that it: (1) is a "local or special law" that "regulates county business"; and (2) establishes a "system of county government" that is not "uniform throughout the State." (Attorney General v. Gypsum Resources, 129 Nev. Adv. Op. 4, 294 p.3d 404 (2013))

~~[This bill revises]~~

To conform existing statutory provisions with the constitutional requirements established by the Nevada Supreme Court in *Gypsum Resources* and to resolve any statutory conflicts with this bill, section 5 of

this bill repeals: (1) the pertinent provisions of the 1993 Red Rock Canyon Act and the 2003 Red Rock Canyon [Conservation Area and Adjacent Lands Act, the similarly worded Spring Mountains National Recreation Area Act (Chapter 198, Statutes of Nevada 2009, p. 734)] Act; and **(2) related provisions of** the Nevada Revised Statutes . ~~[in a manner consistent with the decision in Gypsum Resources. Sections 1-4 of this bill restrict generally the authority of any local government in this State to enact certain changes relating to planning, subdividing and zoning of certain lands located within any national conservation area, national recreation area or adjacent lands. Section 5 of this bill]~~ **(NRS 244.154, 268.105, 269.617, 278.0239) In addition, section 5 also** repeals certain provisions of the **Spring Mountains National Recreation Area Act, chapter 198, Statutes of Nevada 2009, p. 734, which are similar to the provisions of the 2003 Red Rock Canyon [Recreation Area and Adjacent Lands Act which] Act that** the Court in *Gypsum Resources* held unconstitutional . ~~[, and also repeals certain provisions of the Spring Mountains National Recreation Area Act.]~~

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

Section 1. Chapter 278 of NRS is hereby amended by adding thereto ~~the~~ ~~new section to read as follows:~~ **the provisions set forth as sections 1.1 to 1.8, inclusive, of this act.**

Sec. 1.1. 1. The Legislature hereby finds that:

(a) Some of this State's most valuable and distinctive natural resources are found within national conservation areas in Nevada, and those natural resources must be protected and preserved because they are uniquely beautiful, incomparably scenic and geologically, scientifically, historically and culturally significant;

(b) The natural resources found within national conservation areas in Nevada also contribute to the public's health, well-being and welfare and stimulate this State's economy because those natural resources offer unparalleled recreational opportunities in peaceful and idyllic settings which are enjoyed by the residents of this State and which draw many tourists, sightseers and recreational users from other states and countries to Nevada; and

(c) Because of the importance of the natural resources found within national conservation areas in Nevada, there is a legitimate and compelling need to enact uniform statewide standards to regulate development on lands within or surrounding national conservation areas in Nevada to ensure that development on such lands proceeds at the local level in an orderly and responsible manner without detrimentally and irreversibly impacting the natural resources found within national conservation areas in Nevada.

2. The Legislature hereby declares that it is in the best interests of this State, beneficial to the public's health, well-being and welfare and necessary and essential for protecting and preserving this State's natural resources and for securing, promoting and obtaining the benefits of those natural resources for present and future generations to:

- (a) Designate and define natural resources overlay lands;
- (b) Establish uniform statewide standards that local governments must strictly comply with when regulating the use of those lands; and
- (c) Provide for judicial review and other appropriate remedies to ensure that local governments strictly comply with those standards.

Sec. 1.15. As used in sections 1.1 to 1.8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 1.2 to 1.5, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 1.2. "Developer" means a person who wants to undertake or complete any proposed project to develop, improve or build on natural resources overlay lands.

Sec. 1.25. 1. "Development agreement" means any agreement for the development of lands authorized pursuant to NRS 278.0201 to 278.0207, inclusive.

2. The term does not include any development agreement that was approved and recorded pursuant to NRS 278.0201 to 278.0207, inclusive, before the effective date of this act.

Sec. 1.3. "Environmental impact statement" means a detailed report which a developer prepares and submits pursuant to sections 1.1 to 1.8, inclusive, of this act for the purposes of providing both the local government and the public with detailed information concerning the environmental impacts that a proposed project will have on natural resources overlay lands.

Sec. 1.35. 1. "Final action" means any final action, decision or order that is taken by:

- (a) The governing body of a local government; or
- (b) Any public officer, as defined in NRS 281.005, or commission, board or other body of the local government that is taking such final action, decision or order in lieu of any final action, decision or order taken by the governing body.

2. The term includes, without limitation, any final action, decision or order that is taken with regard to:

- (a) Establishing new zoning districts;
- (b) Amending, altering or expanding existing zoning districts;
- (c) Establishing or increasing the number or density of units within zoning districts;
- (d) Granting or allowing variances or special uses within zoning districts; or
- (e) Approving any development agreement.

3. The term does not include any final action, decision or order that is taken with regard to any parcel of land subject to any development agreement that was approved and recorded pursuant to NRS 278.0201 to 278.0207, inclusive, before the effective date of this act.

Sec. 1.4. “National conservation area” means any area designated by federal law as a national conservation area by the Congress of the United States.

Sec. 1.45. 1. “Natural resources overlay lands” means all parcels of land located:

(a) Within the boundary of any national conservation area in this State;
or

(b) Not more than one-half mile outside the boundary of any national conservation area in this State.

2. The term includes, without limitation:

(a) Any parcel of land in its natural state;

(b) Any parcel of land that is zoned, rezoned or not zoned;

(c) Any parcel of land that is subdivided or developed into smaller parcels or lots;

(d) Any parcel of land that is developed for any residential or nonresidential use; or

(e) Any other parcel of land that is undeveloped or developed, in whole or in part, regardless of its use.

3. The term does not include any parcel of land subject to any development agreement that was approved and recorded pursuant to NRS 278.0201 to 278.0207, inclusive, before the effective date of this act.

4. For the purposes of this section, if any parcel of land is located partially but not entirely within natural resources overlay lands:

(a) The portion of the parcel within natural resources overlay lands is subject to sections 1.1 to 1.8, inclusive, of this act; and

(b) The remaining portion of the parcel is not subject to sections 1.1 to 1.8, inclusive, of this act, unless a proposed project on the remaining portion includes any part of the portion of the parcel within natural resources overlay lands.

Sec. 1.5. 1. “Project” means any project to develop, improve or build on natural resources overlay lands that requires final action by a local government.

2. The term does not include any public parks, trailheads, trails or other public recreational facilities that are constructed by a local government or by a developer pursuant to any development agreement.

Sec. 1.55. 1. Notwithstanding any other provision of law to the contrary, ~~the~~:

(a) The powers otherwise conferred by this chapter which relate to planning, subdivision regulation and zoning are subordinate to the provisions of ~~this section.~~

~~2. With respect to any lands located in a national conservation area, national recreation area or adjacent lands, a local government:~~

~~(a) Shall not, in regulating the use of those lands:~~

~~(1) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act, unless such an increase can be accomplished, within a given area, by the trading of development credits or another mechanism that allows a greater number of residential dwelling units to be constructed in that area without increasing the overall density of residential dwelling units in that area;~~

~~(2) Establish any new nonresidential zoning districts, other than for public facilities; or~~

~~(3) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities;~~

~~(b) May regulate other matters, including, without limitation, landscaping, buffering, screening, signage and lighting; and~~

~~(c) Retains all other authority regarding planning, zoning and regulation of uses of land otherwise conferred by this chapter.~~

~~3. The prohibitions set forth in paragraph (a) of subsection 2 do not restrict or limit:~~

~~(a) Any existing or future development or other rights held by any owner of real property that is not part of a national conservation area, national recreation area or adjacent lands, including, without limitation, all rights, consents and agreements established, enacted, granted or entered into by a governing body, whether reflected in codes, ordinances, permits, agreements or other documents;~~

~~(b) Any future use or development of real property that is not part of a national conservation area, national recreation area or adjacent lands; or~~

~~(c) The authority of any governing body to regulate real property that is not part of a national conservation area, national recreation area or adjacent lands.~~

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

~~(a) "Adjacent lands" means any tract of land which is:~~

~~(1) Located not more than 5 miles from any national conservation area; and~~

~~(2) Not located in a Bureau of Land Management disposal area.~~

~~(b) "Bureau of Land Management disposal area" means public land which is managed by the Bureau of Land Management and which has been identified as potentially suitable for disposal in an approved land use plan or through an amendment to an existing plan.~~

~~(c) "National conservation area" means an area designated as a national conservation area by the Congress of the United States.~~

~~(d) "National recreation area" means an area designated as a national recreation area by the Congress of the United States, sections 1.1 to 1.8, inclusive, of this act; and~~

(b) A local government shall strictly comply with the provisions of sections 1.1 to 1.8, inclusive, of this act.

2. If there is a conflict between any other provisions of this chapter and the provisions of sections 1.1 to 1.8, inclusive, of this act, the provisions of sections 1.1 to 1.8, inclusive, of this act control.

3. The provisions of sections 1.1 to 1.8, inclusive, of this act:

(a) Establish, as a minimum threshold, uniform statewide standards relating to natural resources overlay lands; and

(b) Must not be interpreted to preempt or otherwise limit a local government from imposing, with regard to those lands, standards relating to planning, subdivision regulation and zoning that are stricter or more protective of natural resources overlay lands than the standards set forth in sections 1.1 to 1.8, inclusive, of this act.

Sec. 1.6. For the purposes of carrying out the provisions of sections 1.1 to 1.8, inclusive, of this act, a local government may enact ordinances and adopt policies and procedures that implement and facilitate those provisions and are consistent therewith, including, without limitation, requiring developers to pay for the costs of the local government to review and analyze an environmental impact statement.

Sec. 1.65. 1. Except as otherwise provided in this section, if a developer wants to undertake or complete any proposed project on natural resources overlay lands, a local government shall not take any final action regarding the proposed project unless:

(a) The developer prepares and submits an environmental impact statement that complies with section 1.7 of this act;

(b) The local government posts the environmental impact statement on its Internet website at least 15 calendar days before the public hearing at which the local government may take final action; and

(c) The local government applies and weighs the factors set forth in section 1.75 of this act.

2. If an environmental review relating to the proposed project has already been conducted by an appropriate federal agency or state agency pursuant to federal or state law:

(a) The local government shall accept and utilize the findings and conclusions made in that review for the purposes of carrying out the provisions of sections 1.1 to 1.8, inclusive, of this act; and

(b) The developer is not required to prepare and submit an additional environmental impact statement that complies with section 1.7 or this act.

Sec. 1.7. 1. In an environmental impact statement, a developer must provide a professional, detailed, thorough and comprehensive analysis and explanation concerning the environmental impacts that a proposed project will have on natural resources overlay lands.

2. The developer must pay all costs associated with preparation of the environmental impact statement.

3. The environmental impact statement must analyze and explain:

(a) All significant beneficial and adverse environmental impacts of the proposed project;

(b) All significant adverse environmental impacts of the proposed project which cannot be avoided if the proposed project is completed or which would have irreversible consequences if the project is completed;

(c) All reasonable alternatives to the proposed project;

(d) All mitigation measures which must be implemented to address, alleviate or offset the significant adverse environmental impacts of the proposed project; and

(e) The growth-inducing impact of the proposed project.

3. For the purposes of the environmental impact statement:

(a) Significant beneficial environmental impacts may include, without limitation:

(1) The development or use of renewable energy or renewable energy generation projects;

(2) The establishment or maintenance of public parks, trailheads, trails or other public recreational facilities;

(3) The development or use of land for recreational, educational or charitable purposes by a nonprofit organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c) or state law; or

(4) The protection or preservation of natural terrain, native vegetation, wildlife habitat, watershed areas, scenic views or geological formations.

(b) Significant adverse environmental impacts may include, without limitation:

(1) The development or use of fossil fuels;

(2) The generation of air pollution, water pollution, light pollution, noise pollution or other types of pollution;

(3) The restriction or elimination of open space or public access to open space; or

(4) The destruction or impairment of natural terrain, native vegetation, wildlife habitat, watershed areas, scenic views or geological formations.

4. In reviewing and analyzing an environmental impact statement, the local government may use the regulations adopted by the Council on Environmental Quality pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 et seq., as a guide in determining whether an environmental impact statement accurately and appropriately addresses the environmental impacts that the proposed project will have on natural resources overlay lands, but those regulations are not binding or determinative.

Sec. 1.75. 1. Before a local government takes any final action regarding a proposed project on natural resources overlay lands, the local government shall apply and weigh the following factors:

(a) Whether the proposed project will be located near or in close proximity to existing developed or urban lands or existing undeveloped or rural lands.

(b) Whether the proposed project will be located near or in close proximity to existing infrastructure and utilities or whether the project will require extensive work to build necessary infrastructure and utilities.

(c) Whether the proposed project will have significant beneficial or adverse environmental impacts.

(d) Whether the proposed project will restrict or impair open space or public access to open space.

(e) Whether the proposed project will protect or preserve or destroy or impair natural terrain, native vegetation, wildlife habitat, watershed areas, scenic views or geological formations.

2. The provisions of this section:

(a) Establish, as a minimum threshold, the factors that a local government must apply and weigh before the local government takes any final action regarding a proposed project on natural resources overlay lands; and

(b) Must not be interpreted to preempt or otherwise limit a local government from applying and weighing, with regard to those lands, other factors relating to planning, subdivision regulation and zoning that are stricter or more protective of natural resources overlay lands than the factors set forth in this section.

Sec. 1.8. 1. A local government shall not take any final action regarding a proposed project on natural resources overlay lands unless the local government strictly complies with the provisions of sections 1.1 to 1.8, inclusive, of this act.

2. If a local government does not strictly comply with the provisions of sections 1.1 to 1.8, inclusive, of this act when it takes any final action regarding a proposed project on natural resources overlay lands:

(a) The final action shall be deemed to be void and of no legal force or effect; and

(b) Any person aggrieved by the final action may appeal the final action to the district court of the proper county by filing a petition for judicial review against the local government within 25 days after the date of filing of notice of the final action with the clerk or secretary of the governing body of the local government as set forth in NRS 278.0235.

3. For the purposes of this section, a person shall be deemed to be aggrieved by the final action taken by the local government if the person appeared before the local government, either in person, through an authorized representative or in writing, regarding the final action.

4. If a person brings a petition for judicial review pursuant to this section:

(a) The purpose of the judicial review is for the court to determine, based upon the record, whether the local government strictly complied with

the provisions of sections 1.1 to 1.8, inclusive, of this act and whether the determination of the local government was based upon substantial evidence in the record.

(b) If the person prevails on any claim for relief against the local government, the court shall award reasonable attorney's fees and court costs to the person regarding the prevailing claim, but the developer whose proposed project is the subject of the judicial review may not be awarded attorney's fees or court costs, regardless of the outcome of the judicial review, unless the court imposes them as a penalty against another party for ethically or procedurally improper conduct that is independently sanctionable under court rules or laws other than this section.

5. The petition for judicial review and remedies prescribed by this section are in addition to any other forms of judicial review and remedies provided by law.

Sec. 2. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other provision of law to the contrary, ~~the~~ :

~~(a) The powers otherwise conferred by this chapter which relate to planning, subdivision regulation and zoning are subordinate to the provisions of this section.~~

~~2. With respect to any lands located in a national conservation area, national recreation area or adjacent lands, a local government:~~

~~(a) Shall not, in regulating the use of those lands:~~

~~(1) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act, unless such an increase can be accomplished, within a given area, by the trading of development credits or another mechanism that allows a greater number of residential dwelling units to be constructed in that area without increasing the overall density of residential dwelling units in that area;~~

~~(2) Establish any new nonresidential zoning districts, other than for public facilities; or~~

~~(3) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities;~~

~~(b) May regulate other matters, including, without limitation, landscaping, buffering, screening, signage and lighting; and~~

~~(c) Retains all other authority regarding planning, zoning and regulation of uses of land otherwise conferred by this chapter.~~

~~3. The prohibitions set forth in paragraph (a) of subsection 2 do not restrict or limit:~~

~~(a) Any existing or future development or other rights held by any owner of real property that is not part of a national conservation area, national recreation area or adjacent lands, including, without limitation, all rights, consents and agreements established, enacted, granted or entered into by a governing body, whether reflected in codes, ordinances, permits, agreements or other documents;~~

~~(b) Any future use or development of real property that is not part of a national conservation area, national recreation area or adjacent lands; or~~

~~(c) The authority of any governing body to regulate real property that is not part of a national conservation area, national recreation area or adjacent lands.~~

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

~~(a) "Adjacent lands" has the meaning ascribed to it in section 1 of this act.~~

~~(b) "Bureau of Land Management disposal area" has the meaning ascribed to it in section 1 of this act.~~

~~(c) "National conservation area" has the meaning ascribed to it in section 1 of this act.~~

~~(d) "National recreation area" has the meaning ascribed to it in section 1 of this act.~~ sections 1.1 to 1.8, inclusive, of this act; and

(b) A local government shall strictly comply with the provisions of sections 1.1 to 1.8, inclusive, of this act.

2. If there is a conflict between any other provisions of this chapter and the provisions of sections 1.1 to 1.8, inclusive, of this act, the provisions of sections 1.1 to 1.8, inclusive, of this act control.

3. The provisions of sections 1.1 to 1.8, inclusive, of this act:

(a) Establish, as a minimum threshold, uniform statewide standards relating to natural resources overlay lands; and

(b) Must not be interpreted to preempt or otherwise limit a local government from imposing, with regard to those lands, standards relating to planning, subdivision regulation and zoning that are stricter or more protective of natural resources overlay lands than the standards set forth in sections 1.1 to 1.8, inclusive, of this act.

Sec. 3. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other provision of law to the contrary ~~to the~~:

(a) The powers otherwise conferred by this chapter which relate to planning, subdivision regulation and zoning are subordinate to the provisions of ~~this section~~.

~~2. With respect to any lands located in a national conservation area, national recreation area or adjacent lands, a local government:~~

~~(a) Shall not, in regulating the use of those lands:~~

~~(1) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act, unless such an increase can be accomplished, within a given area, by the trading of development credits or another mechanism that allows a greater number of residential dwelling units to be constructed in that area without increasing the overall density of residential dwelling units in that area;~~

~~(2) Establish any new nonresidential zoning districts, other than for public facilities; or~~

~~(3) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities;~~

~~(b) May regulate other matters, including, without limitation, landscaping, buffering, screening, signage and lighting; and~~

~~(c) Retains all other authority regarding planning, zoning and regulation of uses of land otherwise conferred by this chapter.~~

~~3. The prohibitions set forth in paragraph (a) of subsection 2 do not restrict or limit:~~

~~(a) Any existing or future development or other rights held by any owner of real property that is not part of a national conservation area, national recreation area or adjacent lands, including, without limitation, all rights, consents and agreements established, enacted, granted or entered into by a governing body, whether reflected in codes, ordinances, permits, agreements or other documents;~~

~~(b) Any future use or development of real property that is not part of a national conservation area, national recreation area or adjacent lands; or~~

~~(c) The authority of any governing body to regulate real property that is not part of a national conservation area, national recreation area or adjacent lands.~~

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

~~(a) "Adjacent lands" has the meaning ascribed to it in section 1 of this act.~~

~~(b) "Bureau of Land Management disposal area" has the meaning ascribed to it in section 1 of this act.~~

~~(c) "National conservation area" has the meaning ascribed to it in section 1 of this act.~~

~~(d) "National recreation area" has the meaning ascribed to it in section 1 of this act.~~

(b) A local government shall strictly comply with the provisions of sections 1.1 to 1.8, inclusive, of this act.

2. If there is a conflict between any other provisions of this chapter and the provisions of sections 1.1 to 1.8, inclusive, of this act, the provisions of sections 1.1 to 1.8, inclusive, of this act control.

3. The provisions of sections 1.1 to 1.8, inclusive, of this act:

(a) Establish, as a minimum threshold, uniform statewide standards relating to natural resources overlay lands; and

(b) Must not be interpreted to preempt or otherwise limit a local government from imposing, with regard to those lands, standards relating to planning, subdivision regulation and zoning that are stricter or more protective of natural resources overlay lands than the standards set forth in sections 1.1 to 1.8, inclusive, of this act.

Sec. 4. Chapter 269 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other provision of law to the contrary ~~to the~~ :

~~(a) The powers otherwise conferred by this chapter which relate to planning, subdivision regulation and zoning are subordinate to the provisions of this section.~~

~~2. With respect to any lands located in a national conservation area, national recreation area or adjacent lands, a local government:~~

~~(a) Shall not, in regulating the use of those lands:~~

~~(1) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act, unless such an increase can be accomplished, within a given area, by the trading of development credits or another mechanism that allows a greater number of residential dwelling units to be constructed in that area without increasing the overall density of residential dwelling units in that area;~~

~~(2) Establish any new nonresidential zoning districts, other than for public facilities; or~~

~~(3) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities;~~

~~(b) May regulate other matters, including, without limitation, landscaping, buffering, screening, signage and lighting; and~~

~~(c) Retains all other authority regarding planning, zoning and regulation of uses of land otherwise conferred by this chapter.~~

~~3. The prohibitions set forth in paragraph (a) of subsection 2 do not restrict or limit:~~

~~(a) Any existing or future development or other rights held by any owner of real property that is not part of a national conservation area, national recreation area or adjacent lands, including, without limitation, all rights, consents and agreements established, enacted, granted or entered into by a governing body, whether reflected in codes, ordinances, permits, agreements or other documents;~~

~~(b) Any future use or development of real property that is not part of a national conservation area, national recreation area or adjacent lands; or~~

~~(c) The authority of any governing body to regulate real property that is not part of a national conservation area, national recreation area or adjacent lands.~~

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

~~(a) "Adjacent lands" has the meaning ascribed to it in section 1 of this act.~~

~~(b) "Bureau of Land Management disposal area" has the meaning ascribed to it in section 1 of this act.~~

~~(c) "National conservation area" has the meaning ascribed to it in section 1 of this act.~~

~~(d) "National recreation area" has the meaning ascribed to it in section 1 of this act.~~ } sections 1.1 to 1.8, inclusive, of this act; and

(b) A local government shall strictly comply with the provisions of sections 1.1 to 1.8, inclusive, of this act.

2. If there is a conflict between any other provisions of this chapter and the provisions of sections 1.1 to 1.8, inclusive, of this act, the provisions of sections 1.1 to 1.8, inclusive, of this act control.

3. The provisions of sections 1.1 to 1.8, inclusive, of this act:

(a) Establish, as a minimum threshold, uniform statewide standards relating to natural resources overlay lands; and

(b) Must not be interpreted to preempt or otherwise limit a local government from imposing, with regard to those lands, standards relating to planning, subdivision regulation and zoning that are stricter or more protective of natural resources overlay lands than the standards set forth in sections 1.1 to 1.8, inclusive, of this act.

Sec. 4.5. 1. If, before the effective date of this act, a local government took final action that approved any project to develop lands located within natural resources overlay lands, including, without limitation, any project under a development agreement approved and recorded pursuant to NRS 278.0201 to 278.0207, inclusive, and the local government's final action of approval remained in effect and was enforceable on the effective date of this act, the provisions of this act do not apply to such a project or agreement.

2. As used in this section, the words and terms defined in sections 1.1 to 1.5, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 5. 1. NRS 244.154, 268.105, 269.617 and 278.0239 are hereby repealed.

2. Sections **1, 2, 3 and 4 of chapter 639, Statutes of Nevada 1993, at page 2673, sections** 6, 7, 8, 9 and 10 of chapter 105, Statutes of Nevada 2003, at pages 596, 597 and 598, and section 8 of chapter 198, Statutes of Nevada 2009, at page 736, are hereby repealed.

Sec. 6. This act becomes effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS OF NRS AND TEXT OF REPEALED SECTIONS OF STATUTES OF NEVADA

244.154 Planning, subdivision regulation and zoning: County's powers subordinate to limits upon development established in certain geographical regions by certain state acts.

268.105 City's powers subordinate in region for which Spring Mountains National Recreation Area Act and Red Rock Canyon Conservation Area and Adjacent Lands Act establish limits upon development.

269.617 Powers relating to planning, subdivision regulation and zoning subordinate in region for which Spring Mountains National Recreation Area and Red Rock Canyon Conservation Area and Adjacent Lands Act establish limits upon development.

278.0239 Supremacy of limits upon development established by certain special legislative acts.

Section 1 of chapter 639, Statutes of Nevada 1993:

Section 1. The legislature finds and declares that this special act which regulates activity in the Red Rock Canyon national conservation area is necessary because of:

1. The unusual beauty of the Red Rock Canyon national conservation area; and
2. The rapidly increasing population and growth in the region around the Red Rock Canyon national conservation area.

Section 2 of chapter 639, Statutes of Nevada 1993:

Sec. 2. As used in sections 1 to 4, inclusive, of this act, "Red Rock Canyon national conservation area" means the area in and around Red Rock Canyon which has been designated as a national conservation area by Congress pursuant to Title 16 of the United States Code.

Section 3 of chapter 639, Statutes of Nevada 1993:

Sec. 3. 1. Except as otherwise provided in subsection 2, the governing body of a city or county whose territory includes all or any part of the Red Rock Canyon national conservation area shall in regulating the use of land prohibit the use of any part of the national conservation area for any purpose other than recreation, and shall prohibit excavation, the extraction of any substance, and the erection of any structure within the national conservation area.

2. Within the boundaries of a patented or unpatented mining claim the governing body may permit excavation, the extraction of any substance, or the making of improvements only to the extent permitted by a federally approved plan of operations or exempted by federal law or regulation from having an approved plan of operations.

Section 4 of chapter 639, Statutes of Nevada 1993:

Sec. 4. In the absence or pending the adoption and effectiveness of an ordinance complying with section 3 of this act, excavation, the extraction of any substance, and the erection of any structure are prohibited within the Red Rock Canyon national conservation area unless a permit is first obtained from the division of environmental protection of the state department of conservation and natural resources. The division shall not issue such a permit if the proposed activity would be detrimental to the environment outside the Red Rock Canyon national conservation area or would preclude the designation of the national conservation area as wilderness.

Section 6 of chapter 105, Statutes of Nevada 2003:

Sec. 6. Chapter 639, Statutes of Nevada 1993, at page 2673, is hereby amended by adding thereto a new section to be designated as section 0.5, immediately preceding section 1, to read as follows:

This act shall be known as the Red Rock Canyon Conservation Area and Adjacent Lands Act.

Section 7 of chapter 105, Statutes of Nevada 2003:

Sec. 7. Chapter 639, Statutes of Nevada 1993, at page 2673, is hereby amended by adding thereto new sections to be designated as sections 1.3 and 1.7, immediately following section 1, to read as follows:

Sec. 1.3. ***As used in this act, unless the context otherwise requires, the words and terms defined in sections 1.7 and 2 of this act have the meanings ascribed to them in those sections.***

Sec. 1.7. ***“Adjacent lands” means the following tracts of land:***

1. All of sections 34, 35 and 36, Township 20 South, Range 58 East, MDM;

2. All of sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36, Township 21 South, Range 58 East, MDM;

3. All of sections 1, 2, 3, 10, 11, 12, 13, 14 and 15, Township 22 South, Range 58 East, MDM;

4. All of sections 31 and 32, Township 20 South, Range 59 East, MDM, with the exception of any lands that are located within the corporate limits of the City of Las Vegas on the effective date of this act;

5. All of sections 3 and 4, Township 21 South, Range 59 East, MDM, with the exception of any lands that are located within the corporate limits of the City of Las Vegas on the effective date of this act;

6. All of sections 5, 6, 7, 8, 9, 10 and 11, Township 21 South, Range 59 East, MDM, with the exception of any lands that are located within the Summerlin South unincorporated area on the effective date of this act;

7. All of sections 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33 and 34, Township 21 South, Range 59 East, MDM; and

8. All of sections 3, 4, 5, 6, 7, 8, 9, 10, 17 and 18, Township 22 South, Range 59 East, MDM.

Section 8 of chapter 105, Statutes of Nevada 2003:

Sec. 8. Chapter 639, Statutes of Nevada 1993, at page 2673, is hereby amended by adding thereto new sections to be designated as sections 4.3 and 4.7, immediately following section 4, to read as follows:

Sec. 4.3. ***With respect to adjacent lands, a local government:***

1. Shall not, in regulating the use of those lands:

(a) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act, unless such an increase can be accomplished, within a given area, by the trading of development credits or another mechanism that allows a greater number of residential dwelling units to be constructed in that area without increasing the overall density of residential dwelling units in that area;

(b) Establish any new nonresidential zoning districts, other than for public facilities; or

(c) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities.

2. Shall, at its discretion:

(a) Regulate matters to include, without limitation, landscaping, buffering, screening, signage and lighting; and

(b) Retain all other authority regarding planning, zoning and regulation of uses of land.

Sec. 4.7. The prohibitions set forth in section 4.3 of this act with respect to adjacent lands do not restrict or limit:

1. Any existing or future development or other rights held by any owner of real property that is not part of those adjacent lands, including, without limitation, all rights, consents and agreements established, enacted, granted or entered into by a governing body, whether reflected in codes, ordinances, permits, agreements or other documents;

2. Any future use or development of real property that is not part of those adjacent lands; or

3. The authority of any governing body to regulate real property that is not part of those adjacent lands.

Section 9 of chapter 105, Statutes of Nevada 2003:

Sec. 9. Section 1 of chapter 639, Statutes of Nevada 1993, at page 2673, is hereby amended to read as follows:

Section 1. The legislature *hereby* finds and declares that ~~this~~ :

1. *This* special act which regulates activity in the Red Rock Canyon National Conservation Area *and on adjacent lands* is necessary because of:

~~1-1~~ **(a) The unusual beauty of the Red Rock Canyon National Conservation Area; ~~and~~**

~~2-1~~ **(b) The rapidly increasing population and growth in the region around the Red Rock Canyon National Conservation Area ~~1-1~~ ; and**

(c) *The need to harmonize:*

(1) *The retention of the scenic beauty, small-town values, historic character, sense of community and recreational*

opportunities for visitors and residents of the Red Rock Canyon National Conservation Area and adjacent lands; and

(2) Residential and commercial development within the Red Rock Canyon National Conservation Area and adjacent lands.

2. The Legislature supports acquisition by the Federal Government of vacant private lands that are:

(a) Located within and adjacent to the Red Rock Canyon National Conservation Area;

(b) Located outside of the boundary described in the Clark County Conservation of Public Lands and Natural Resources Act of 2002, Public Law 107-282, November 6, 2002; and

(c) Essential to the character and value of the Red Rock Canyon National Conservation Area.

Section 10 of chapter 105, Statutes of Nevada 2003:

Sec. 10. Section 2 of chapter 639, Statutes of Nevada 1993, at page 2673, is hereby amended to read as follows:

Sec. 2. ~~As used in section 1 to 4, inclusive, of this act,~~ “Red Rock Canyon National Conservation Area” means the area in and around Red Rock Canyon which has been designated as a national conservation area by Congress pursuant to Title 16 of the United States Code.

Section 8 of chapter 198, Statutes of Nevada 2009:

Sec. 8. With respect to the Spring Mountains National Recreation Area, a local government:

1. Shall not, in regulating the use of those lands:

(a) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act;

(b) Establish any new nonresidential zoning districts, other than for public facilities; or

(c) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities.

2. May regulate matters to include, without limitation, landscaping, buffering, screening, signage and lighting.

3. Retains all other authority regarding planning, zoning and regulation of uses of land.

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 278.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 400.

ASSEMBLYMEN PICKARD, HAMBRICK, COHEN ~~ET AL~~ , ELLIOT ANDERSON;
PAUL ANDERSON, ELLISON, TOLLES AND WHEELER

AN ACT relating to the support of children; creating the Committee to Review Child Support Guidelines; requiring the Committee to review quadrennially the support guidelines established in this State and submit any recommendations for revision to the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services; requiring the Administrator to adopt regulations establishing support guidelines; repealing provisions relating to the calculation of support upon the adoption of such regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing federal law and regulations require each state to establish child support guidelines and review such guidelines at least once every 4 years to ensure that the application of such guidelines results in appropriate awards of child support. (42 U.S.C. § 667(a); 45 C.F.R. § 302.56(e)) Existing federal regulations also establish minimum standards for such guidelines. (45 C.F.R. § 302.56(c)) Existing Nevada law establishes the general formula used to calculate child support and sets forth several other related provisions. (NRS 125B.070, 125B.080, 125B.085, 125B.095)

Section 7 of this bill creates the Committee to Review Child Support Guidelines, and **section 8** of this bill requires the Committee to review the existing child support guidelines established in this State and provide any recommendations for revisions to the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services not later than July 1, 2018. **Section 8** requires the Administrator to review and consider any recommendations of the Committee and, after reviewing and considering such recommendations, to adopt regulations establishing the child support guidelines in this State. **Section 8** also requires the Committee to review the guidelines at least once every 4 years. **Section 13** of this bill repeals the provisions of existing law establishing the general formula for calculating child support and certain related provisions, and **section 14** of this bill provides that the repeal of such provisions becomes effective on the effective date of the regulations adopted by the Administrator establishing child support guidelines pursuant to **section 8**. **Sections 1-3 and 9-12** of this bill make conforming changes that are also effective upon the effective date of the adopted regulations.

Existing law exempts the Division from the provisions of the Nevada Administrative Procedure Act. (NRS 233B.039) **Section 4** of this bill provides an exception to such an exemption for the regulations establishing the child support guidelines that are adopted by the Administrator, and **section 8** requires that such regulations be adopted in accordance with the Nevada Administrative Procedure Act and codified in the Nevada Administrative Code.

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

Section 1. NRS 125.150 is hereby amended to read as follows:

125.150 Except as otherwise provided in NRS 125.155 and 125.165, and unless the action is contrary to a premarital agreement between the parties which is enforceable pursuant to chapter 123A of NRS:

1. In granting a divorce, the court:

(a) May award such alimony to the wife or to the husband, in a specified principal sum or as specified periodic payments, as appears just and equitable; and

(b) Shall, to the extent practicable, make an equal disposition of the community property of the parties, except that the court may make an unequal disposition of the community property in such proportions as it deems just if the court finds a compelling reason to do so and sets forth in writing the reasons for making the unequal disposition.

2. Except as otherwise provided in this subsection, in granting a divorce, the court shall dispose of any property held in joint tenancy in the manner set forth in subsection 1 for the disposition of community property. If a party has made a contribution of separate property to the acquisition or improvement of property held in joint tenancy, the court may provide for the reimbursement of that party for his or her contribution. The amount of reimbursement must not exceed the amount of the contribution of separate property that can be traced to the acquisition or improvement of property held in joint tenancy, without interest or any adjustment because of an increase in the value of the property held in joint tenancy. The amount of reimbursement must not exceed the value, at the time of the disposition, of the property held in joint tenancy for which the contribution of separate property was made. In determining whether to provide for the reimbursement, in whole or in part, of a party who has contributed separate property, the court shall consider:

(a) The intention of the parties in placing the property in joint tenancy;

(b) The length of the marriage; and

(c) Any other factor which the court deems relevant in making a just and equitable disposition of that property.

➡ As used in this subsection, “contribution” includes, without limitation, a down payment, a payment for the acquisition or improvement of property, and a payment reducing the principal of a loan used to finance the purchase or improvement of property. The term does not include a payment of interest on a loan used to finance the purchase or improvement of property, or a payment made for maintenance, insurance or taxes on property.

3. A party may file a postjudgment motion in any action for divorce, annulment or separate maintenance to obtain adjudication of any community property or liability omitted from the decree or judgment as the result of fraud or mistake. A motion pursuant to this subsection must be filed within 3

years after the discovery by the aggrieved party of the facts constituting the fraud or mistake. The court has continuing jurisdiction to hear such a motion and shall equally divide the omitted community property or liability between the parties unless the court finds that:

(a) The community property or liability was included in a prior equal disposition of the community property of the parties or in an unequal disposition of the community property of the parties which was made pursuant to written findings of a compelling reason for making that unequal disposition; or

(b) The court determines a compelling reason in the interests of justice to make an unequal disposition of the community property or liability and sets forth in writing the reasons for making the unequal disposition.

➡ If a motion pursuant to this subsection results in a judgment dividing a defined benefit pension plan, the judgment may not be enforced against an installment payment made by the plan more than 6 years after the installment payment.

4. Except as otherwise provided in NRS 125.141, whether or not application for suit money has been made under the provisions of NRS 125.040, the court may award a reasonable attorney's fee to either party to an action for divorce.

5. In granting a divorce, the court may also set apart such portion of the husband's separate property for the wife's support, the wife's separate property for the husband's support or the separate property of either spouse for the support of their children as is deemed just and equitable.

6. In the event of the death of either party or the subsequent remarriage of the spouse to whom specified periodic payments were to be made, all the payments required by the decree must cease, unless it was otherwise ordered by the court.

7. If the court adjudicates the property rights of the parties, or an agreement by the parties settling their property rights has been approved by the court, whether or not the court has retained jurisdiction to modify them, the adjudication of property rights, and the agreements settling property rights, may nevertheless at any time thereafter be modified by the court upon written stipulation signed and acknowledged by the parties to the action, and in accordance with the terms thereof.

8. If a decree of divorce, or an agreement between the parties which was ratified, adopted or approved in a decree of divorce, provides for specified periodic payments of alimony, the decree or agreement is not subject to modification by the court as to accrued payments. Payments pursuant to a decree entered on or after July 1, 1975, which have not accrued at the time a motion for modification is filed may be modified upon a showing of changed circumstances, whether or not the court has expressly retained jurisdiction for the modification. In addition to any other factors the court considers relevant in determining whether to modify the order, the court shall consider whether

the income of the spouse who is ordered to pay alimony, as indicated on the spouse's federal income tax return for the preceding calendar year, has been reduced to such a level that the spouse is financially unable to pay the amount of alimony the spouse has been ordered to pay.

9. In addition to any other factors the court considers relevant in determining whether to award alimony and the amount of such an award, the court shall consider:

- (a) The financial condition of each spouse;
- (b) The nature and value of the respective property of each spouse;
- (c) The contribution of each spouse to any property held by the spouses pursuant to NRS 123.030;
- (d) The duration of the marriage;
- (e) The income, earning capacity, age and health of each spouse;
- (f) The standard of living during the marriage;
- (g) The career before the marriage of the spouse who would receive the alimony;
- (h) The existence of specialized education or training or the level of marketable skills attained by each spouse during the marriage;
- (i) The contribution of either spouse as homemaker;
- (j) The award of property granted by the court in the divorce, other than child support and alimony, to the spouse who would receive the alimony; and
- (k) The physical and mental condition of each party as it relates to the financial condition, health and ability to work of that spouse.

10. In granting a divorce, the court shall consider the need to grant alimony to a spouse for the purpose of obtaining training or education relating to a job, career or profession. In addition to any other factors the court considers relevant in determining whether such alimony should be granted, the court shall consider:

- (a) Whether the spouse who would pay such alimony has obtained greater job skills or education during the marriage; and
- (b) Whether the spouse who would receive such alimony provided financial support while the other spouse obtained job skills or education.

11. If the court determines that alimony should be awarded pursuant to the provisions of subsection 10:

(a) The court, in its order, shall provide for the time within which the spouse who is the recipient of the alimony must commence the training or education relating to a job, career or profession.

(b) The spouse who is ordered to pay the alimony may, upon changed circumstances, file a motion to modify the order.

(c) The spouse who is the recipient of the alimony may be granted, in addition to any other alimony granted by the court, money to provide for:

(1) Testing of the recipient's skills relating to a job, career or profession;

(2) Evaluation of the recipient's abilities and goals relating to a job, career or profession;

(3) Guidance for the recipient in establishing a specific plan for training or education relating to a job, career or profession;

(4) Subsidization of an employer's costs incurred in training the recipient;

(5) Assisting the recipient to search for a job; or

(6) Payment of the costs of tuition, books and fees for:

(I) The equivalent of a high school diploma;

(II) College courses which are directly applicable to the recipient's goals for his or her career; or

(III) Courses of training in skills desirable for employment.

12. For the purposes of this section, a change of 20 percent or more in the gross monthly income of a spouse who is ordered to pay alimony shall be deemed to constitute changed circumstances requiring a review for modification of the payments of alimony. As used in this subsection, "gross monthly income" ~~has the meaning ascribed to it in NRS 125B.070.~~ **means the total amount of income received each month from any source of a person who is not self-employed or the gross income from any source of a self-employed person, after deduction of all legitimate business expenses, but without deduction for personal income taxes, contributions for retirement benefits, contributions to a pension or for any other personal expenses.**

Sec. 2. NRS 125B.080 is hereby amended to read as follows:

125B.080 ~~{Except as otherwise provided in NRS 425.450:~~

~~—1.} A court of this State shall apply the {appropriate formula set forth in NRS 125B.070} **guidelines established by the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to section 8 of this act to:**~~

~~{(a)} 1.~~ Determine the required support in any case involving the support of children ~~{-~~

~~—(b) Any request filed after July 1, 1987, to change} ; or~~

2. Change the amount of the required support of children.

~~{2.} If the parties agree as to the amount of support required, the parties shall certify that the amount of support is consistent with the appropriate formula set forth in NRS 125B.070. If the amount of support deviates from the formula, the parties must stipulate sufficient facts in accordance with subsection 9 which justify the deviation to the court, and the court shall make a written finding thereon. Any inaccuracy or falsification of financial information which results in an inappropriate award of support is grounds for a motion to modify or adjust the award.~~

~~—3. If the parties disagree as to the amount of the gross monthly income of either party, the court shall determine the amount and may direct either party to furnish financial information or other records, including income tax returns for the preceding 3 years. Once a court has established an obligation for support by reference to a formula set forth in NRS 125B.070, any subsequent modification or adjustment of that support, except for any~~

~~modification or adjustment made pursuant to subsection 3 of NRS 125B.070 or NRS 425.450 or as a result of a review conducted pursuant to subsection 1 of NRS 125B.145, must be based upon changed circumstances.~~

~~— 4. Notwithstanding the formulas set forth in NRS 125B.070, the minimum amount of support that may be awarded by a court in any case is \$100 per month per child, unless the court makes a written finding that the obligor is unable to pay the minimum amount. Willful underemployment or unemployment is not a sufficient cause to deviate from the awarding of at least the minimum amount.~~

~~— 5. It is presumed that the basic needs of a child are met by the formulas set forth in NRS 125B.070. This presumption may be rebutted by evidence proving that the needs of a particular child are not met by the applicable formula.~~

~~— 6. If the amount of the awarded support for a child is greater or less than the amount which would be established under the applicable formula, the court shall:~~

~~— (a) Set forth findings of fact as to the basis for the deviation from the formula; and~~

~~— (b) Provide in the findings of fact the amount of support that would have been established under the applicable formula.~~

~~— 7. Expenses for health care which are not reimbursed, including expenses for medical, surgical, dental, orthodontic and optical expenses, must be borne equally by both parents in the absence of extraordinary circumstances.~~

~~— 8. If a parent who has an obligation for support is willfully underemployed or unemployed to avoid an obligation for support of a child, that obligation must be based upon the parent's true potential earning capacity.~~

~~— 9. The court shall consider the following factors when adjusting the amount of support of a child upon specific findings of fact:~~

~~— (a) The cost of health insurance;~~

~~— (b) The cost of child care;~~

~~— (c) Any special educational needs of the child;~~

~~— (d) The age of the child;~~

~~— (e) The legal responsibility of the parents for the support of others;~~

~~— (f) The value of services contributed by either parent;~~

~~— (g) Any public assistance paid to support the child;~~

~~— (h) Any expenses reasonably related to the mother's pregnancy and confinement;~~

~~— (i) The cost of transportation of the child to and from visitation if the custodial parent moved with the child from the jurisdiction of the court which ordered the support and the noncustodial parent remained;~~

~~— (j) The amount of time the child spends with each parent;~~

~~— (k) Any other necessary expenses for the benefit of the child; and~~

~~— (l) The relative income of both parents.}]~~

Sec. 3. NRS 125B.145 is hereby amended to read as follows:

125B.145 1. An order for the support of a child must, upon the filing of a request for review by:

(a) The Division of Welfare and Supportive Services of the Department of Health and Human Services, its designated representative or the district attorney, if the Division of Welfare and Supportive Services or the district attorney has jurisdiction in the case; or

(b) A parent or legal guardian of the child,
➔ be reviewed by the court at least every 3 years pursuant to this section to determine whether the order should be modified or adjusted. Each review conducted pursuant to this section must be in response to a separate request.

2. If the court:

(a) Does not have jurisdiction to modify the order, the court may forward the request to any court with appropriate jurisdiction.

(b) Has jurisdiction to modify the order and, taking into account the best interests of the child, determines that modification or adjustment of the order is appropriate, the court shall enter an order modifying or adjusting the previous order for support in accordance with the ~~requirements of NRS 125B.070 and 125B.080.~~ **guidelines established by the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to section 8 of this act.**

3. The court shall ensure that:

(a) Each person who is subject to an order for the support of a child is notified, not less than once every 3 years, that the person may request a review of the order pursuant to this section; or

(b) An order for the support of a child includes notification that each person who is subject to the order may request a review of the order pursuant to this section.

4. An order for the support of a child may be reviewed at any time on the basis of changed circumstances. For the purposes of this subsection, a change of 20 percent or more in the gross monthly income of a person who is subject to an order for the support of a child shall be deemed to constitute changed circumstances requiring a review for modification of the order for the support of a child.

5. As used in this section:

(a) "Gross monthly income" has the meaning ascribed to it in NRS ~~125B.070.~~ **125.150.**

(b) "Order for the support of a child" means such an order that was issued or is being enforced by a court of this State.

Sec. 4. NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

(a) The Governor.

(b) Except as otherwise provided in NRS 209.221, the Department of Corrections.

- (c) The Nevada System of Higher Education.
 - (d) The Office of the Military.
 - (e) The Nevada Gaming Control Board.
 - (f) Except as otherwise provided in NRS 368A.140 and 463.765, the Nevada Gaming Commission.
 - (g) ~~The~~ ***Except as otherwise provided in section 8 of this act, the*** Division of Welfare and Supportive Services of the Department of Health and Human Services.
 - (h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services.
 - (i) The State Board of Examiners acting pursuant to chapter 217 of NRS.
 - (j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.
 - (k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.
 - (l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.
 - (m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 445C.310.
 - (n) The Silver State Health Insurance Exchange.
2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.
3. The special provisions of:
- (a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;
 - (b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;
 - (c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and
 - (d) NRS 90.800 for the use of summary orders in contested cases,
- ↪ prevail over the general provisions of this chapter.
4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.
5. The provisions of this chapter do not apply to:
- (a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals,

objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;

(c) A regulation adopted by the State Board of Education pursuant to NRS 388.255 or 394.1694; or

(d) The judicial review of decisions of the Public Utilities Commission of Nevada.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 5. Chapter 425 of NRS is hereby amended by adding thereto the provisions set forth as sections 6, 7 and 8 of this act.

Sec. 6. *As used in this section and sections 7 and 8 of this act, unless the context otherwise requires, "Committee" means the Committee to Review Child Support Guidelines created by section 7 of this act.*

Sec. 7. 1. *The Committee to Review Child Support Guidelines is hereby created. The Committee consists of:*

(a) The presiding judge of the Family Division of the Second Judicial District Court or his or her designee;

(b) The presiding judge of the Family Division of the Eighth Judicial District Court or his or her designee;

(c) One member who is a district court judge or master from a judicial district other than the Second or Eighth Judicial District, appointed by the Chief Justice of the Supreme Court;

(d) One member who is a justice or retired justice of the Supreme Court, appointed by the Chief Justice of the Supreme Court;

(e) One member who is a district attorney in Clark County, appointed by the governing body of the Nevada District Attorneys Association, or his or her designee;

(f) One member who is a district attorney in Washoe County, appointed by the governing body of the Nevada District Attorneys Association, or his or her designee;

(g) One member who is a district attorney in a county other than Clark or Washoe County, appointed by the governing body of the Nevada District Attorneys Association, or his or her designee;

(h) Two members who are members of the Family Law Section of the State Bar of Nevada, appointed by the Executive Council of the Family Law Section;

(i) One member who is an employee of the Division, appointed by the Administrator;

(j) One member who has expertise in economics and child support, appointed by the Administrator;

(k) Two members who are Senators, one of whom is appointed by the Majority Leader of the Senate and one of whom is appointed by the Minority Leader of the Senate; and

(l) Two members who are members of the Assembly, one of whom is appointed by the Speaker of the Assembly and one of whom is appointed by the Minority Leader of the Assembly.

↪ If any association listed in this subsection ceases to exist, the appointment required by this subsection must be made by the association's successor in interest or, if there is no successor in interest, by the Governor.

2. Each appointed member serves a term of 4 years. Members may be reappointed for additional terms of 4 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Committee must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

3. At the first regular meeting every 4 years, the members of the Committee shall elect a Chair by majority vote who shall serve until the next Chair is elected.

4. The Committee shall convene on or before September 1, 2017, and shall meet at least once every 4 years ~~and~~ thereafter. The Committee may also meet at such further times as deemed necessary by the Chair.

5. A majority of the members of the Committee constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Committee.

Sec. 8. 1. On or before July 1, 2018, the Committee shall review the existing guidelines established in this State for the support of one or more children and provide any recommendations for revisions to the Administrator.

2. The Administrator shall review and consider any recommendations of the Committee to revise the guidelines. After reviewing and considering such recommendations, the Administrator shall adopt regulations establishing the guidelines in this State for the support of one or more children in accordance with the requirements set forth in 42 U.S.C. § 667 and 45 C.F.R. § 302.56.

3. In accordance with the provisions of 42 U.S.C. § 667(a) and 45 C.F.R. § 302.56(e), the Committee shall review the guidelines established by regulation pursuant to subsection 2 at least once every 4 years to ensure the maintenance of effective, efficient and appropriate guidelines that best serve the interests of the children of this State and that comply with any requirements set forth in federal law.

4. After each review of the guidelines by the Committee pursuant to subsection 3, the Committee shall provide any recommendations for revisions to the Administrator. The Administrator shall review and consider any such recommendations and may revise or adopt any regulations that the Administrator deems appropriate.

5. *The Administrator shall ensure that any recommendations for revisions to the guidelines received from the Committee pursuant to this section are made available to the public.*

6. *The regulations adopted pursuant to this section must be adopted in accordance with the provisions of chapter 233B of NRS and must be codified in the Nevada Administrative Code.*

Sec. 9. NRS 425.360 is hereby amended to read as follows:

425.360 1. Any payment of public assistance pursuant to this chapter creates a debt for support to the Division by the responsible parent, whether or not the parent received prior notice that the child of the parent was receiving public assistance.

2. The Division is entitled to the amount to which a dependent child or a person having the care, custody and control of a dependent child would have been entitled for support, to the extent of the assignment of those rights to support pursuant to NRS 425.350, and may prosecute or maintain any action for support or execute any administrative remedy existing under the laws of this State to obtain reimbursement of money expended for public assistance from any liable third party, including an insurer, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C.A. § 1167(1), service benefit plan, self-insured plan or health maintenance organization. If a court enters judgment for an amount of support to be paid by a responsible parent, the Division is entitled to the amount of the debt created by that judgment to the extent of the assignment of rights to support pursuant to NRS 425.350, and the judgment awarded shall be deemed to be in favor of the Division to that extent. This entitlement applies to, but is not limited to, a temporary order for spousal support, a family maintenance order or an alimony order, whether or not allocated to the benefit of the child on the basis of providing necessities for the caretaker of the child, up to the amount paid by the Division in public assistance to or for the benefit of a dependent child. The Division may petition the appropriate court for modification of its order on the same grounds as a party to the action.

3. If there is no court order for support, or if the order provides that no support is due but the facts on which the order was based have changed, the amount due is the amount computed pursuant to ~~NRS 125B.070 and 125B.080,~~ ***the guidelines established by the Administrator pursuant to section 8 of this act,*** using the Nevada average wage, determined by the Employment Security Division of the Department of Employment, Training and Rehabilitation, if the gross income of the responsible parent cannot be otherwise ascertained.

4. Debts for support may not be incurred by a parent or any other person who is the recipient of public assistance for the benefit of a dependent child for the period when the parent or other person is a recipient.

5. If a state agency is assigned any rights of a dependent child or a person having the care, custody and control of a dependent child who is

eligible for medical assistance under Medicaid, the person having the care, custody and control of the dependent child shall, upon request of the state agency, provide to the state agency information regarding the dependent child or a person having the care, custody and control of a dependent child to determine:

(a) Any period during which the dependent child or a person having the care, custody and control of a dependent child may be or may have been covered by an insurer; and

(b) The nature of any coverage that is or was provided by the insurer, including, without limitation, the name and address of the insured dependent child or a person having the care, custody and control of a dependent child and the identifying number of the policy, evidence of coverage or contract.

Sec. 10. NRS 425.3824 is hereby amended to read as follows:

425.3824 1. The notice and finding of financial responsibility issued pursuant to NRS 425.3822 must include:

(a) The name of the person who has physical custody of the dependent child and the name of the child for whom support is to be paid.

(b) A statement of the monthly support for which the parent is responsible.

(c) A statement of the amount of arrearages sought, if any.

(d) A statement that the parent may be required to provide coverage for the health care of the dependent child when coverage is available to the parent at a reasonable cost.

(e) A statement of any requirements the Division will request pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382, regarding a plan for the payment of support by the parent or the participation of the parent in work activities.

(f) A statement that if the parent desires to discuss the amount of support or coverage for health care that the parent should be required to pay or provide, the parent may contact the office that sent the notice within 20 days after the date of receipt of service and request a conference for negotiation.

(g) A statement that if the parent objects to any part of the notice and finding of financial responsibility, the parent must send to the office that issued the notice a written response within 20 days after the date of receipt of service that sets forth any objections and requests a hearing.

(h) A statement that if a response is received within the specified period, the parent is entitled to a hearing and that if a written response is not received within the specified period, the master may enter a recommendation for support of a dependent child in accordance with the notice and finding of financial responsibility.

(i) A statement that as soon as the recommendation is entered and approved by the court, the property of the parent is subject to an attachment or other procedure for collection, including, but not limited to, withholding of wages, garnishment, liens and execution on liens.

(j) A reference to NRS 425.382 to 425.3852, inclusive.

(k) A statement that the parent is responsible for notifying the office of any change of address or employment.

(l) A statement that if the parent has any questions, the parent may contact the office or consult an attorney.

(m) Such other information as the Chief finds appropriate.

2. The statement of the monthly support required pursuant to paragraph (b) of subsection 1 must be computed in accordance with ~~NRS 125B.070.~~ ***the guidelines established by the Administrator pursuant to section 8 of this act.***

3. After a conference for negotiation is held pursuant to paragraph (f) of subsection 1, if an agreement is not reached on the monthly support to be paid or the coverage to be provided, a hearing must be held pursuant to NRS 425.3832 and notice of the hearing must be sent to the parent by regular mail at the last known address of the parent or to the last known address of the attorney for the parent.

Sec. 11. NRS 425.450 is hereby amended to read as follows:

425.450 1. The Division shall adopt regulations establishing a formula for:

(a) The adjustment of court orders for the support of children based upon changes in the cost of living; and

(b) The times at which such an adjustment is appropriate.

2. If a request for the review of a court order for the support of a child has not been filed pursuant to NRS 125B.145 for such a time as the Division establishes pursuant to subsection 1, the Chief may, as provided in this section, order the responsible parent to pay monthly the amount the responsible parent is required to pay pursuant to the court order plus an additional amount to compensate for changes in the cost of living.

3. Upon request by the responsible parent, the person to whom support is owed or the enforcing authority, the Chief shall:

(a) Determine, in accordance with the formula established pursuant to subsection 1, the amount of the additional payments; and

(b) Notify the responsible parent, by first-class mail to the last known address of the responsible parent, of the amount of the additional payments and that the additional payments must be made within 30 days after the mailing of the notice to the parent unless a request for a review of the court order is filed pursuant to NRS 125B.145 within that time.

4. If a request for a review of the court order:

(a) Is filed pursuant to NRS 125B.145 within those 30 days, the court shall proceed pursuant to that section and the Chief shall not enter an order pursuant to this section.

(b) Is not filed pursuant to NRS 125B.145 within those 30 days, the Chief shall order the responsible parent to pay the additional amount.

5. An order entered by the Chief pursuant to this section expires upon modification or adjustment, pursuant to NRS 125B.145, of the court order upon which the order entered by the Chief is based.

6. ~~The provisions of NRS 125B.080 do not apply to the entry of an order by the Chief pursuant to this section.~~

~~7.]~~ As used in this section, “court order” means an order that a court of this state has jurisdiction to modify pursuant to chapter 130 of NRS.

Sec. 12. NRS 432B.560 is hereby amended to read as follows:

432B.560 1. The court may also order:

(a) The child, a parent or the guardian to undergo such medical, psychiatric, psychological, or other care or treatment as the court considers to be in the best interests of the child.

(b) A parent or guardian to refrain from:

(1) Any harmful or offensive conduct toward the child, the other parent, the custodian of the child or the person given physical custody of the child; and

(2) Visiting the child if the court determines that the visitation is not in the best interest of the child.

(c) A reasonable right of visitation for a grandparent of the child if the child is not permitted to remain in the custody of the parents of the child.

2. The court shall order a parent or guardian to pay to the custodian an amount sufficient to support the child while the child is in the care of the custodian pursuant to an order of the court, unless the child was delivered to a provider of emergency services pursuant to NRS 432B.630 and the location of the parent is unknown. Payments for the obligation of support must be determined in accordance with ~~[NRS 125B.070 and 125B.080,]~~ ***the guidelines established by the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to section 8 of this act***, but must not exceed the reasonable cost of the child’s care, including food, shelter, clothing, medical care and education. An order for support made pursuant to this subsection must:

(a) Require that payments be made to the appropriate agency or office;

(b) Provide that the custodian is entitled to a lien on the obligor’s property in the event of nonpayment of support; and

(c) Provide for the immediate withholding of income for the payment of support unless:

(1) All parties enter into an alternative written agreement; or

(2) One party demonstrates and the court finds good cause to postpone the withholding.

3. A court that enters an order pursuant to subsection 2 shall ensure that the social security number of the parent or guardian who is the subject of the order is:

(a) Provided to the Division of Welfare and Supportive Services of the Department of Health and Human Services.

(b) Placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.

Sec. 13. NRS 125B.070, 125B.085 and 125B.095 are hereby repealed.

Sec. 14. 1. This section and sections 4 to 8, inclusive, of this act become effective upon passage and approval.

2. Sections 1, 2, 3 and 9 to 13, inclusive, of this act become effective on the effective date of the regulations adopted by the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services establishing the guidelines in this State for the support of one or more children pursuant to section 8 of this act.

TEXT OF REPEALED SECTIONS

125B.070 Amount of payment: Definitions; adjustment of presumptive maximum amount based on change in Consumer Price Index.

1. As used in this section and NRS 125B.080, unless the context otherwise requires:

(a) “Gross monthly income” means the total amount of income received each month from any source of a person who is not self-employed or the gross income from any source of a self-employed person, after deduction of all legitimate business expenses, but without deduction for personal income taxes, contributions for retirement benefits, contributions to a pension or for any other personal expenses.

(b) “Obligation for support” means the sum certain dollar amount determined according to the following schedule:

- (1) For one child, 18 percent;
- (2) For two children, 25 percent;
- (3) For three children, 29 percent;
- (4) For four children, 31 percent; and
- (5) For each additional child, an additional 2 percent,

↪ of a parent’s gross monthly income, but not more than the presumptive maximum amount per month per child set forth for the parent in subsection 2 for an obligation for support determined pursuant to subparagraphs (1) to (4), inclusive, unless the court sets forth findings of fact as to the basis for a different amount pursuant to subsection 6 of NRS 125B.080.

2. For the purposes of paragraph (b) of subsection 1, the presumptive maximum amount per month per child for an obligation for support, as adjusted pursuant to subsection 3, is:

PRESUMPTIVE MAXIMUM AMOUNT

INCOME RANGE		The Presumptive Maximum Amount the Parent May Be Required to Pay per Month per Child Pursuant to Paragraph (b) of Subsection 1 Is	
If the Parent’s Gross Monthly Income is at Least	But Less Than		
\$0	-	\$4,168	\$500
4,168	-	6,251	550
6,251	-	8,334	600

8,334	-	10,418	650
10,418	-	12,501	700
12,501	-	14,583	750

If a parent's gross monthly income is equal to or greater than \$14,583, the presumptive maximum amount the parent may be required to pay pursuant to paragraph (b) of subsection 1 is \$800.

3. The presumptive maximum amounts set forth in subsection 2 for the obligation for support must be adjusted on July 1 of each year for the fiscal year beginning that day and ending June 30 in a rounded dollar amount corresponding to the percentage of increase or decrease in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year. On April 1 of each year, the Office of Court Administrator shall determine the amount of the increase or decrease required by this subsection, establish the adjusted amounts to take effect on July 1 of that year and notify each district court of the adjusted amounts.

4. As used in this section, "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320.

125B.085 Order for support to include provision regarding medical support for child.

1. Except as otherwise provided in NRS 125B.012, every court order for the support of a child issued or modified in this State on or after June 2, 2007, must include a provision specifying that one or both parents are required to provide medical support for the child and any details relating to that requirement.

2. As used in this section, "medical support" includes, without limitation, coverage for health care under a plan of insurance that is reasonable in cost and accessible, including, without limitation, the payment of any premium, copayment or deductible and the payment of medical expenses. For the purpose of this subsection:

(a) Payments of cash for medical support or the costs of coverage for health care under a plan of insurance are "reasonable in cost" if:

(1) In the case of payments of cash for medical support, the cost to each parent who is responsible for providing medical support is not more than 5 percent of the gross monthly income of the parent; or

(2) In the case of the costs of coverage for health care under a plan of insurance, the cost of adding a dependent child to any existing coverage for health care or the difference between individual and family coverage, whichever is less, is not more than 5 percent of the gross monthly income of the parent.

(b) Coverage for health care under a plan of insurance is "accessible" if the plan:

(1) Is not limited to coverage within a geographical area; or

(2) Is limited to coverage within a geographical area and the child resides within that geographical area.

125B.095 Penalty for delinquent payment of installment of obligation of support.

1. Except as otherwise provided in this section and NRS 125B.012, if an installment of an obligation to pay support for a child which arises from the judgment of a court becomes delinquent in the amount owed for 1 month's support, a penalty must be added by operation of this section to the amount of the installment. This penalty must be included in a computation of arrearages by a court of this State and may be so included in a judicial or administrative proceeding of another state. A penalty must not be added to the amount of the installment pursuant to this subsection if the court finds that the employer of the responsible parent or the district attorney or other public agency in this State that enforces an obligation to pay support for a child caused the payment to be delinquent.

2. The amount of the penalty is 10 percent per annum, or portion thereof, that the installment remains unpaid. Each district attorney or other public agency in this State undertaking to enforce an obligation to pay support for a child shall enforce the provisions of this section.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 282.

Bill read second time.

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

Amendment No. 201.

SUMMARY—Revises provisions governing benefits and protections for service **members and the spouses of service** members. (BDR 52-625)

AN ACT relating to trade practices; authorizing certain service members who receive certain military orders to relocate or deploy to terminate ~~, for~~ suspend **or reinstate** a contract for certain services ~~;~~ ~~authorizing such a service member to reinstate such a contract;~~ **providing such authority to the spouse of such a service member who receives certain orders to relocate;** prohibiting the imposition of certain penalties, fees or other charges on a service member **or the spouse of a service member** who terminates **, suspends or reinstates such** a contract ~~;~~ ~~for certain services after receiving certain military orders to relocate or deploy;~~ authorizing a service member **, the spouse of a service member** or the Attorney General to bring an action against a person who violates certain provisions; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The federal Servicemembers Civil Relief Act (50 U.S.C. §§ 3901 et seq.) authorizes members of the military and members of certain other uniformed services who receive military orders to relocate for a period of at least 90

days to terminate a contract for cellular telephone service or telephone exchange service, without incurring certain penalties. The federal Act further provides certain benefits to a member of the military or a service member who resubscribes to the terminated service within a certain period, including, without limitation, the right to retain the telephone number under the terminated contract. (50 U.S.C. § 3956)

Generally, this bill authorizes a member of the military or a member of certain other uniformed services to terminate, suspend or reinstate a contract for certain services. **Section 5** of this bill authorizes a service member to terminate or suspend a contract for membership in a health club and a contract for telecommunication service, Internet service or video service if the service member receives military orders for a permanent change of station or to deploy for a period of at least 30 days. **If a service member receives military service orders for a permanent change of station, his or her spouse is authorized by section 5 to terminate or suspend such contracts.** ~~Section 5 of this bill~~ further authorizes the service member to terminate a contract for cellular telephone service or telephone exchange service under the circumstances set forth in the federal Servicemembers Civil Relief Act. **Section 6 of this bill** sets forth the terms upon which a service member **or the spouse of a service member** may reinstate the contract for service described in **section 5**. **Section 7** of this bill prohibits a service provider from charging penalties or certain additional charges because of the termination, suspension or reinstatement of a contract pursuant to this bill. **Section 8** of this bill: (1) authorizes a person injured by a violation of this bill to bring an action to recover damages or for declaratory or equitable relief; and (2) authorizes the court to award attorney's fees and costs to a plaintiff who prevails in such an action. **Section 9** of this bill authorizes the Attorney General to: (1) bring an action against a person who has violated, is violating or is about to violate a provision of this bill; and (2) obtain certain remedies in that action, including injunctive relief, a civil penalty of not more than \$25,000 for a first violation and \$50,000 for any subsequent violation, or restitution for the service member ~~or~~ **or the spouse of the service member, as applicable.**

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *As used in sections 2 to 9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Service member" means a person who is stationed in or a resident of this State and who is:*

1. A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States who is on active duty;

2. A member of the Merchant Marine, the Commissioned Corps of the Public Health Service or the Commissioned Corps of the National Oceanic and Atmospheric Administration of the United States; or

3. A member of the National Guard.

Sec. 4. “Written notice” includes, without limitation, the provision of notice by electronic mail.

Sec. 5. 1. A service member may, upon written notice to the service provider, terminate or suspend a contract for a service described in subsection ~~2~~ 3 at any time after the date the service member receives military service orders:

(a) For a permanent change of station; or

(b) To deploy with a military unit, or as an individual in support of a military operation, for a period of not less than 30 days.

2. If a service member receives military service orders for a permanent change of station, the spouse of the service member may, upon written notice to the service provider, terminate or suspend a contract for a service described in subsection 3 at any time after the date the service member receives the military service orders for a permanent change of station.

~~2~~ 3. The provisions of ~~subsection 1~~ subsections 1 and 2 apply to a contract for any of the following services:

(a) Except as otherwise provided in subsection ~~5~~ 6, telecommunication service.

(b) Internet service.

(c) Membership in a health club.

(d) Video service.

~~3~~ 4. The service member or the spouse of a service member must provide written proof to the service provider of the official military service orders showing that the service member has been relocated or deployed, as ~~described in subsection 1~~ applicable:

(a) At the time written notice is given pursuant to subsection 1 ~~1~~ or 2; or

(b) If precluded by military necessity or circumstances that make the provision of proof at that time unreasonable or impossible, within 90 days after the written notice is given.

~~4~~ 5. A termination or suspension of a contract for services under this section is effective on the ~~day~~ date on which written notice is given by the service member or the spouse of a service member, as applicable, pursuant to subsection 1 ~~1~~ or 2. The termination or suspension of service does not eliminate or alter any contractual obligation to pay for services rendered before the effective date of the written notice, unless otherwise provided by law.

~~15.1~~ 6. A service member may terminate a contract for cellular telephone service or telephone exchange service in accordance with the provisions of 50 U.S.C. § 3956.

~~16.1~~ 7. As used in this section:

(a) "Health club" has the meaning ascribed to it in NRS 598.9415.

(b) "Telecommunication service" has the meaning ascribed to it in NRS 711.135.

(c) "Video service" means the provision of multichannel video programming generally considered comparable to video programming delivered by a television broadcast station, cable service or other digital television service, whether provided as part of a tier, on-demand or on a per channel basis, without regard to the technology used to deliver the video service.

(1) The term includes, without limitation:

(I) Cable service; and

(II) Internet protocol technology or any successor technology.

(2) The term does not include:

(I) Any video content provided solely as part of, and through, a service that enables users to access content, information, electronic mail or other services that are offered via the public Internet.

(II) Any wireless multichannel video programming provided by a commercial mobile service provider.

Sec. 6. 1. A service member or the spouse of a service member who terminates or suspends a contract for the provision of a service pursuant to section 5 of this act may, upon giving written notice to the service provider within 90 days after termination of the service member's relocation or deployment, as applicable, reinstate the provision of services:

(a) If the service member was relocated or deployed for not more than 12 consecutive months, on the same terms and conditions as originally agreed upon with the service provider before the termination or suspension.

(b) If the service member was relocated or deployed for more than 12 consecutive months, on the same terms and conditions that were offered by the service provider to any new customer at the lowest discounted or promotional rate within the 12-month period immediately preceding the termination of ~~this or her~~ the service member's relocation or deployment.

2. Upon receipt of the written notice of reinstatement, the service provider must resume the provision of services or, if the services are no longer available, provide substantially similar services within a reasonable time, not exceeding 30 days, from the date of receipt of the written notice of reinstatement.

Sec. 7. A service member or the spouse of a service member who terminates, suspends or reinstates a contract for the provision of a service pursuant to sections 2 to 9, inclusive, of this act:

1. *Must not be charged a penalty, fee, loss of deposit or any other additional cost because of the termination, suspension or reinstatement; and*

2. *Is not liable for payment for any services after the effective date of the termination or suspension, and until the effective date of a reinstatement of services pursuant to section 6 of this act, if applicable.*

Sec. 8. 1. *Any person injured by a violation of sections 2 to 9, inclusive, of this act may bring an action for recovery of damages or for declaratory or equitable relief.*

2. *In addition to the relief authorized by this section, the court may award reasonable attorney's fees and costs to a plaintiff that prevails under this section.*

Sec. 9. *If the Attorney General has reason to believe that a person has violated, is violating or is about to violate any of the provisions of sections 2 to 9, inclusive, of this act, the Attorney General may institute an appropriate legal proceeding against the person. The district court, upon a showing that the person has violated, is violating or is about to violate any of the provisions of sections 2 to 9, inclusive, of this act, may grant any of the following remedies, as appropriate:*

1. *Issue a temporary or permanent injunction.*

2. *Impose a civil penalty not to exceed:*

(a) *For a first violation, \$25,000; and*

(b) *For any subsequent violation, \$50,000.*

3. *Issue a declaratory judgment.*

4. *Order restitution for the service member ~~or~~ or the spouse of the service member, as applicable.*

5. *Order the payment of attorney's fees and costs.*

6. *Order such other relief as the court deems just.*

Sec. 10. This act becomes effective on July 1, 2017.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 292.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 476.

AN ACT relating to education; requiring the principal of a public school ~~[who receives a report of bullying or cyber-bullying to report the matter to the board of trustees of the school district in which the school is located,] to~~ submit a monthly report to his or her direct supervisor that includes certain information relating to reports of bullying or cyber-bullying; requiring the direct supervisor of a principal to report certain information relating to reports of bullying or cyber-bullying to the

Office for a Safe and Respectful Learning Environment each quarter; requiring the principal to notify the parents or guardians of certain pupils before interviewing such a pupil about the matter; **requiring the board of trustees of a school district to reassign a pupil who is a victim of bullying or cyber-bullying to a different school upon request of the parent or guardian of the pupil;** and providing other matters properly relating thereto.
Legislative Counsel's Digest:

Existing law requires a public school teacher or other staff member who witnesses bullying or cyber-bullying or receives information about an incident of bullying or cyber-bullying to report the matter to the principal or a person designated by the principal. The principal or designee is required to take any necessary action to stop the bullying or cyber-bullying, ensure the safety of the victim and begin an investigation into the report. (NRS 388.1351) This bill requires ~~that~~ the **board of trustees of the school district in which a pupil is enrolled to assign a pupil who is the victim of bullying or cyber-bullying to a different school upon the request of the parent or guardian of the pupil.**

This bill also requires a principal or designee ~~also~~ to submit a monthly report to the direct supervisor of the principal that includes the ~~matter to the board of trustees of the school district in which the school is located.~~ number of: (1) reports received concerning incidents of bullying or cyber-bullying; (2) times in which a violation is found to have occurred; and (3) times in which no violation is found to have occurred. This bill also requires the direct supervisor of a principal to submit a quarterly report containing this information to the Office for a Safe and Respectful Learning Environment.

Existing law further provides that the required investigation must include notification to the parents or guardians of all the pupils directly involved in the matter, whether as reported aggressors or victims, and an interview of those pupils. (NRS 388.1351) This bill requires that the parental notification precede any such interview, and that it advise the relevant parents or guardians that the pupil will be interviewed.

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

Section 1. NRS 388.1351 is hereby amended to read as follows:

388.1351 1. A teacher, administrator, principal, coach or other staff member who witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred shall report the violation to the principal or his or her designee as soon as practicable, but not later than a time during the same day on which the teacher, administrator, principal, coach or other staff member witnessed the violation or received information regarding the occurrence of a violation.

2. Upon receiving a report required by subsection 1, the principal or designee shall immediately ~~to~~

~~—(a) Immediately—~~ take any necessary action to stop the bullying or cyber-bullying and ensure the safety and well-being of the reported victim or victims of the bullying or cyber-bullying and shall begin ~~to~~

~~—(b) Begin—~~ an investigation into the report, ~~to~~ and

~~—(c) Report the violation to the board of trustees of the school district in which the school is located as soon as practicable, but not later than 1 school day after the principal or designee receives a report made pursuant to subsection 1.—~~

3. The investigation *conducted pursuant to subsection 2* must include, without limitation:

(a) Except as otherwise provided in subsection ~~{3,}~~ 4, notification provided by telephone, electronic mail or other electronic means or provided in person, of the parents or guardians of all pupils directly involved in the reported bullying or cyber-bullying, as applicable, either as a reported aggressor or a reported victim of the bullying or cyber-bullying. *The notification of the parents or guardians of a pupil must precede any interview of the pupil conducted pursuant to paragraph (b) and must advise the parents or guardians that the pupil will be interviewed.* The notification must be provided not later than:

(1) If the bullying or cyber-bullying is reported before the end of school hours on a school day, 6 p.m. on the day on which the bullying or cyber-bullying is reported; or

(2) If the bullying or cyber-bullying was reported on a day that is not a school day, or after school hours on a school day, 6 p.m. on the school day following the day on which the bullying or cyber-bullying is reported.

(b) Interviews with all pupils whose parents or guardians must be notified pursuant to paragraph (a) and with all such parents and guardians.

~~{3,}~~ 4. If the contact information for the parent or guardian of a pupil in the records of the school is not correct, a good faith effort to notify the parent or guardian shall be deemed sufficient to meet the requirement for notification pursuant to paragraph (a) of subsection ~~{2,}~~

~~—4,}~~ 3.

5. Except as otherwise provided in this subsection, an investigation required by this section must be completed not later than 2 school days after the principal or designee receives a report required by subsection 1. If the principal or designee is not able to complete the interviews required by paragraph (b) of subsection ~~{2,}~~ 3 within 2 school days after making a good faith effort because any of the persons to be interviewed is not available, 1 additional school day may be used to complete the investigation.

~~{5,}~~ 6. A principal or designee who conducts an investigation required by this section shall complete a written report of the findings and conclusions of the investigation. If a violation is found to have occurred, the report must include recommendations concerning the imposition of disciplinary action or other measures to be imposed as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of

the school district. Subject to the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, the report must be made available, not later than 24 hours after the completion of the written report, to all parents or guardians who must be notified pursuant to paragraph (a) of subsection ~~12~~ 3 as part of the investigation.

~~16~~ 7. Not later than 10 school days after receiving a report required by subsection 1, the principal or designee shall meet with each reported victim of the bullying or cyber-bullying to inquire about the well-being of the reported victim and to ensure that the reported bullying or cyber-bullying, as applicable, is not continuing.

~~17~~ 8. To the extent that information is available, the principal or his or her designee shall provide a list of any resources that may be available in the community to assist a pupil to each parent or guardian of a pupil to whom notice was provided pursuant to this section as soon as practicable. Such a list may include, without limitation, resources available at no charge or at a reduced cost. If such a list is provided, the principal, his or her designee, or any employee of the school or the school district is not responsible for providing such resources to the pupil or ensuring the pupil receives such resources.

~~18~~ 9. The parent or guardian of a pupil involved in the reported violation of NRS 388.135 may appeal a disciplinary decision of the principal or his or her designee, made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district. Not later than 30 days after receiving a response provided in accordance with such a policy, the parent or guardian may submit a complaint to the Department. The Department shall consider and respond to the complaint pursuant to procedures and standards prescribed in regulations adopted by the Department.

10. If a violation of NRS 388.135 is found to have occurred, the parent or guardian of a pupil who is a victim of bullying or cyber-bullying may request that the board of trustees of the school district in which the pupil is enrolled to assign the pupil to a different school in the school district. Upon receiving such a request, the board of trustees shall, in consultation with the parent or guardian of the pupil, assign the pupil to a different school.

11. A principal or his or her designee shall submit a monthly report to the direct supervisor of the principal that includes for the school the number of:

(a) Reports received pursuant to subsection 1;

(b) Times in which a violation of NRS 388.135 is found to have occurred; and

(c) Times in which no violation of NRS 388.135 is found to have occurred.

12. A direct supervisor who receives a monthly report pursuant to subsection 11 shall, each calendar quarter, submit a report to the Office for

a Safe and Respectful Learning Environment that includes, for the schools for which the direct supervisor has received a monthly report in the calendar quarter, the:

- (a) Total number of reports received pursuant to subsection 1;
- (b) Number of times in which a violation of NRS 388.135 is found to have occurred; and
- (c) Number of times in which no violation of NRS 388.135 is found to have occurred.

Sec. 2. This act becomes effective on July 1, 2017.

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 294.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 438.

SUMMARY—Requires ~~fa hosting platform~~ **an accommodations facilitator** to collect and remit room taxes under certain circumstances. (BDR 20-874)

AN ACT relating to taxation; requiring certain ~~hosting platforms~~ **accommodations facilitators** to collect and remit taxes on the rental of transient lodging under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs the imposition and collection of the taxes on the rental of transient lodging. (Chapters 244 and 268 of NRS) **Existing law requires each board of county commissioners and the city council or other governing body of each incorporated city to define the term "transient lodging" for the purposes of such taxes. (NRS 244.33565, 268.0195)** This bill ~~provides that if a local government authorizes the rental of certain residences for use as transient lodging, the local government must~~ **requires a board of county commissioners and the city council or other governing body of an incorporated city to require a commercial hosting platform through which the residence is rented for use as** **an accommodations facilitator who, for a fee or other charge, brokers, coordinates, makes available or otherwise arranges for the rental of transient lodging and who collects the charge for the rental of the transient lodging** **to collect and remit to the** ~~government~~ **county or city, as applicable,** the taxes on the rental of transient lodging imposed in the ~~jurisdiction of the local government.~~ **county or city, as applicable.**

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. ~~Notwithstanding any other provision of law : if the board of county commissioners authorizes an owner or lessee of a residential unit located in the county to rent the residential unit or a room or space within the residential unit for the purposes of transient lodging;~~

(a) ~~The~~ A board of county commissioners ~~must~~ shall require ~~a hosting platform which,~~ an accommodations facilitator who, for a fee or other charge, brokers, coordinates, makes available or otherwise arranges for the rental of transient lodging in the county and who, on behalf of the owner ~~for lessee,~~ , operator or manager of the transient lodging, collects the gross receipts from the rental of ~~the residential unit or a room or space within the residential unit~~ such transient lodging to collect and remit to the county all taxes imposed on the gross receipts from the rental of transient lodging in that county; and

(b) ~~A hosting platform which, on behalf of the owner or lessee,~~ An accommodations facilitator who, for a fee or other charge, brokers, coordinates, makes available or otherwise arranges for the rental of transient lodging in the county and who, on behalf of the owner, operator or manager of the transient lodging, collects the gross receipts from the rental of ~~the residential unit or a room or space within the residential unit~~ such transient lodging must be deemed to be engaged in the business of providing transient lodging in the county and to be the person providing the transient lodging.

2. As used in this section:

(a) ~~“Hosting platform”~~ “Accommodations facilitator” means a person, other than the owner, operator or manager of transient lodging, who, for a fee or other charge, provides on an Internet website an online platform through which an owner or lessee of a residential unit may advertise the rental of the residential unit or a room or space within the residential unit for the purposes of transient lodging and conduct a transaction by which the owner or lessee rents the residential unit or a room or space within the residential unit for the purposes of transient lodging; ~~brokers, coordinates, makes available or otherwise arranges for the rental of transient lodging.~~

(b) ~~“Residential unit” means a single family residence or an individual residential unit within a larger building, including, without limitation, an apartment, condominium, townhouse or duplex.~~ “Transient lodging” has the meaning ascribed to it in the ordinance adopted pursuant to NRS 244.33565 by the board of county commissioners to define the term “transient lodging” for the purpose of all taxes imposed by the board on the rental of transient lodging.

Sec. 2. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Notwithstanding any other provision of law : if an ordinance adopted by the city council or other governing body of an incorporated city authorizes an owner or lessee of a residential unit located in the incorporated city to rent the residential unit or a room or space within the residential unit for the purposes of transient lodging.~~

(a) ~~The~~ A city council or other governing body ~~must~~ of an incorporated city shall require ~~a hosting platform which,~~ an accommodations facilitator who, for a fee or other charge, brokers, coordinates, makes available or otherwise arranges for the rental of transient lodging in the incorporated city and who, on behalf of the owner ~~for lessee,~~ operator or manager of the transient lodging, collects the gross receipts from the rental of ~~the residential unit or a room or space within the residential unit~~ such transient lodging to collect and remit to the incorporated city all taxes imposed on the gross receipts from the rental of transient lodging in the incorporated city; and

(b) ~~A hosting platform which,~~ An accommodations facilitator who, for a fee or other charge, brokers, coordinates, makes available or otherwise arranges for the rental of transient lodging in the incorporated city and who, on behalf of the owner ~~for lessee,~~ operator or manager of the transient lodging, collects the gross receipts from the rental of ~~the residential unit or a room or space within the residential unit~~ such transient lodging must be deemed to be engaged in the business of providing transient lodging in the incorporated city and to be the person providing the transient lodging.

2. As used in this section:

(a) ~~“Hosting platform”~~ “Accommodations facilitator” means a person, other than the owner, operator or manager of transient lodging, who, for a fee or other charge, ~~provides on an Internet website an online platform through which an owner or lessee of a residential unit may advertise the rental of the residential unit or a room or space within the residential unit for the purposes of transient lodging and conduct a transaction by which the owner or lessee rents the residential unit or a room or space within the residential unit for the purposes of transient lodging.~~ brokers, coordinates, makes available or otherwise arranges for the rental of transient lodging.

(b) ~~“Residential unit” means a single family residence or an individual residential unit within a larger building, including, without limitation, an apartment, condominium, townhouse or duplex.~~ “Transient lodging” has the meaning ascribed to it in the ordinance adopted pursuant to NRS 268.0195 by the city council or other governing body of an incorporated city to define the term “transient lodging” for the purpose of all taxes imposed by the city council or other governing body on the rental of transient lodging in the incorporated city.

Sec. 3. This act becomes effective on July 1, 2017.

Assemblywoman Neal moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 303.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 341.

SUMMARY—Requires that core correctional services be provided only by the State or a local government ~~with certain exceptions.~~ **with certain exceptions.** (BDR 16-1103)

AN ACT relating to corrections; requiring core correctional services to be provided only by the State or a local government ~~with certain exceptions~~; ~~repealing provisions relating to the operation of private facilities and institutions that house prisoners;~~ **with certain exceptions;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.3 ~~Section 1.3~~ **Except as otherwise authorized by section 1.7 of this bill, section 1.3** of this bill requires: (1) state and local prisons, jails and detention facilities which house prisoners to be under the **administrative and** direct operational control of the State or a local government, as applicable; and (2) core correctional services to be performed by employees of the State or local government. **Section 1.3** ~~Section 1.3~~ also prohibits the performance of core correctional services by private entities ~~Section 5 of this bill repeals provisions which relate to the operation of private facilities and institutions that house prisoners.~~ **except as otherwise authorized by section 1.7.**

Section 1.7 authorizes the Department of Corrections, until June 30, 2022, to enter into contracts with private entities to perform core correctional services to promote the safety of prisoners, employees of prisons and the public by reducing overcrowding in prisons. Section 1.7 requires such a private entity to comply with certain requirements for housing, custody, medical and mental health treatment, and programming. Section 1.7 sets forth certain requirements governing the transfer of a prisoner to a facility that is located outside of this State. Section 1.7 also requires the Director of the Department to prepare and submit for transmittal to the Legislative Commission an annual report which includes certain information relating to prisoners who are housed outside of this State. Finally, section 1.7 requires the Department to conduct biannual on-site inspections of facilities of private entities to ensure the compliance of such entities with the terms of the contract.

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

Section 1. Chapter 208 of NRS is hereby amended by adding thereto ~~the~~
~~new section to read as follows:~~ the provisions set forth as sections 1.3 and
1.7 of this act.

Sec. 1.3. 1. Except as otherwise provided in section 1.7 of this act:

(a) Each prison that houses prisoners who are in the custody of the State or a local government must be under the administrative and direct operational control of the State or local government, as applicable. The core correctional services at each such prison must be performed only by employees of the State or local government, as applicable.

~~{2}~~ (b) The core correctional services of a prison must not be performed by a private entity.

~~{3}~~ 2. A condition, stipulation or provision in a contract that conflicts with this section is against the public policy of this State and is void and unenforceable.

~~{4}~~ 3. As used in this section, “core correctional services” means the housing, safeguarding, protection and disciplining of prisoners.

Sec. 1.7. 1. The Department of Corrections may enter into one or more contracts with one or more private entities to perform core correctional services to promote the safety of prisoners, employees of prisons and the public by reducing overcrowding in prisons.

2. A private entity which performs core correctional services pursuant to a contract entered into pursuant to this section shall comply with the requirements for housing, custody, medical and mental health treatment, and programming set forth in law and regulation and approved by the Board of State Prison Commissioners. Such requirements must be included in any contract entered into pursuant to this section.

3. If, pursuant to a contract entered into with a private entity pursuant to this section, the Department of Corrections proposes to transfer a prisoner to a facility that is located outside of this State:

(a) The Department must give first priority for any such transfer to a prisoner who is not a permanent resident of this State and who meets such other qualifications for such a transfer as are established by the Director of the Department; and

(b) The Department must ensure that the prisoner is provided with the ability to conduct visits by videoconferencing.

4. The Director of the Department of Corrections shall, on or before December 31 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission a report which includes, without limitation, the number of prisoners who are housed out of this State and, for each prisoner:

(a) The identification number assigned to the prisoner;

(b) The state of residence of the prisoner;

- (c) The level of security restrictions imposed on the prisoner;
- (d) The category of offense for which the prisoner was convicted;
- (e) A statement as to whether the prisoner is a veteran, as defined in NRS 176A.090;
- (f) Any programs which are available to the prisoner;
- (g) Any programs which the prisoner completed; and
- (h) The date on which the prisoner is projected to be released by expiration of his or her term of sentence or by parole.
- 5. The Department of Corrections shall biannually conduct an on-site inspection of each facility where a prisoner is housed by a private entity with which the Department has contracted to perform core correctional services pursuant to this section to ensure the compliance of the entity with the terms of the contract.
- 6. As used in this section, "core correctional services" means the housing, safeguarding, protection and disciplining of prisoners.

Sec. 2. NRS 209.141 is hereby amended to read as follows:

209.141 The Director may, with the approval of the Board ~~§~~ **and except as otherwise provided pursuant to section ~~§~~ 1.3 of this act**, enter into agreements with other governmental agencies and with private organizations to carry out the purposes of this chapter.

Sec. 3. NRS 209.4889 is hereby amended to read as follows:

209.4889 1. ~~{The}~~ **Except as otherwise provided in section ~~§~~ 1.3 of this act, the** Director may enter into one or more contracts with one or more public or private entities to provide any of the following services, as necessary and appropriate, to offenders or parolees participating in a correctional or judicial program:

- (a) Transitional housing;
- (b) Treatment pertaining to substance abuse or mental health;
- (c) Training in life skills;
- (d) Vocational rehabilitation and job skills training; and
- (e) Any other services required by offenders or parolees who are participating in a correctional or judicial program.

2. The Director may consult with the Division before entering into a contract with a public or private entity pursuant to subsection 1.

3. The Director shall, as necessary and appropriate, provide referrals and information regarding:

- (a) Any of the services provided pursuant to subsection 1;
- (b) Access and availability of any appropriate self-help groups;
- (c) Social services for families and children; and
- (d) Permanent housing.

4. The Director may apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of this section. Money received pursuant to this subsection may be deposited with the State Treasurer for credit to the Account for Reentry Programs in the State General Fund created by NRS 480.810.

5. A contract entered into between the Director and a public or private entity pursuant to subsection 1 must require the entity to:

(a) Provide a budget concerning all services the entity will provide during the duration of any grant received.

(b) Provide all services required by any grant received.

(c) Provide to the Department for its approval a curriculum for any program of services the entity will provide.

(d) Provide to the Division, if appropriate, a list of the parolees who have completed or are currently participating in a program of services provided by the entity pursuant to any grant received.

(e) Provide to any offender or parolee who completes a program of services provided by the entity a certificate of completion, and provide a copy of such a certificate to the Division or the Department, as appropriate.

(f) To the extent financially practicable and necessary, assess the risk levels and needs of offenders and parolees by using a validated assessment tool.

(g) Share with the Director information concerning assessments of the risk levels and needs of offenders and parolees so the Director can ensure that adequate assessments are being conducted.

(h) While the entity is providing services pursuant to the contract, meet annually with the Director, a representative of the Division, and other entities that have entered into a contract with the Director pursuant to subsection 1 to discuss, without limitation:

(1) The services provided by the entities, including the growth and success of the services, any problems with the services and any potential solutions to such problems;

(2) Issues relating to the reentry of offenders and parolees into the community and reducing the risk of recidivism; and

(3) Issues relating to offenders and parolees who receive services from an entity and are subsequently convicted of another crime.

6. As used in this section, “training in life skills” includes, without limitation, training in the areas of:

(a) Parenting;

(b) Improving human relationships;

(c) Preventing domestic violence;

(d) Maintaining emotional and physical health;

(e) Preventing abuse of alcohol and drugs;

(f) Preparing for and obtaining employment; and

(g) Budgeting, consumerism and personal finances.

Sec. 3.5. Section 1.3 of this act is hereby amended to read as follows:

~~Sec. 1.3. 1. Except as otherwise provided in section 1.7 of this act:~~

~~(a)~~ Each prison that houses prisoners who are in the custody of the State or a local government must be under the administrative and direct operational control of the State or local government, as applicable. The

core correctional services at each such prison must be performed only by employees of the State or local government, as applicable.

~~[(b)] 2.~~ The core correctional services of a prison must not be performed by a private entity.

~~2.] 3.~~ A condition, stipulation or provision in a contract that conflicts with this section is against the public policy of this State and is void and unenforceable.

~~3.] 4.~~ As used in this section, “core correctional services” means the housing, safeguarding, protection and disciplining of prisoners.

Sec. 4. ~~[(The provisions of section 1 of this act apply to a contract or agreement entered into before, on or after July 1, 2017.) (Deleted by amendment.)]~~

Sec. 5. ~~[(NRS 209.083, 209.116, 209.354 and 212.1895 are hereby repealed.) (Deleted by amendment.)]~~

Sec. 6. ~~[(This act becomes)]~~

1. This section and sections 1 to 3, inclusive, 4 and 5 of this act become effective on July 1, 2017.

2. Section 1.7 of this act expires by limitation on June 30, 2022.

3. Section 3.5 of this act becomes effective on July 1, 2022.

f

~~LEADLINES OF REPEALED SECTIONS~~

~~209.083 “Private facility or institution” defined.~~

~~209.116 Board to adopt regulations establishing maximum number of prisoners who may be incarcerated in private facility or institution.~~

~~209.354 Department to monitor each private facility or institution which houses prisoners who are incarcerated pursuant to authority of another state; reimbursement for costs of such monitoring.~~

~~212.1895 Applicability of certain provisions to custodian and prisoner assigned to private facility or institution; training to perform duties of correctional officer at private facility or institution; reimbursement to State for expenses relating to prisoner who escapes from private facility or institution.]~~

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 307.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 269.

~~[(CONTAINS UNFUNDED MANDATE (§ 6)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)]~~

AN ACT relating to emergency medical services; ~~requiring certain host organizations for~~ **revising provisions governing emergency medical services at certain** special events ; **requiring the host organization or certain special events** to obtain **a special event permit or approval in an order** from the ~~[applicable] local [government an approval concerning the reserve transport services that are to be provided by the host organization at a special event;]~~ **governmental entity with jurisdiction where the special event is to be held; requiring certain host organizations of special events of certain sizes to provide for emergency medical resources at the site of the special event; authorizing a local governmental entity to require the host organization of a special event to pay reasonable fees for certain services provided by the local governmental entity;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a host organization of a special event to provide certain emergency medical services and a certain number of dedicated advanced life support ambulances at certain special events in this State. (NRS 450B.690-450B.700) **Section 6** of this bill requires a host organization in a county whose population is ~~[700,000]~~ **100,000** or more (currently **Washoe and Clark [County] Counties**) to obtain **a special event permit** from the ~~[applicable] local [government before the special event an]~~ **governmental entity with jurisdiction where the special event is to be held or, if no special permit is required,** approval ~~[of the reserve transport services that are to be provided by the host organization at the special event.]~~ **in an order from the local governmental entity with jurisdiction where the special event is to be held. Before issuing a special event permit or order, section 6 requires the local governmental entity to hold a hearing to make certain determinations concerning the emergency medical resources that must be made available at the special event and to establish any standards to assist the host organization to comply with such requirements. Section 6 further requires the [applicable] local [government, before providing]** **governmental entity to inform the host organization of the requirements and standards and determine whether to issue the special event permit or the order of** approval ~~[to the host organization, to:~~ (1) consider the impact on emergency medical services in the county in certain circumstances; and (2) issue an order that clarifies the requirements for reserve transport services. ~~Section 6 additionally requires the host organization to comply with such an order.]~~ **for the special event. The special event permit or order issued pursuant to section 6 must also specify any emergency medical resources the host organization is required to provide and any services that the local governmental entity will provide. In addition, section 6 authorizes the local governmental entity to require the host organization to pay a reasonable fee for processing and issuing a special event permit or order and for providing such services as specified in the special event permit or order which may**

include, without limitation, providing an incident commander or other person to provide services at the site of the special event.

Sections ~~[7 and 8]~~ 8.3 and 8.6 of this bill ~~[make conforming changes.]~~ establish additional emergency medical resources that must be provided for certain special events that are expected to attract a certain number of people. (NRS 450B.690, 450B.700)

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

Section 1. Chapter 450B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *“Applicable local government” means any city, county or other political subdivision of this State that:*

1. *Issues a special event permit; or*
2. *If no special event permit is issued, has jurisdiction over emergency medical services in the political subdivision or other entity where the special event is to be held.*

Sec. 2.6. *“Emergency medical resources” means emergency medical transportation, vehicles, fire apparatus, equipment and personnel that provide for the rendering of emergency medical services.*

Sec. 3. *“Emergency medical transportation” means an air ambulance, ambulance, dedicated advanced life support ambulance, fire-fighting agency or other similar service for the transportation of a person for the purposes of emergency medical services.*

Sec. 4. ~~“Reserve transport services” means emergency medical transportation that is to be held in reserve to minimize the negative impact on emergency medical services in the applicable geographic area in the event of an unexpected demand on emergency medical transportation at the special event.~~ (Deleted by amendment.)

Sec. 4.3. *“Fire apparatus” means a vehicle designed to be used to assist in providing emergency medical services, including, without limitation, the transportation of personnel and equipment, supporting fire suppression efforts and the mitigation of other hazardous events.*

Sec. 5. *“Special event permit” means the authorization issued by a local government pursuant to NRS 450B.650 to 450B.700, inclusive, and sections 2 to 6, inclusive, of this act to a host organization to hold a special event.*

Sec. 6. 1. *In a county whose population is ~~{700,000}~~ 100,000 or more, if a special event is to be held, the host organization must, before the special event is held and in addition to any applicable requirements of NRS 450B.690, 450B.695 or 450B.700, obtain a special event permit from the ~~[applicable] local [government approval of the reserve transport services that are to be provided by the host organization during the special event.]~~ governmental entity which has jurisdiction where the special event is to be held or approval in an order from the local governmental entity which has*

jurisdiction over the emergency medical services where the special event is to be held if no special event permit is required.

2. ~~[The applicable]~~ Before issuing a special event permit or order pursuant to subsection 1, the local governmental entity with jurisdiction where the special event is to be held must hold a public hearing to:

(a) Determine whether the host organization is required to provide emergency medical resources during the special event, considering any special conditions which may exist; and

(b) Establish any standards to assist the host organization to comply with any requirements imposed relating to the provision of emergency medical resources.

3. ~~During the hearing held pursuant to subsection 2, the local government, before providing the approval pursuant to subsection 1,~~ governmental entity shall:

(a) Consider the impact of the special event on emergency medical services in the applicable geographic area in the event of an unexpected demand on emergency medical transportation [services] at the special event; and

(b) ~~Issue an order~~ Establish the minimum requirements for any emergency medical resources provided by the host organization, including, without limitation, any requirements for licensure or permits of such emergency medical resources; and

(c) Ensure that regular emergency medical services provided by the applicable local government, including, without limitation, regular emergency 911 service, are not used to meet the requirements for emergency medical resources during a special event.

4. After the hearing held pursuant to subsection 2, the local governmental entity shall inform the host organization of the requirements and standards established during the hearing and determine whether the host organization meets those requirements and is able to comply with the standards. If so, the local governmental entity shall issue a special event permit or order, as applicable, that specifies any emergency medical [transportation that] resources the host organization [shall] is required to provide [in order to have adequate reserve transport services] during the special event.

~~3.~~ and any services that will be provided by the applicable local government.

5. The local governmental entity may require the host organization to pay a reasonable fee for:

(a) Processing and issuing a special event permit or order pursuant to this section; and

(b) Providing such services at the special event as specified in the special event permit or order. Such services may include without limitation, providing an incident commander or other person to provide services at the site of the special event pursuant to NRS 450B.690 or 450B.700.

6. The host organization shall comply with ~~the order~~ any requirements and standards set forth in the special event permit or order issued pursuant to ~~subsection 2,~~ this section.

Sec. 7. NRS 450B.650 is hereby amended to read as follows:

450B.650 As used in NRS 450B.650 to 450B.700, inclusive, **and sections 2 to 6, inclusive, of this act**, unless the context otherwise requires, the words and terms defined in NRS 450B.655 to 450B.685, inclusive, **and sections 2 to 5, inclusive, of this act** have the meanings ascribed to them in those sections.

Sec. 8. NRS 450B.665 is hereby amended to read as follows:

450B.665 "Host organization" means:

1. If a **special event** permit was obtained , ~~for a special event,~~ the person who obtained the permit; or

2. If a **special event** permit was not obtained , ~~for a special event,~~ the person who sponsored the special event.

Sec. 8.3. NRS 450B.690 is hereby amended to read as follows:

450B.690 1. Except as otherwise provided in subsection ~~2,~~ **3:**

(a) In a county whose population is 100,000 or more, if a special event is to be held and 2,500 or more persons but less than 10,000 persons are projected to be in attendance at the event at the same time, the host organization shall provide at least one first-aid station at the site of the special event **and the local governmental entity with jurisdiction where the special event is to be held must provide an incident commander** if:

(1) The special event is a concert; or

(2) Three or more of the following factors apply to the special event:

(I) The special event involves a high-risk activity ~~that~~ **that presents an increased potential for inciting violence or causing injury to participants, attendees or spectators,** including, without limitation, sports or racing.

(II) The special event poses environmental hazards to persons attending the special event ~~for is held during a period of~~ **including, without limitation, poor air quality, water or fire hazards and** extreme heat or cold.

(III) The average age of the persons attending the special event is less than 25 years of age or more than 50 years of age.

(IV) A large number of the persons attending the special event have acute or chronic illnesses.

(V) Alcohol is sold at the special event or, if the special event has been held before, there is a history of alcohol or drug use by the persons who attended the special event in the past.

(VI) The density of the number of persons attending the special event increases the difficulty regarding access to the persons who are attending the special event who require emergency medical care, or the transfer of those persons who require emergency medical care to an ambulance.

(b) In a county whose population is 100,000 or more, if the host organization meets the requirements of subparagraph (1) or (2) of paragraph (a) and 10,000 or more persons but less than 15,000 persons are projected to

be in attendance at the special event at the same time, the **local governmental entity with jurisdiction where the special event is to be held must provide an incident commander and the** host organization shall:

(1) Provide at least one first-aid station at the site of the special event and equip the first-aid station with an automated external defibrillator; and

(2) Provide a roving emergency medical technician team at the site of the special event.

(c) In a county whose population is 100,000 or more, if the host organization meets the requirements of subparagraph (1) or (2) of paragraph (a) and 15,000 or more persons but less than 50,000 persons are projected to be in attendance at the special event at the same time ~~[(the)]~~ :

(1) The host organization shall:

~~[(1)]~~ **(I)** Provide at least one first-aid station at the site of the special event and staff the first-aid station with at least one registered nurse, licensed practical nurse or paramedic in lieu of an emergency medical technician; and

~~[(2)]~~ **(II)** Provide two or more roving intermediate emergency medical technician teams at the site of the special event.

(2) The local governmental entity with jurisdiction where the special event is to be held must provide at the site of the special event:

(I) At least one incident commander;

(II) At least one fire prevention inspector; and

(III) If at least three of the factors listed in paragraph (a) are present, a task force consisting of a combination of resources, with a common communication system and a designated leader, assembled to support the specific mission or operational need of the special event as defined by the local governmental entity.

2. An incident commander assigned to assist at the site of a special event pursuant to this section must have appropriate training to oversee incidents at the special event, including, without limitation, emergency incidents. Such training must include, without limitation, training in developing strategies and tactics to address various situations and the appropriate use and management of resources.

3. The provisions of subsection 1 do not apply to a special event held within the boundaries of a city whose population is less than 25,000 if there is a fire-fighting agency within the city other than a volunteer fire department and the city has adopted a plan for providing emergency medical services at special events.

Sec. 8.6. NRS 450B.700 is hereby amended to read as follows:

450B.700 1. Except as otherwise provided in subsection 2, if a special event is to be held and 50,000 or more persons are projected to be in attendance at the event at the same time ~~[(the)]~~ :

(a) The host organization shall provide:

~~[(a)]~~ **(1)** Two or more first-aid stations at the site of the special event;

~~[(b)]~~ **(2)** Two or more physicians licensed pursuant to chapter 630 or 633 of NRS who have experience providing emergency medical services;

~~[(c)]~~ **(3)** Two or more roving emergency medical technician teams; and

~~[(d)]~~ **(4)** Two or more dedicated advanced life support ambulances.

(b) The local governmental entity with jurisdiction where the special event is to be held must provide at the site of the special event:

(1) One incident commander with the training described in subsection 2 of NRS 450B.690; and

(2) A task force consisting of a combination of resources, with a common communication system and a designated leader, assembled to support the specific mission or operational need of the special event as defined by the local governmental entity.

2. The provisions of subsection 1 do not apply to a special event held within the limits of a city whose population is less than 25,000 if there is a fire-fighting agency within the city other than a volunteer fire department and the city has adopted a plan for providing emergency medical services at special events.

Sec. 9. ~~[The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.]~~
(Deleted by amendment.)

Sec. 10. This act becomes effective on July 1, 2017.

Assemblyman Sprinkle moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 309.

Bill read second time.

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

Amendment No. 493.

AN ACT relating to state employment; ~~[requiring the appointment of a Veteran Personnel Coordinator and establishing the duties of that position;]~~ imposing additional duties on the Administrator of the Division of Human Resource Management of the Department of Administration **and certain state agencies** relating to veterans and certain widows and widowers; revising provisions governing the preference provided to veterans and certain other persons ~~[on examinations for]~~ **relating to employment in** the classified service; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law requires the Administrator of the Division of Human Resource Management of the Department of Administration to appoint such employees and assistants as are necessary to carry out the provisions governing state employment. (NRS 284.100) Section 2 of this bill requires the Administrator to appoint a Veteran Personnel Coordinator to coordinate activities for the recruitment, hiring and retention of state employees in the classified and unclassified service who are veterans and widows and~~

~~widowers of persons killed in the line of duty while on active duty in the Armed Forces of the United States.]~~

Existing law requires the Department of Administration to provide an annual report of the total number of veterans employed by each agency in the State to the Interagency Council on Veterans Affairs, which includes the Director of the Department of Veterans Services as one of its members. (NRS 417.0191, 417.0194) **Section 3** of this bill requires the Administrator of the Division of Human Resource Management **of the Department of Administration** to submit to: (1) the Director of the Department of Veterans Services and make available to the public a monthly report listing the names of all veterans and widows and widowers of persons killed in the line of duty while on active duty in the Armed Forces of the United States who are employed in the classified or unclassified service of the State; and (2) the Governor and the Director of the Legislative Counsel Bureau for distribution to the Legislature a quarterly report on the number of veterans and widows and widowers of persons killed in the line of duty while on active duty in the Armed Forces of the United States who were hired in the classified or unclassified service of the State during the quarter. **Section 6** of this bill makes a conforming change to the annual report. Finally, **section 3** requires the Administrator to ensure that the percentage of officers and employees in **such** state employment that are veterans and widows and widowers of persons killed in the line of duty while on active duty in the Armed Forces of the United States is proportional to the percentage of veterans and such widows and widowers residing in this State.

Existing law requires **, with certain exceptions,** state agencies **in the Executive Department of the State Government** to periodically report to the Administrator of the Division of Human Resource Management any appointment, transfer, separation, suspension, reinstatement or any reduction or other change to a position in the public service. (NRS 284.121) **Section 4** of this bill requires that such a report include whether any person appointed to **such** state employment is a veteran or a widow or widower of a person killed in the line of duty while on active duty in the Armed Forces of the United States.

Under existing law, the State is required, in establishing lists of persons eligible for appointment or promotion to positions in the classified service, to add 10 points to the passing grade on a competitive examination of a veteran with a disability and 5 points to a passing grade on such an examination of a veteran who does not have a disability or a widow or widower of a veteran. Existing law authorizes the application of such preference points to any open competitive examination in the classified service, but only to one promotional examination. (NRS 284.260) **Section 5** of this bill increases to ~~[22]~~ **15** points the number of points required to be added to the passing grade of ~~[any]~~ **a veteran, regardless of,** ~~[, and]~~ **with a disability,** ~~[, and]~~ **Section 5 also:** **(1) increases to ten points the number of points to be added** to the passing grade of ~~[an additional category,]~~ **a veteran who does not have a disability;**

and (2) requires the addition of 10 points to the passing grade of widows and widowers of persons killed in the line of duty while on active duty in the Armed Forces of the United States. **Section 5** also removes the restriction on applying such points to more than one promotional examination.

Existing law requires, with certain exceptions, a state agency in the Executive Department of the State Government to give notice to the Administrator of the Division of Human Resource Management of its intention to fill a vacancy in the classified service. After receipt of such notice, the Administrator is required to certify from the list of eligible persons, appropriate to the grade and class in which the position is classified, the names of the persons with the highest scores. Section 5.5 of this bill requires the Administrator to also certify the name of any veteran on the list of eligible persons and requires the state agency to interview any veteran so certified for the position.

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

Section 1. NRS 284.015 is hereby amended to read as follows:

284.015 As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the Administrator of the Division.
2. "Commission" means the Personnel Commission.
3. "Disability," includes, but is not limited to, physical disability, intellectual disability and mental or emotional disorder.
4. "Division" means the Division of Human Resource Management of the Department of Administration.
5. "Essential functions" has the meaning ascribed to it in 29 C.F.R. § 1630.2.
6. "Public service" means positions providing service for any office, department, board, commission, bureau, agency or institution in the Executive Department of the State Government operating by authority of the Constitution or law, and supported in whole or in part by any public money, whether the money is received from the Government of the United States or any branch or agency thereof, or from private or any other sources.

7. *"Veteran" has the meaning ascribed to it in NRS 417.005.*

Sec. 2. ~~NRS 284.100 is hereby amended to read as follows:~~

~~284.100 1. The Administrator shall appoint such employees of the Division and such expert and special assistants as may be necessary to carry out effectively the provisions of this chapter [.] , including, without limitation, a Veteran Personnel Coordinator in the classified service.~~

~~2. The Veteran Personnel Coordinator appointed pursuant to subsection 1 shall coordinate activities for the recruitment, hiring and retention of employees in the classified and unclassified service who are veterans and widows and widowers of persons killed in the line of duty while on active duty in the Armed Forces of the United States. (Deleted by amendment.)~~

Sec. 3. NRS 284.105 is hereby amended to read as follows:

284.105 1. The Administrator shall direct and supervise all administrative and technical activities of the Division.

2. In addition to the duties imposed upon the Administrator elsewhere in this chapter, the Administrator shall:

(a) Apply and carry out the provisions of this chapter and the regulations adopted pursuant to it.

(b) Establish objectives for the Division in terms which are specific, measurable and conducive to reliable evaluation, and develop a plan for accomplishing those objectives.

(c) Establish a system of appropriate policies for each function within the Division.

(d) Attend all meetings of the Commission.

(e) Advise the Commission with respect to the preparation and adoption of regulations to carry out the provisions of this chapter.

(f) Report to the Governor and the Commission upon all matters concerning the administration of the Administrator's office and request the advice of the Commission on matters concerning the policies of the Division, but the Administrator is responsible for the conduct of the Division and its administrative functions unless otherwise provided by law.

(g) Establish and maintain a roster of all employees in the public service. The roster must set forth, as to each employee:

(1) The class title of the position held.

(2) The salary or pay.

(3) Any change in class title, pay or status.

(4) Other pertinent data.

(h) ***Submit to the Director of the Department of Veterans Services and make available to the public a monthly report which lists the names of all veterans and widows and widowers of persons killed in the line of duty while on active duty in the Armed Forces of the United States who are employed in the classified or unclassified service of the State.***

(i) ***Submit to the Governor and the Director of the Legislative Counsel Bureau for distribution to the Legislature a report for each calendar quarter on the number of veterans and widows and widowers of persons killed in the line of duty while on active duty in the Armed Forces of the United States who were hired in the classified or unclassified service of the State during the quarter.***

(j) ***Ensure, to the extent practicable, that the percentage of officers and employees in public service who are veterans and widows and widowers of persons killed in the line of duty while on active duty in the Armed Forces of the United States is proportional to the percentage of veterans and such widows and widowers residing in this State.***

(k) In cooperation with appointing authorities and others, foster and develop programs for improving the effectiveness and morale of employees, including training and procedures for hearing and adjusting grievances.

~~[(i)]~~ (l) Encourage and exercise leadership in the development of effective personnel administration within the several departments in the public service, and make available the facilities and services of the Division and its employees to this end.

~~[(j)]~~ (m) Make to the Commission and to the Governor such special reports as the Administrator may consider desirable.

~~[(k)]~~ (n) Maintain a continuous program of recruiting for the classified service.

~~[(l)]~~ (o) Perform any other lawful acts which the Administrator may consider necessary or desirable to carry out the purposes and provisions of this chapter.

Sec. 4. NRS 284.121 is hereby amended to read as follows:

284.121 Each appointing authority shall report to the Administrator in writing, from time to time, any appointment, transfer, separation, suspension, reinstatement or any reduction or other change to a position in the public service. The report must contain:

1. The name of the appointee or employee.
2. The title and status of the employment of the appointee or employee.
3. The date of commencement of the action.
4. The salary or compensation of the appointee or employee.
5. ***Whether the appointee is a veteran or a widow or widower of a person killed in the line of duty while on active duty in the Armed Forces of the United States.***

Sec. 5. NRS 284.260 is hereby amended to read as follows:

284.260 1. In establishing the lists of eligible persons, ~~for certain~~ ***the following*** preferences must be allowed ~~for~~ :

(a) ~~[Veterans not dishonorably discharged from the Armed Forces of the United States.]~~ For veterans with disabilities, ~~[10 and widows and widowers of persons killed in the line of duty while on active duty in the Armed Forces of the United States, 22]~~ ***15*** points must be added to the passing grade achieved on the examination.

(b) ***For veterans who have not suffered disabilities and widows and widowers of persons killed in the line of duty while on active duty in the Armed Forces of the United States, 10 points must be added to the passing grade achieved on the examination.***

~~(c)~~ For ~~ex-servicemen and women who have not suffered disabilities, and for~~ the widows and widowers of veterans, 5 points must be added to the passing grade achieved on the examination.

~~[(b)]~~ Members of the Nevada National Guard.]

~~[(c)]~~ (d) For a member of the Nevada National Guard who submits a letter of recommendation from the commanding officer of the member's unit, 5 points must be added to the passing grade achieved on the examination.

2. Any person qualifying for preference points pursuant to subsection 1 is entitled to have the points applied to any open competitive ***or promotional***

examination in the classified service . ~~[- but only to one promotional examination.]~~

~~3. For the purposes of this section, “veteran” has the meaning ascribed to “eligible veteran” in 38 U.S.C. § 4211.]~~

Sec. 5.5. NRS 284.265 is hereby amended to read as follows:

284.265 **1.** Except as otherwise provided in NRS 284.305, appointing authorities shall give notice to the Administrator of their intention to fill any vacancy in the classified service.

2. Except as otherwise provided in this ~~[section,]~~ **subsection,** within a reasonable time after the receipt of the notice, the Administrator shall certify from the list of eligible persons, appropriate for the grade and class in which the position is classified ~~[- the] :~~

(a) The five names at the head thereof. If the competitive examination for that position is scored to the nearest one-hundredth of a point and there are more than five persons having the five highest scores, the names of each of those persons must be so certified.

(b) Unless otherwise included among the names certified pursuant to paragraph (a), the name of any eligible person on the list who is a veteran. The appointing authority shall interview for the position each veteran who is so certified.

Sec. 6. NRS 417.0194 is hereby amended to read as follows:

417.0194 **1.** Each state agency and regulatory body identified in subsections 2 to 15, inclusive, shall report, subject to any limitations or restrictions contained in any state or federal law governing the privacy or confidentiality of records, the data identified in subsections 2 to 15, inclusive, as applicable, to the Interagency Council on Veterans Affairs. Each state agency and regulatory body shall submit such information to the Council not later than November 30 of each year and shall provide the information in aggregate and in digital form, and in a manner such that the data is capable of integration by the Council.

2. The Department of Administration shall provide:

(a) Descriptions of and the total amount of the grant dollars received for veteran-specific programs;

(b) The total number of veterans ***and widows and widowers of persons killed in the line of duty while on active duty in the Armed Forces of the United States*** employed by each agency in the State; and

(c) The total number of veterans with service-connected disabilities who are seeking preferences through the Purchasing Division and the State Public Works Division of the Department of Administration pursuant to NRS 333.3366 and 338.13844.

3. The State Department of Conservation and Natural Resources shall provide the total number of veterans receiving:

(a) Expedited certification for the grade I certification examination for wastewater treatment plant operators based on their military experience; and

(b) Any discounted fees for access to or the use of state parks.

4. The Department of Corrections shall provide:

(a) An annual overview of the monthly population of inmates in this State who are veterans; and

(b) The success rates for any efforts developed by the Incarcerated Veterans Reintegration Council.

5. The Office of Economic Development shall provide an overview of the workforce that is available statewide of veterans, organized by O*NET-SOC code from the United States Department of Labor or the trade, job title, employment status, zip code, county, highest education level and driver's license class.

6. The Department of Education shall provide the distribution of dependents of service members enrolled in Nevada's public schools.

7. The Department of Employment, Training and Rehabilitation shall provide a summary of:

(a) The average number of veterans served by a veteran employment specialist of the Department per week;

(b) The average number of initial and continuing claims for benefits filed per week by veterans pursuant to NRS 612.455 to 612.530, inclusive;

(c) The average weekly benefit received by veterans receiving benefits pursuant to chapter 612 of NRS; and

(d) The average duration of a claim by claimants who are veterans receiving benefits pursuant to chapter 612 of NRS.

8. The Department of Health and Human Services shall provide:

(a) The total number of veterans who have applied for and received certification as an Emergency Medical Technician-B, Advanced Emergency Medical Technician and Paramedic through the State Emergency Medical Systems program; and

(b) A report from the State Registrar of Vital Statistics setting forth the suicide mortality rate of veterans in this State.

9. The Department of Motor Vehicles shall provide:

(a) The total number of veterans who have declared themselves as a veteran and who applied for and received a commercial driver's license;

(b) The average monthly total of veteran license plates issued; and

(c) An overview of the data on veterans collected pursuant to NRS 483.292, 483.852 and 483.927.

10. The Adjutant General shall provide the total number of:

(a) Members of the Nevada National Guard using waivers for each semester and identifying which schools accepted the waivers;

(b) Members of the Nevada National Guard identified by Military Occupational Specialty and zip code; and

(c) Members of the Nevada National Guard employed under a grant from Beyond the Yellow Ribbon.

11. The Department of Public Safety shall provide the percentage of veterans in each graduating class of its academy for training peace officers.

12. The Department of Taxation shall provide the total number of veterans receiving tax exemptions pursuant to NRS 361.090, 361.091, 361.155, 371.103 and 371.104.

13. The Department of Wildlife shall provide the total number of:

- (a) Veterans holding hunting or fishing licenses based on disability; and
- (b) Service members holding hunting or fishing licenses who are residents of this State but are stationed outside this State.

14. The Commission on Postsecondary Education shall provide, by industry, the total number of schools in this State approved by the United States Department of Veterans Affairs that are serving veterans.

15. Each regulatory body shall provide the total number of veterans and service members applying for licensure by the regulatory body.

16. The Council shall, upon receiving the information submitted pursuant to this section, synthesize and compile the information, including any recommendations of the Council, and submit the information with the report submitted pursuant to subsection 8 of NRS 417.0195.

17. As used in this section:

(a) "Regulatory body" has the meaning ascribed to it in NRS 622.060.

(b) "Service member" has the meaning ascribed to it in NRS 125C.0635.

Sec. 7. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 8. This act becomes effective:

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

2. On July 1, 2017, for all other purposes.

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 312.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 594.

SUMMARY—~~[Revises provisions relating to the statewide performance evaluation system for certain educational personnel.] Requires the State Board of Education to develop recommendations for pupil-teacher ratios in certain public schools.~~ (BDR 34-960)

AN ACT relating to educational personnel; ~~[requiring that the statewide performance evaluation system recommended by the Teachers and Leaders Council of Nevada ensure that certain teachers receive the highest score possible in specified areas of evaluation];~~ requiring the State Board of Education to ~~[prescribe for such purposes the maximum]~~ **develop nonbinding recommendations for the** pupil-teacher ratio in ~~[certain~~

~~grades,]~~ **public schools for kindergarten and grades 1 to 12, inclusive;**
and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law creates the Teachers and Leaders Council of Nevada and requires the Council to make recommendations to the State Board of Education for the adoption of regulations establishing a statewide performance evaluation system for school teachers and certain administrators. (NRS 391.455, 391.460, 391.465)] Existing law [also generally]~~ prescribes the maximum pupil-teacher ratio in each school district for kindergarten and grades 1, 2 and 3. (NRS 388.700) In lieu of complying with the ratio established by statute, smaller school districts are authorized to use alternative pupil-teacher ratios for certain grade levels in elementary schools with the approval of the State Board of Education. (NRS 388.720).~~]~~
~~Section 1 of this bill requires that the evaluation system recommended by the Council ensure that a teacher who is teaching in a classroom in which the number of pupils exceeds the maximum applicable pupil teacher ratio receives the highest possible score on his or her evaluation in certain areas, if those areas are evaluated.~~

~~For those purposes, for grades in elementary and secondary schools for which no maximum pupil-teacher ratio has otherwise been established, section 2 of this bill requires the State Board to prescribe the maximum ratio by regulation.]~~ **This bill additionally requires the State Board of Education to develop nonbinding recommendations for the ratio of pupils per licensed teacher in public schools for kindergarten and grades 1 to 12, inclusive.**

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

Section 1. ~~[NRS 391.460 is hereby amended to read as follows:
391.460 1. The Council shall:~~

~~(a) Make recommendations to the State Board concerning the adoption of regulations for establishing a statewide performance evaluation system to ensure that teachers, administrators who provide primarily administrative services at the school level and administrators at the district level who provide direct supervision of the principal of a school, and who do not provide primarily direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal are:~~

~~(1) Evaluated using multiple, fair, timely, rigorous and valid methods, which includes evaluations based upon pupil achievement data as required by NRS 391.465;~~

~~(2) Afforded a meaningful opportunity to improve their effectiveness through professional development that is linked to their evaluations; and~~

~~(3) Provided with the means to share effective educational methods with other teachers and administrators throughout this State.~~

~~—(b) Develop and recommend to the State Board a plan, including duties and associated costs, for the development and implementation of the performance evaluation system by the Department and school districts.~~

~~—(c) Consider the role of professional standards for teachers and administrators to which paragraph (a) applies and, as it determines appropriate, develop a plan for recommending the adoption of such standards by the State Board.~~

~~—(d) Develop and recommend to the State Board a process for peer evaluations of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching.~~

~~—2. The performance evaluation system recommended by the Council must ensure that:~~

~~—(a) Data derived from the evaluations is used to create professional development programs that enhance the effectiveness of teachers and administrators; [and]~~

~~—(b) A timeline is included for monitoring the performance evaluation system at least annually for quality, reliability, validity, fairness, consistency and objectivity [.] ; and~~

~~—(c) Any teacher who teaches in a classroom in which the pupil teacher ratio exceeds the maximum applicable ratio prescribed by subsection 1 of NRS 388.700, approved by the State Board pursuant to NRS 388.720 or prescribed by regulation of the State Board pursuant to NRS 391.465 receives the highest score possible on his or her evaluation in the following areas, if those areas are evaluated:~~

~~—(1) Making connections explicit between previous learning and new concepts and skills for all pupils in the classroom;~~

~~—(2) Assigning tasks that place appropriate demands on each pupil;~~

~~—(3) Ensuring that the classroom environment is structured in a manner that each pupil is able to collaborate and participate and has positive affective experiences;~~

~~—(4) The manner in which the teacher structures opportunities to generate evidence of learning during the lesson from all pupils;~~

~~—(5) Ensuring that classroom routines and expectations create an environment in which all pupils value the contributions of other pupils and fully support each other's learning;~~

~~—(6) Facilitating communication on a regular basis with parents and guardians; and~~

~~—(7) The extent to which the teacher creates a safe and supportive learning environment.~~

~~2. The Council may establish such working groups, task forces and similar entities from within or outside its membership as necessary to address specific issues or otherwise to assist in its work.~~

~~4. The State Board shall consider the recommendations made by the Council pursuant to this section and shall adopt regulations establishing a statewide performance evaluation system as required by NRS 391.465.]~~

(Deleted by amendment.)

Sec. 2. ~~[NRS 391.465 is hereby amended to read as follows:~~

~~391.465 1. The State Board shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to NRS 391.460, adopt regulations establishing a statewide performance evaluation system which incorporates multiple measures of an employee's performance. Except as otherwise provided in subsection 4, the State Board shall prescribe the tools to be used by a school district for obtaining such measures.~~

~~2. The statewide performance evaluation system must:~~

~~(a) Require that an employee's overall performance is determined to be:~~

~~(1) Highly effective;~~

~~(2) Effective;~~

~~(3) Minimally effective; or~~

~~(4) Ineffective.~~

~~(b) Include the criteria for making each designation identified in paragraph (a).~~

~~(c) Except as otherwise provided in subsections 2 and 3 of NRS 391.695 and subsections 2 and 3 of NRS 391.715, require that pupil achievement data account for at least 40 percent of the evaluation.~~

~~(d) Except as otherwise provided in subsection 3, prescribe the pupil achievement data that must be used as part of the evaluation system pursuant to paragraph (c) which must require that:~~

~~(1) Pupil achievement data derived from statewide examinations and assessments must account for at least 20 percent of the evaluation of a teacher or administrator, as applicable; and~~

~~(2) Pupil achievement data derived from assessments approved by the board of trustees of a school district that employs the teacher or administrator, as applicable, must account for at least 20 percent of the evaluation.~~

~~(e) Include an evaluation of whether the teacher, or administrator who provides primarily administrative services at the school level or administrator at the district level who provides direct supervision of the principal of a school, and who does not provide primarily direct instructional services to pupils, regardless of whether the probationary administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, employs practices and strategies to involve and engage the parents and families of pupils.~~

~~(f) Include a process for peer evaluations of teachers by qualified educational personnel which is designed to provide assistance to teachers in~~

~~meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching. The regulations must include the criteria for school districts to determine which educational personnel are qualified to conduct peer reviews pursuant to the process.~~

~~3. The State Board shall, by regulation, designate the assessments that may be used by a school district to determine pupil achievement pursuant to subparagraph (2) of paragraph (d) of subsection 2. The board of trustees of a school district may select one or more of the assessments designated by the State Board to determine pupil achievement, or the board of trustees may apply to the Superintendent of Public Instruction for approval to use a different assessment to determine pupil achievement.~~

~~4. A school district may apply to the State Board to use a performance evaluation system and tools that are different than the evaluation system and tools prescribed pursuant to subsection 1. The application must be in the form prescribed by the State Board and must include, without limitation, a description of the evaluation system and tools proposed to be used by the school district. The State Board may approve the use of the proposed evaluation system and tools if it determines that the proposed evaluation system and tools apply standards and indicators that are equivalent to those prescribed by the State Board.~~

~~5. For any grade in an elementary and secondary school for which no maximum pupil teacher ratio is otherwise applicable pursuant to subsection 1 of NRS 388.700 or 388.720, the regulations adopted by the State Board pursuant to subsection 1 must prescribe the maximum pupil teacher ratio for each grade for the purposes of paragraph (c) of subsection 2 of NRS 301.460. The regulations must:~~

~~(a) Be based on any applicable national standards;~~

~~(b) Take into consideration the unique needs of certain pupils, including, without limitation, English learners; and~~

~~(c) Provide for the inclusion and exclusion of educational personnel in determining the pupil teacher ratio existing for any grade in the same manner as provided by subsection 1 of NRS 388.700. (Deleted by amendment.)~~

Sec. 2.5. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board shall develop nonbinding recommendations for the ratio of pupils per licensed teacher in the public schools of this State for kindergarten and grades 1 to 12, inclusive. The board of trustees of each school district shall consider the recommendations in establishing the ratio of pupils per licensed teacher in the school district.

2. The recommendations developed by the State Board must:

(a) Prescribe a suggested ratio of pupils per licensed teacher for each classroom and course of instruction, except choir, orchestra and band, in kindergarten and grades 1 to 12, inclusive;

(b) Be based on evidence-based national standards; and

(c) Take into account the unique needs of certain pupils, including, without limitation, pupils who are English learners.

3. Nothing in this section shall be deemed to relieve a school district of its obligation to comply with the requirements of NRS 388.700 and 388.720, as applicable to the school district.

4. As used in this section, "English learner" has the meaning ascribed to it in 20 U.S.C. § 7801(20).

~~Sec. 3. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act and on January 1, 2018, for all other purposes.~~ on July 1, 2017.

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 314.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 405.

AN ACT relating to estates; revising provisions relating to property exempt from a writ of execution; revising provisions relating to nonprobate transfers of property; establishing provisions relating to community property **or separate property** transferred into an irrevocable trust; revising certain definitions applicable to the administration of an estate; revising provisions relating to the revival of a will and the proving of a will as lost or destroyed; revising provisions concerning contests of wills; authorizing the extension of the period during which an agreement between an heir finder and apparent heir is void and unenforceable; revising provisions concerning special administrators and personal representatives; revising provisions relating to the filing of an inventory and appraisal or record of value of the assets of a decedent; revising provisions governing the presentation of claims against and the sale of real property of an estate; revising provisions relating to the period within which certain actions are performed; authorizing notice to be served by certified mail; revising provisions concerning fiduciaries; revising various provisions governing trusts and trustees; authorizing a person to provide for the burial or cremation of his or her remains in a will or durable power of attorney; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that money not exceeding \$500,000 **and nonexempt personal property not exceeding \$1,000 in value** that is held in a certain manner is exempt from a writ of execution. (NRS 21.090) **Section 1** of this

bill increases the amount of money to \$1,000,000, ~~and~~ revises provisions relating to the manner in which such money is held, ~~it~~ **and increases the amount of nonexempt personal property to \$10,000.**

Existing law establishes provisions relating to nonprobate transfers of property. (NRS 111.700-111.815) **Section 2** of this bill revises the definition of the term “nonprobate transfer” to exclude certain property, and **section 3** of this bill revises provisions relating to **: (1) the procedure to proceed against a nonprobate transferee if there are insufficient assets in the estate to pay a valid creditor; and (2)** the property against which a creditor does not have a claim to include certain property transferred pursuant to a beneficiary designation by a decedent.

Section 4 of this bill authorizes a trust instrument to provide that community property **or separate property** transferred into an irrevocable trust of which both spouses are current permissible beneficiaries remains community property **or separate property, as applicable,** during the marriage, and **section 5** of this bill specifies that in granting a divorce, a court is required to make an equal distribution of community property transferred into such an irrevocable trust to the extent practicable.

Sections 6 and 7 of this bill revise the definitions of the terms “expenses of administration” and “fiduciary,” respectively, for the purposes of the administration of an estate.

Section 8 of this bill revises provisions relating to the revival of a first will after the destruction, cancellation or revocation of a second will, and **section 9** of this bill revises provisions relating to the proving of a will as a lost or destroyed will.

Sections 10 and 41 of this bill revise: (1) provisions relating to no-contest clauses in a will or trust, respectively; and (2) the circumstances under which the share of a devisee or beneficiary, respectively, must not be reduced or eliminated. **Section 11** of this bill revises provisions relating to the issuance of a citation after a petition is filed that contests the admission of a will to probate or the validity of such a will.

Section 12 of this bill authorizes a court to extend the period during which an agreement between an heir finder and apparent heir is void and unenforceable.

Section 13 of this bill revises provisions relating to the appointment of a special administrator for the estate of a decedent. **Sections 14 and 15** of this bill revise provisions relating to the giving of a bond by a special administrator or personal representative, respectively.

Existing law establishes provisions governing the administration of estates by personal representatives. (NRS 143.010-143.210) **Sections 16-19** of this bill revise various provisions governing personal representatives. **Section 20** of this bill revises provisions relating to the issuance of a temporary order to restrain a personal representative from performing certain actions and the setting of a hearing on the matter.

Existing law establishes provisions relating to the filing by a personal representative of an inventory and appraisal or record of value of all the estate of the decedent that has come to the possession or knowledge of the personal representative. (Chapter 144 of NRS) **Section 21** of this bill extends the time within which a personal representative is required to file such documents and authorizes the filing of a redacted inventory in certain circumstances, and **section 22** of this bill authorizes the personal representative to file a verified record of value in lieu of the appraisal in certain circumstances. **Section 23** of this bill revises provisions relating to the satisfaction of the fees and costs incurred by a person seeking to enforce the filing of an inventory.

Existing law establishes provisions governing the presentation of claims against the estate of a decedent. (NRS 147.010-147.190) **Section 24** of this bill authorizes any creditor of a decedent to petition the court for a determination of the validity of a rejected claim in lieu of bringing suit against the personal representative. **Section 25** of this bill authorizes the holder of any lien against the property of an estate to bring an action enforcing the lien against the property in certain circumstances.

Existing law establishes provisions governing the sale of real property of an estate. (NRS 148.220-148.320) **Sections 26-28** of this bill revise provisions relating to such a sale.

Sections 29-33 of this bill revise provisions relating to a court's jurisdiction over and trustees of a testamentary trust.

Section 34 of this bill provides that the specified period within which an act authorized or required to be performed pursuant to the provisions of law concerning notices, transfers, orders, procedure and appeals relating to the wills and estates of deceased persons may be extended in certain circumstances or the court may authorize a person to perform the act after the specified period expires if the failure to perform the action was the result of excusable neglect. **Section 35** of this bill authorizes notice to any person in the matter of an estate or testamentary trust to be served by certified mail.

Existing law establishes miscellaneous provisions relating to fiduciaries. (NRS 162.260-162.310) **Section 36** of this bill authorizes a fiduciary to withhold from the beneficiaries of an estate or trust any property that the fiduciary determines may be subject to claims of offset held by the fiduciary in his or her fiduciary capacity, and **section 37** of this bill authorizes a fiduciary to establish a trust for certain purposes.

Existing law establishes various provisions governing trusts. (Chapter 163 of NRS) **Section 39** of this bill authorizes a trust to be created for a noncharitable purpose without a definite ascertainable beneficiary or for a noncharitable but otherwise valid purpose. **Under section 39, the noncharitable purpose must be stated with sufficient particularity in the trust instrument to enable a finder of fact to ascertain the noncharitable purpose for which the trust was created.** **Section 40** of this bill establishes provisions relating to the effect of the divorce, annulment of the marriage or

termination of the domestic partnership of the descendant of a settlor on the former spouse or domestic partner of the descendant. **Sections 42-44** of this bill revise provisions relating to the creation of a trust.

Section 46 of this bill authorizes a court to enter a temporary order restraining a trustee from performing specified acts in certain circumstances, and **section 47** of this bill provides that a trustee is entitled to be exonerated or reimbursed for a tort committed in the administration of a trust in certain circumstances. **Section 49** of this bill revises provisions relating to the power of a trustee to appoint property of one trust to a second trust. **Section 50** of this bill establishes the circumstances in which a trustee is authorized to include capital gains from the sale or exchange of capital assets in distributable net income for purposes of taxation. **Section 53** of this bill requires a trustee to provide a list of the assets of the trust estate to an interested person upon a written request in certain circumstances.

Sections 51 and 52 of this bill revise provisions governing jurisdiction over a trust.

Section 54 of this bill authorizes a person who is 18 years of age or older and who wishes to authorize another person to order the burial or cremation of his or her human remains in the event of his or her death to do so by including such an authorization in a validly executed will or durable power of attorney.

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

Section 1. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed \$5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed \$12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed \$4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any

mining operations and the mining claim actually worked by the miner or prospector, not exceeding \$4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed \$15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section ~~16(a)(1)~~ **206(a)(1)** of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed \$550,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed ~~[\$500,000]~~ **\$1,000,000** in present value, held in:

(1) An individual retirement arrangement which conforms with **or is maintained pursuant to** the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A ~~{ }~~, **including, without limitation, an inherited individual retirement arrangement;**

(2) A written simplified employee pension plan which conforms with **or is maintained pursuant to** the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408 ~~{ }~~, **including, without limitation, an inherited simplified employee pension plan;**

(3) A cash or deferred arrangement **plan** which is ~~{a}~~ qualified ~~{plan}~~ **and maintained** pursuant to the Internal Revenue Code ~~{ }~~, **including, without limitation, an inherited cash or deferred arrangement plan;**

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is ~~{a}~~ qualified ~~{plan}~~ **and maintained** pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed ~~\$1,000~~ **\$10,000** in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a contingent interest, if the contingency has not been satisfied or removed;

(2) A distribution interest in the trust as defined in NRS 163.4155 that is a discretionary interest as described in NRS 163.4185, if the interest has not been distributed;

(3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been exercised;

(4) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been exercised; and

(5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been exercised.

(dd) If a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a mandatory interest as described in NRS 163.4185, if the interest has not been distributed; and

(2) Notwithstanding a beneficiary's right to enforce a support interest, a distribution interest in the trust as defined in NRS 163.4155 that is a support interest as described in NRS 163.4185, if the interest has not been distributed.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291 and 422A.325.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 2. NRS 111.721 is hereby amended to read as follows:

111.721 1. "Nonprobate transfer" means a transfer of any property or interest in property from a decedent to one or more other persons by operation of law or by contract that is effective upon the death of the decedent and includes, without limitation:

(a) A transfer by right of survivorship, including a transfer pursuant to subsection 1 of NRS 115.060;

(b) A transfer by deed upon death pursuant to NRS 111.655 to 111.699, inclusive; and

(c) A security registered as transferable on the death of a person.

2. The term does not include:

(a) Property that is subject to administration in probate of the estate of the decedent;

(b) Property that is set aside, without administration, pursuant to NRS 146.070; ~~and~~

(c) Property transferred pursuant to an affidavit as authorized by NRS 146.080 ~~146.080~~; and

(d) Property transferred from an estate or a trust pursuant to a power of appointment granted under a will or trust, as applicable.

Sec. 3. NRS 111.779 is hereby amended to read as follows:

111.779 1. Except as otherwise provided in NRS 21.090 and other applicable law, a transferee of a nonprobate transfer is liable to the probate estate of the decedent for allowed claims against that decedent's probate estate to the extent the estate is insufficient to satisfy those claims.

2. The liability of a nonprobate transferee may not exceed the value of nonprobate transfers received or controlled by that transferee.

3. Nonprobate transferees are liable for the insufficiency described in subsection 1 in the following order of priority:

(a) A transferee specified in the decedent's will or any other governing instrument as being liable for such an insufficiency, in the order of priority provided in the will or other governing instrument;

(b) The trustee of a trust serving as the principal nonprobate instrument in the decedent's estate plan as shown by its designation as devisee of the decedent's residuary estate or by other facts or circumstances, to the extent of the value of the nonprobate transfer received or controlled; and

(c) Other nonprobate transferees, in proportion to the values received.

4. Unless otherwise provided by the trust instrument, interests of beneficiaries in all trusts incurring liabilities under this section abate as necessary to satisfy the liability, as if all the trust instruments were a single will and the interests were devised under it.

5. If a nonprobate transferee is a spouse or a minor child, the nonprobate transferee may petition the court to be excluded from the liability imposed by this section as if the nonprobate property received by the spouse or minor child were part of the decedent's estate. Such a petition may be made pursuant to the applicable provisions of chapter 146 of NRS, including, without limitation, the provisions of NRS 146.010, NRS 146.020 without regard to the filing of an inventory and subsection 2 of NRS 146.070.

6. A provision made in one instrument may direct the apportionment of the liability among the nonprobate transferees taking under that or any other governing instrument. If a provision in one instrument conflicts with a provision in another, the later one prevails.

7. Upon due notice to a nonprobate transferee, the liability imposed by this section is enforceable in probate proceedings in this State, whether or not the transferee is located in this State.

8. If a probate proceeding is pending ~~146.080~~ **at the time of filing and it has been determined by a final order issued by the probate court that there are insufficient assets to pay a valid creditor,** a proceeding under this section may be commenced by **one of the following persons:**

(a) The personal representative of the decedent's estate, for, if the personal representative declines to do so, by a personal representative

who declines in good faith to commence a proceeding incurs no personal liability for declining.

(b) A creditor ~~in the name~~ of the ~~decedent's~~ estate, **if the personal representative has declined or refused to commence an action within 30 days after receiving a written demand by a creditor. Such demand must identify the nonprobate transfers known to the creditor. If the creditor is unaware of any nonprobate transfers, in the probate proceeding, the creditor may, pursuant to NRS 155.170, obtain discovery, perpetuate testimony or conduct examinations in any manner authorized by law or by the Nevada Rules of Civil Procedure to ascertain whether any nonprobate transfers exist. If the creditor is unable to identify any nonprobate transfers within a reasonable time after conducting discovery, the creditor may not proceed under this section. If a creditor commences an action under this section:**

(1) **The creditor must proceed** at the expense of the creditor and not of the estate.

(2) If a creditor successfully establishes an entitlement to payment under this section, ~~it~~ **and collects nonprobate transfers,** the court must order the reimbursement of the costs reasonably incurred by the creditor, including attorney's fees, from the transferee from whom the payment is to be made, subject to the limitations of subsection 2, or from the estate as a cost of administration, or partially from each, as the court deems just. ~~A personal representative who declines in good faith to commence a requested proceeding incurs no personal liability for declining.~~

9. If a probate proceeding is not pending, a proceeding under this section may be commenced as a civil action by a creditor at the expense of the creditor.

10. If a proceeding is commenced pursuant to this section, it must be commenced:

(a) ~~As to a creditor whose claim was allowed after proceedings challenging disallowance of the claim by the personal representative,~~ **If a probate proceeding is pending in which notice to creditors has been given at the time of filing a proceeding under this section:**

(1) **As to a creditor whose claim was properly and timely filed, allowed by the personal representative or partially allowed by the personal representative, and accepted by the creditor pursuant to NRS 147.160, within 60 days after the probate court enters an order confirming the amount of payment of the approved claim that is final and no longer subject to reconsideration or appeal or within 1 year after the decedent's death, whichever is later.**

(2) **As to a creditor:**

(I) **Whose claim was rejected by the personal representative, partially allowed by the personal representative and rejected by the creditor pursuant to NRS 147.160, or deemed rejected by the personal representative pursuant to NRS 147.110;**

(II) Who adjudicated the creditor's claims in the proper court or by a summary adjudication; and

(III) Who obtained a favorable final judgment on its claim from the proper court,

↪ within 60 days after the probate court enters an order confirming the amount of payment of the approved claim that is final and no longer subject to reconsideration or appeal or within 1 year after the decedent's death, whichever is later.

(b) If an action had been commenced against the decedent before the decedent's death, the creditor receives a judgment against the decedent's estate and the creditor has filed a proper and timely creditor's claim against the estate, within 60 days after [final allowance of the claim by] the probate court enters an order confirming the amount of payment of the adjudicated claim that is final and no longer subject to reconsideration or appeal or within 1 year after the decedent's death, whichever is later.

~~[(b) As to a creditor whose claim against the decedent is being adjudicated in a separate proceeding that is still pending 1 year after the decedent's death, within 60 days after the adjudication of the claim in favor of the creditor is final and no longer subject to reconsideration or appeal.]~~

(c) As to the recovery of benefits paid for Medicaid, within 3 years after the decedent's death.

(d) As to all other creditors, within 1 year after the decedent's death.

11. Unless a written notice asserting that a decedent's probate estate is nonexistent or insufficient to pay allowed claims and statutory allowances has been received from the decedent's personal representative, the following rules apply:

(a) Payment or delivery of assets by a financial institution, registrar or other obligor to a nonprobate transferee in accordance with the terms of the governing instrument controlling the transfer releases the obligor from all claims for amounts paid or assets delivered.

(b) A trustee receiving or controlling a nonprobate transfer is released from liability under this section with respect to any assets distributed to the trust's beneficiaries. Each beneficiary to the extent of the distribution received becomes liable for the amount of the trustee's liability attributable to assets received by the beneficiary.

12. Notwithstanding any provision of this section to the contrary:

(a) A creditor has no claim against ~~property~~ :

(1) Property transferred pursuant to a power of appointment exercised by a decedent unless it was exercisable in favor of the decedent or the decedent's estate.

(2) Property transferred pursuant to a beneficiary designation by a decedent which transfers money held by any of the following:

(I) An individual retirement arrangement which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and

408A, including, without limitation, an inherited individual retirement arrangement;

(II) A written simplified employee pension plan which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408, including, without limitation, an inherited simplified employee pension plan;

(III) A cash or deferred arrangement plan which is qualified and maintained pursuant to the Internal Revenue Code, including, without limitation, an inherited cash or deferred arrangement plan;

(IV) A trust forming part of a stock bonus, pension or profit-sharing plan which is qualified and maintained pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(V) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(3) Property transferred pursuant to a beneficiary designation by a decedent which transfers money, benefits or privileges that accrue in any manner out of life insurance.

(4) Proceeds of any wages of the decedent which were exempt from execution during the decedent's lifetime pursuant to paragraph (g) of subsection 1 of NRS 21.090.

(5) A trust, a beneficial interest of the decedent under a trust or amount payable from a trust if the trust was created by someone other than the decedent, except to enforce a valid assignment of the decedent's beneficial interest under a trust that is not a spendthrift trust.

(6) An irrevocable trust or amounts payable from a trust if the trust was properly created as a valid spendthrift trust under chapter 166 of NRS, except with respect to property transferred to the trust by the decedent to the extent permitted under subsections 1, 2 and 3 of NRS 166.170.

(b) A purchaser for value of property or a lender who acquires a security interest in the property from a beneficiary of a nonprobate transfer after the death of the owner, in good faith:

(1) Takes the property free of any claims or of liability to the owner's estate, creditors of the owner's estate, persons claiming rights as beneficiaries under the nonprobate transfer or heirs of the owner's estate, in absence of actual knowledge that the transfer was improper; and

(2) Has no duty to verify sworn information relating to the nonprobate transfer. The protection provided by this subparagraph applies to information that relates to the ownership interest of the beneficiary in the property and the beneficiary's right to sell, encumber and transfer good title to a purchaser or

lender and does not relieve a purchaser or lender from the notice imparted by instruments of record respecting the property.

13. As used in this section, “devise” has the meaning ascribed to it in NRS 132.095.

Sec. 4. Chapter 123 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A trust instrument may provide that community property or separate property transferred into an irrevocable trust of which both spouses are current permissible beneficiaries remains community property or separate property, as applicable, during the marriage. Any community property ~~that~~ or separate property, including, without limitation, any income, appreciation and proceeds thereof, that is distributed or withdrawn from a trust instrument containing such a provision remains community property ~~unless the spouses otherwise agree in writing at or after the time of the distribution or withdrawal~~ or separate property, as applicable.*

2. *The provisions of this section do not affect the character of community property or separate property that is transferred into a trust in any manner other than as described in this section.*

Sec. 5. NRS 125.150 is hereby amended to read as follows:

125.150 Except as otherwise provided in NRS 125.155 and 125.165, and unless the action is contrary to a premarital agreement between the parties which is enforceable pursuant to chapter 123A of NRS:

1. In granting a divorce, the court:

(a) May award such alimony to the wife or to the husband, in a specified principal sum or as specified periodic payments, as appears just and equitable; and

(b) Shall, to the extent practicable, make an equal disposition of the community property of the parties, ***including, without limitation, any community property transferred into an irrevocable trust pursuant to section 4 of this act over which the court acquires jurisdiction pursuant to NRS 164.010***, except that the court may make an unequal disposition of the community property in such proportions as it deems just if the court finds a compelling reason to do so and sets forth in writing the reasons for making the unequal disposition.

2. Except as otherwise provided in this subsection, in granting a divorce, the court shall dispose of any property held in joint tenancy in the manner set forth in subsection 1 for the disposition of community property. If a party has made a contribution of separate property to the acquisition or improvement of property held in joint tenancy, the court may provide for the reimbursement of that party for his or her contribution. The amount of reimbursement must not exceed the amount of the contribution of separate property that can be traced to the acquisition or improvement of property held in joint tenancy, without interest or any adjustment because of an increase in the value of the property held in joint tenancy. The amount of reimbursement must not exceed the value, at the time of the disposition, of

the property held in joint tenancy for which the contribution of separate property was made. In determining whether to provide for the reimbursement, in whole or in part, of a party who has contributed separate property, the court shall consider:

- (a) The intention of the parties in placing the property in joint tenancy;
- (b) The length of the marriage; and
- (c) Any other factor which the court deems relevant in making a just and equitable disposition of that property.

➡ As used in this subsection, “contribution” includes, without limitation, a down payment, a payment for the acquisition or improvement of property, and a payment reducing the principal of a loan used to finance the purchase or improvement of property. The term does not include a payment of interest on a loan used to finance the purchase or improvement of property, or a payment made for maintenance, insurance or taxes on property.

3. A party may file a postjudgment motion in any action for divorce, annulment or separate maintenance to obtain adjudication of any community property or liability omitted from the decree or judgment as the result of fraud or mistake. A motion pursuant to this subsection must be filed within 3 years after the discovery by the aggrieved party of the facts constituting the fraud or mistake. The court has continuing jurisdiction to hear such a motion and shall equally divide the omitted community property or liability between the parties unless the court finds that:

(a) The community property or liability was included in a prior equal disposition of the community property of the parties or in an unequal disposition of the community property of the parties which was made pursuant to written findings of a compelling reason for making that unequal disposition; or

(b) The court determines a compelling reason in the interests of justice to make an unequal disposition of the community property or liability and sets forth in writing the reasons for making the unequal disposition.

➡ If a motion pursuant to this subsection results in a judgment dividing a defined benefit pension plan, the judgment may not be enforced against an installment payment made by the plan more than 6 years after the installment payment.

4. Except as otherwise provided in NRS 125.141, whether or not application for suit money has been made under the provisions of NRS 125.040, the court may award a reasonable attorney’s fee to either party to an action for divorce.

5. In granting a divorce, the court may also set apart such portion of the husband’s separate property for the wife’s support, the wife’s separate property for the husband’s support or the separate property of either spouse for the support of their children as is deemed just and equitable.

6. In the event of the death of either party or the subsequent remarriage of the spouse to whom specified periodic payments were to be made, all the

payments required by the decree must cease, unless it was otherwise ordered by the court.

7. If the court adjudicates the property rights of the parties, or an agreement by the parties settling their property rights has been approved by the court, whether or not the court has retained jurisdiction to modify them, the adjudication of property rights, and the agreements settling property rights, may nevertheless at any time thereafter be modified by the court upon written stipulation signed and acknowledged by the parties to the action, and in accordance with the terms thereof.

8. If a decree of divorce, or an agreement between the parties which was ratified, adopted or approved in a decree of divorce, provides for specified periodic payments of alimony, the decree or agreement is not subject to modification by the court as to accrued payments. Payments pursuant to a decree entered on or after July 1, 1975, which have not accrued at the time a motion for modification is filed may be modified upon a showing of changed circumstances, whether or not the court has expressly retained jurisdiction for the modification. In addition to any other factors the court considers relevant in determining whether to modify the order, the court shall consider whether the income of the spouse who is ordered to pay alimony, as indicated on the spouse's federal income tax return for the preceding calendar year, has been reduced to such a level that the spouse is financially unable to pay the amount of alimony the spouse has been ordered to pay.

9. In addition to any other factors the court considers relevant in determining whether to award alimony and the amount of such an award, the court shall consider:

- (a) The financial condition of each spouse;
- (b) The nature and value of the respective property of each spouse;
- (c) The contribution of each spouse to any property held by the spouses pursuant to NRS 123.030;
- (d) The duration of the marriage;
- (e) The income, earning capacity, age and health of each spouse;
- (f) The standard of living during the marriage;
- (g) The career before the marriage of the spouse who would receive the alimony;
- (h) The existence of specialized education or training or the level of marketable skills attained by each spouse during the marriage;
- (i) The contribution of either spouse as homemaker;
- (j) The award of property granted by the court in the divorce, other than child support and alimony, to the spouse who would receive the alimony; and
- (k) The physical and mental condition of each party as it relates to the financial condition, health and ability to work of that spouse.

10. In granting a divorce, the court shall consider the need to grant alimony to a spouse for the purpose of obtaining training or education relating to a job, career or profession. In addition to any other factors the

court considers relevant in determining whether such alimony should be granted, the court shall consider:

(a) Whether the spouse who would pay such alimony has obtained greater job skills or education during the marriage; and

(b) Whether the spouse who would receive such alimony provided financial support while the other spouse obtained job skills or education.

11. If the court determines that alimony should be awarded pursuant to the provisions of subsection 10:

(a) The court, in its order, shall provide for the time within which the spouse who is the recipient of the alimony must commence the training or education relating to a job, career or profession.

(b) The spouse who is ordered to pay the alimony may, upon changed circumstances, file a motion to modify the order.

(c) The spouse who is the recipient of the alimony may be granted, in addition to any other alimony granted by the court, money to provide for:

(1) Testing of the recipient's skills relating to a job, career or profession;

(2) Evaluation of the recipient's abilities and goals relating to a job, career or profession;

(3) Guidance for the recipient in establishing a specific plan for training or education relating to a job, career or profession;

(4) Subsidization of an employer's costs incurred in training the recipient;

(5) Assisting the recipient to search for a job; or

(6) Payment of the costs of tuition, books and fees for:

(I) The equivalent of a high school diploma;

(II) College courses which are directly applicable to the recipient's goals for his or her career; or

(III) Courses of training in skills desirable for employment.

12. For the purposes of this section, a change of 20 percent or more in the gross monthly income of a spouse who is ordered to pay alimony shall be deemed to constitute changed circumstances requiring a review for modification of the payments of alimony. As used in this subsection, "gross monthly income" has the meaning ascribed to it in NRS 125B.070.

Sec. 6. NRS 132.135 is hereby amended to read as follows:

132.135 "Expenses of administration" means funeral expenses and expenses actually and properly incurred by a personal representative in the administration of an estate, **including, without limitation, expenses incurred for the maintenance or preservation of the assets of an estate**, plus the fees of the personal representative, any attorney retained by the personal representative and any other consultant engaged by him or her.

Sec. 7. NRS 132.145 is hereby amended to read as follows:

132.145 **1.** "Fiduciary" includes , **without limitation**, a personal representative, guardian , ~~and~~ trustee ~~+~~ **under any trust, whether express, implied, resulting or constructive, bailee, conservator, curator, receiver or**

trustee in bankruptcy or an attorney in fact, assignee for the benefit of creditors or agent. The term does not include:

(a) A trust protector or trust adviser, except under the terms and conditions expressly provided in the written instrument appointing the trust protector or trust adviser; or

(b) A holder of a power of appointment under the terms of a trust.

2. As used in this section:

(a) "Trust adviser" has the meaning ascribed to it in NRS 163.5545.

(b) "Trust protector" has the meaning ascribed to it in NRS 163.5547.

Sec. 8. NRS 133.130 is hereby amended to read as follows:

133.130 If, after the making of any will, the testator executes a **valid** second will ~~that~~ **that includes provisions revoking the first will**, the destruction, cancellation or revocation of the second will does not revive the first will ~~unless~~ **unless** :

1. **It** appears by the terms of the revocation **or the manner in which the revocation occurred** that it was the intention to revive and give effect to the first will ; ~~or unless, after~~

2. **After** the destruction, cancellation or revocation, the first will is reexecuted.

Sec. 9. NRS 136.240 is hereby amended to read as follows:

136.240 1. The petition for the probate of a lost or destroyed will must include a copy of the will, or if no copy is available state, or be accompanied by a written statement of, the testamentary words, or the substance thereof.

2. If offered for probate, a lost or destroyed will must be proved in the same manner as other wills are proved under this chapter.

3. In addition, no will may be proved as a lost or destroyed will unless **its provisions are clearly and distinctly proved by two or more credible witnesses and** it is ~~proved~~ :

(a) Proved to have been in **legal** existence at the death of the person whose will it is claimed to be ~~and~~ **and has not otherwise been revoked or destroyed without the knowledge, consent or ratification of such person; or** ~~is shown~~

(b) Shown to have been fraudulently destroyed in the lifetime of that person . ~~nor unless its provisions are clearly and distinctly proved by at least two credible witnesses.~~

4. The testimony of each witness must be reduced to writing, signed by the witness and filed, and is admissible in evidence in any contest of the will if the witness has died or permanently moved from the State.

5. Notwithstanding any provision of this section to the contrary:

(a) The production of a person's lost or destroyed will, whose primary beneficiary is a nontestamentary trust established by the person and in existence at his or her death, creates a rebuttable presumption that the will had not been revoked.

(b) If the proponent of a lost or destroyed will makes a prima facie showing that it was more likely than not left unrevoked by the person whose

will it is claimed to be before his or her death, then the will must be admitted to probate in absence of an objection. If such prima facie showing has been made, the court shall accept a copy of such a will as sufficient proof of the terms thereof without requiring further evidence in the absence of any objection.

6. If the will is established, its provisions must be set forth specifically in the order admitting it to probate, or a copy of the will must be attached to the order.

Sec. 10. NRS 137.005 is hereby amended to read as follows:

137.005 1. Except as otherwise provided in subsections 3 and 4, a no-contest clause in a will must be enforced by the court ~~[-] because public policy favors enforcing the intent of the testator. However, because public policy does not favor forfeitures, a no-contest clause must be strictly construed by the court and must not be extended beyond the plain meaning of the express provisions of the will.~~

2. A no-contest clause must be construed to carry out the testator's intent ~~[- Except] to the extent [the will is vague or ambiguous,] such intent is clear and unambiguous. No~~ extrinsic evidence is ~~[not]~~ admissible to establish the testator's intent concerning the no-contest clause. The provisions of this subsection do not prohibit ~~[such]~~ **extrinsic** evidence from being admitted for any other purpose authorized by law. Except as otherwise provided in subsections 3 and 4, a devisee's share may be reduced or eliminated under a no-contest clause based upon conduct that is set forth by the testator in the will, including, without limitation, any testamentary trust established in the will. Such conduct may include, without limitation:

(a) Conduct other than formal court action; and
(b) Conduct which is unrelated to the will itself, including, without limitation:

(1) The commencement of civil litigation against the testator's probate estate or family members;
(2) Interference with the administration of a trust or a business entity;
(3) Efforts to frustrate the intent of the testator's power of attorney; and
(4) Efforts to frustrate the designation of beneficiaries related to a nonprobate transfer by the testator.

3. Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated ~~[-] because of any action taken by the devisee [seeks] seeking~~ only to:

(a) Enforce the terms of the will or any document referenced in or affected by the will;

(b) Enforce the devisee's legal rights in the probate proceeding; ~~[-]~~

(c) Obtain ~~[-] a] court [ruling] instruction~~ with respect to the **proper administration of the estate or the** construction or legal effect of the will ~~[-] or the provisions thereof; or~~

(d) **Enforce the fiduciary duties of the personal representative.**

4. Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated under a no-contest clause because the devisee institutes legal action seeking to invalidate a will if the legal action is instituted **and maintained** in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that the will is invalid.

5. ***As to any testamentary trust, the testator is the settlor. Unless the will expressly provides otherwise, a no-contest clause in a will applies to a testamentary trust created under that will and the provisions of NRS 163.00195 apply to that trust.***

6. As used in this section, "no-contest clause" means one or more provisions in a will that express a directive to reduce or eliminate the share allocated to a devisee or to reduce or eliminate the distributions to be made to a devisee if the devisee takes action to frustrate or defeat the testator's intent as expressed in the will.

Sec. 11. NRS 137.090 is hereby amended to read as follows:

137.090 Upon filing ~~the~~ a petition ~~[-, and within the time allowed for filing the petition,]~~ ***pursuant to NRS 137.080, the court shall order the issuance of*** a citation, ~~[-must be issued,]~~ directed to the personal representative and to all the devisees mentioned in the will, and the heirs, so far as known to the petitioner, including minors and incapacitated persons, or the personal representative of any such person who is dead, directing them to plead to the contest within 30 days after service of the citation.

Sec. 12. NRS 139.135 is hereby amended to read as follows:

139.135 1. An agreement between an heir finder and an apparent heir, the primary purpose of which is to locate, recover or assist in the recovery of an estate for which the public administrator has petitioned for letters of administration, is void and unenforceable if the agreement is entered into during the period beginning with the death of the person whose estate is in probate until 90 days thereafter. ***Upon a showing of good cause, the court may extend such a period until 180 days after the death of the person.***

2. As used in this section, "heir finder" means a person who, for payment of a fee, assignment of a portion of any interest in a decedent's estate or other consideration, provides information, assistance, forensic genealogy research or other efforts related to another person's right to or interest in a decedent's estate. The term does not include:

(a) A person acting in the capacity of a personal representative or guardian ad litem;

(b) A person appointed to perform services by a probate court in which a proceeding in connection with a decedent's estate is pending; or

(c) An attorney providing legal services to a decedent's family member if the attorney has not agreed to pay to any other person a portion of the fees received from the family member or the family member's interest in the decedent's estate.

Sec. 13. NRS 140.010 is hereby amended to read as follows:

140.010 The court shall appoint a special administrator to collect and take charge of the estate of the decedent, in whatever county or counties the estate may be found, and to exercise such other powers as may be necessary to preserve the estate ~~to~~ **or any rights or privileges belonging to the decedent:**

1. If there is a delay in granting letters testamentary or letters of administration, from any cause.

2. If letters are granted irregularly.

3. If no sufficient bond is filed as required by the court.

4. If no petition is filed for letters.

5. If an executor or administrator dies or is suspended or removed, and the circumstances of the estate require the immediate appointment of a personal representative.

6. If there may be no assets subject to administration but good cause exists for the appointment of a personal representative of the decedent.

7. In any other proper case.

Sec. 14. NRS 140.030 is hereby amended to read as follows:

140.030 Before letters issue to a person as a special administrator, the person must:

1. Give bond in such sum as the court directs, with sureties to the satisfaction of the court, conditioned for the faithful performance of the duties, unless the court waives bond ~~to~~ **, with or without conditions, or dispenses the bond and alternatively requires the establishment of a blocked account;** and

2. Take the usual oath of office.

Sec. 15. NRS 142.020 is hereby amended to read as follows:

142.020 1. The requirement of a bond of a personal representative is discretionary with the court. Whether a bond is expressly required by the will or not, the court may:

(a) Require a bond if it determines a bond is desirable; or

(b) Dispense with the requirement of a bond if ~~it~~ **:**

(1) The court determines a bond is unnecessary ~~to~~ **;** or

(2) The assets of the estate are deposited with a financial institution pursuant to subsection 3.

2. The bond must be conditioned so that the personal representative will faithfully execute the duties of the office according to law, and the bond must be filed by the clerk.

3. Personal assets of an estate may be deposited with a domestic credit union or other domestic financial institution upon such terms as may be prescribed by order of the court having jurisdiction of the estate. The deposit is subject to the further order of the court. ~~The bond of the personal representative may be reduced accordingly.~~ The personal representative shall file with the clerk the acknowledgment of an authorized representative

of the financial institution that holds the assets deposited, which may be in the following form:

PROOF OF BLOCKED ACCOUNT

The undersigned affirms that, as personal representative of the estate of, deceased, has established an account, number, entitled “.....,” in the amount of \$.....

The undersigned acknowledges that this account bears a blocked/frozen designation, and that no money may be removed without first presenting an order from the court authorizing the withdrawal.

Dated on(date) By:
Title:

4. During the pendency of the administration, any person, including a creditor, having an interest in an estate whose value exceeds \$10,000 may file a petition requesting that the personal representative submit additional bond. Upon the filing of the petition, the clerk shall set it for hearing, and the petitioner shall give notice for the period and in the manner provided in NRS 155.010. Upon hearing the petition, the court may require the personal representative to file additional bond in the amount of the claim of the petitioner, unless it determines that bond should be dispensed with or set in a different amount.

5. The amount of the bond is the estimated value of all personal property plus income for 1 year from both real and personal property, unless the amount of the bond is expressly mentioned in the will, changed by the court or required pursuant to subsection 4.

6. If a banking corporation, as defined in NRS 657.016, or trust company, as defined in NRS 669.070, doing business in this State is appointed the personal representative of the estate of a decedent, no bond is required unless otherwise specifically required by the court.

Sec. 16. NRS 143.020 is hereby amended to read as follows:

143.020 Except as otherwise provided in NRS 143.030 and 146.010, a personal representative has a right to the possession of all the real, as well as personal, property of the decedent and may receive the rents and profits of the property until the estate is settled, or until delivered over by order of the court to the heirs or devisees, and shall make a reasonable effort to ~~keep~~ **preserve and maintain all such property, including, without limitation, by keeping** in good tenantable repair all houses, buildings and appurtenances thereon which are under the control of the personal representative.

Sec. 17. NRS 143.035 is hereby amended to read as follows:

143.035 1. A personal representative shall use reasonable diligence in performing the duties of the personal representative and in pursuing the administration of the estate.

2. ~~{A}~~ ***In the absence of pending litigation or a contested proceeding involving the estate, a*** personal representative in charge of an estate that has not been closed shall:

(a) Within 6 months after the personal representative's appointment, where no federal estate tax return is required to be filed for the estate; or

(b) Within ~~15~~ **18** months after the personal representative's appointment, where a federal estate tax return is required to be filed for the estate, ➔ file with the court a report explaining why the estate has not been closed.

3. Upon receiving the report, the clerk shall set a time and place for a hearing of the report. The personal representative shall send a copy of the report and shall give notice of the hearing, for the period and in the manner provided in NRS 155.010, to:

(a) Each person whose interest is affected as an heir or devisee; and

(b) The Department of Health and Human Services, if the Department has filed a claim against the estate.

4. At the hearing, the court shall determine whether or not the personal representative has used reasonable diligence in the administration of the estate, and if the personal representative has not, the court may:

(a) Subject to the provisions of NRS 143.037:

(1) Prescribe the time within which the estate must be closed; or

(2) Allow the personal representative additional time for closing and order a subsequent report; or

(b) Revoke the letters of the personal representative, appoint a successor and prescribe a reasonable time within which the successor shall close the estate.

Sec. 18. NRS 143.037 is hereby amended to read as follows:

143.037 1. Except as otherwise provided in this section, a personal representative shall close an estate within 18 months after appointment.

2. If ~~{a}~~ ***an estate is not closed within 18 months after the appointment of a personal representative and:***

(a) ***A claim against the estate is in litigation or in summary determination pursuant to subsection 5 of NRS 145.060 ~~{or}~~, a petition for determination of the validity of the claim has been filed pursuant to*** subsection 2 of NRS 147.130 or the amount of federal estate tax has not been determined, ~~{the court, upon petition of}~~ a devisee, creditor or heir ~~{, shall}~~ ***may file a petition seeking an*** order that:

~~{(a)}~~ ***(I)*** A certain amount of money, or certain other assets, be retained by the personal representative to:

~~{(1)}~~ ***(I)*** Satisfy the claim or tax; and

~~{(2)}~~ ***(II)*** Pay any fees or costs related to the claim or tax, including fees for appraisals, attorney's fees and court costs; and

~~{(b)}~~ ***(2)*** The remainder of the estate be distributed.

~~{3. — If a}~~

(b) A contest of the will or a proceeding to determine heirship is pending, **a devisee, creditor or heir may file a petition requesting** the court which appointed the personal representative ~~to~~:

~~—(a) Shall~~ to order that ~~the~~:

(1) A certain amount of money, or certain other assets, be retained and the remainder of the estate distributed; or

~~(b) May, for good cause shown, order that the~~

(2) The entire distributable estate be retained pending disposition of the contest or proceeding.

3. **A court shall not enter an order distributing the assets of an estate pursuant to this section if such a distribution will result in there being insufficient assets to enable the personal representative to discharge any tax liability, claims of creditors, administrative expenses or any other just obligation of the estate.**

Sec. 19. NRS 143.050 is hereby amended to read as follows:

143.050 1. Except as otherwise provided in NRS 143.520, after notice given as provided in NRS 155.010 or in such other manner as the court directs, the court may authorize the personal representative to continue the operation of the decedent's business to such an extent and subject to such restrictions as may seem to the court to be for the best interest of the estate and any interested persons.

2. **The provisions of subsection 1 do not apply to passive investments or the exercise of any shareholder or membership rights to which the personal representative has succeeded.**

3. **Unless specifically authorized by the will or by the court, the personal representative may not receive any separate compensation for continuing the operation of the decedent's business pursuant to this section.**

Sec. 20. NRS 143.165 is hereby amended to read as follows:

143.165 1. On petition **or ex parte application** of an interested person, the court by temporary order **, with or without bond,** may restrain a personal representative from performing specified acts of administration, disbursement or distribution, or exercising any powers or discharging any duties of the office, or enter any other order to secure proper performance of the duties of the office. ~~It~~ **Notwithstanding any other provision of law,** if it appears to the court that the personal representative otherwise may take some action that would jeopardize unreasonably the interest of the petitioner or of some other interested person ~~it~~ **or the estate, the court may enter the temporary order.** A person with whom the personal representative may transact business may be made a party to the temporary order.

2. The matter must be set for hearing within 10 days after entry of the temporary order, unless the parties otherwise agree ~~it~~, **or on a date the court otherwise determines is in the best interest of the estate.** Notice as the court directs must be given by the petitioner to the personal representative

and the attorney of record of the personal representative, if any, and to any other party named as a party in the temporary order.

Sec. 21. NRS 144.010 is hereby amended to read as follows:

144.010 1. Except as otherwise provided in this ~~subsection,~~ **section**, every personal representative shall ~~make~~ **prepare** and file with the clerk ~~[-] a true inventory and appraisal or record of value of all the assets of the decedent that have come to the possession or knowledge of the personal representative,~~ **within 60 days after the issuance of letters of administration, unless the court extends the time [-] a true inventory and appraisal or record of value of all the estate of the decedent that has come to the possession or knowledge of the personal representative. for good cause shown.** The requirement of **preparing and** filing an inventory or ~~the requirement of filing~~ an appraisal or a verified record of value, or both, may be waived by the unanimous written consent of all interested persons.

2. ~~The~~ **Notwithstanding the provisions of this subsection, an interested person may provide a written request to the personal representative at any time 60 days or more after the issuance of letters of administration which seeks a list of the assets of the estate known to the personal representative. The personal representative shall provide such information to the requesting interested party within 10 days after receipt of the written request.**

3. **Unless an interested heir requested and was provided a list of assets pursuant to subsection 2, the** personal representative, within 10 days after filing the inventory with the clerk, shall mail a copy to all the interested heirs of an intestate estate, or to the devisees of a testate estate, or to both interested heirs and devisees, if a contest of the will of the decedent is pending. Proof of the mailing of the copies must be made and filed in the proceeding.

4. **Notwithstanding the requirements set forth in this section, a personal representative may file a redacted inventory to protect the decedent or his or her estate or an interested person. Such an inventory may redact any account numbers, social security numbers and values. Upon request by the court or an interested person, the personal representative shall make the full inventory without redaction available for inspection.**

5. **This section must not be construed to interfere with the authority of a court to order a personal representative to provide the court with information sufficient to identify the assets of an estate and the value thereof that is subject to probate administration, including, without limitation, requiring the personal representative to submit an inventory to the court in camera, as the court deems necessary and appropriate.**

Sec. 22. NRS 144.020 is hereby amended to read as follows:

144.020 1. A personal representative may engage a qualified and disinterested appraiser to ascertain the fair market value, as of the decedent's

death, of any asset the value of which is subject to reasonable doubt. Different persons may be engaged to appraise different kinds of assets included in the estate.

2. Any such appraiser is entitled to a reasonable compensation for the appraisal and may be paid the compensation by the personal representative out of the estate at any time after completion of the appraisal.

3. Except as otherwise provided in NRS 144.010, if there is no reasonable doubt as to the value of assets, such as money, deposits in banks or credit unions, bonds, policies of life insurance, or securities for money or evidence of indebtedness, and the asset is equal in value to cash, the personal representative shall file a verified record of value in lieu of the appraisal.

4. If it appears beyond reasonable doubt that there will be no need to sell assets of the estate to pay the debts of the estate or expenses of administration, or to divide assets for distribution in kind to the devisees or heirs, the personal representative may petition the court for an order allowing a verified record of value to be filed in lieu of the appraisal or, if no interested person is prejudiced thereby, an order waiving the requirement for filing an appraisal or verified record of value, and the court may enter such an order with or without notice.

5. *If the personal representative reasonably believes that the value of the household furniture and furnishings of the estate is less than \$30,000, the personal representative may file a verified record of value in lieu of the appraisal. Notwithstanding the provisions of this subsection, any interested person may petition the court to require the personal representative to obtain an appraisal on some or all of such household furniture and furnishings. Upon a showing of good cause, the court shall order the appraisal.*

Sec. 23. NRS 144.080 is hereby amended to read as follows:

144.080 If a personal representative neglects or refuses to file the inventory within the time prescribed by law or extended by the court, the court may, upon such notice as it deems appropriate ~~[-revoke]~~:

1. ***Revoke*** the letters of the personal representative ~~[-and]~~;
2. ***Order that the fees and costs incurred by the interested person seeking to enforce the provisions of this subsection be satisfied by the bond of the personal representative or, in the absence of a bond, be paid personally by the personal representative; or***
3. ***Hold*** the personal representative ~~[-is]~~ liable on the bond of the personal representative for any injuries sustained by the estate through his or her ~~[-neglect.]~~ ***gross negligence or willful misconduct.***

Sec. 24. NRS 147.130 is hereby amended to read as follows:

147.130 1. If a claim is rejected by the personal representative or the court, in whole or in part, the claimant must be immediately notified by the personal representative, and the claimant must bring suit in the proper court against the personal representative within 60 days after the notice or file a timely petition for ~~[-summary]~~ ***determination of the validity of the claim***

pursuant to subsection 2, whether the claim is due or not, or the claim is forever barred. A claimant must be informed of the rejection of the claim by written notice forwarded to the claimant's mailing address by registered or certified mail.

2. If a claim ~~filed by the Department of Health and Human Services~~ is rejected by the personal representative, ~~the Director of the Department~~ **a creditor** may, within 20 days after receipt of the written notice of rejection, petition the court for ~~summary~~ determination of **the validity of the claim** ~~in lieu of bringing suit against the personal representative pursuant to subsection 1.~~ A petition for ~~summary~~ determination **of the validity of the claim** must be filed with the clerk, who shall set the petition for hearing, and notice must be given for the period and in the manner required by NRS 155.010. Allowance of the claim by the court is sufficient evidence of its correctness, and it must be paid as if previously allowed by the personal representative.

3. In any action brought upon a claim rejected in whole or in part by the personal representative, if the personal representative resides out of the State or has departed from the State, or cannot, after due diligence, be found within the State, or conceals himself or herself to avoid the service of summons, the summons, together with a copy of the complaint, must be mailed directly to the last address given by the personal representative, with a copy to the attorney for the estate, and proof of the mailing must be filed with the clerk where the administration of the estate is pending. This service is the equivalent of personal service upon the personal representative, but he or she has 30 days from the date of service within which to answer.

4. If the personal representative defaults after such service, the default is sufficient grounds for his or her removal as personal representative by the court without notice. Upon petition and notice, in the manner provided for an application for letters of administration, an administrator or an administrator with the will annexed must be appointed by the court and, upon his or her qualification as such, letters of administration or letters of administration with the will annexed must be issued.

Sec. 25. NRS 147.150 is hereby amended to read as follows:

147.150 No holder of a claim against an estate may maintain an action thereon unless the claim is first filed with the clerk and the claim is rejected in whole or in part, except in the following case: An action may be brought by the holder of a **lien or** mortgage to enforce the **lien or** mortgage against the property of the estate subject thereto if all recourse against any other property of the estate is expressly waived in the complaint.

Sec. 26. NRS 148.220 is hereby amended to read as follows:

148.220 1. Notice of the time and place of sale of real property must be published in a newspaper published in the county in which the property, or some portion of the property, is located, if there is one so published, and if not, then in such paper as the court directs, for 2 weeks, being three publications, 1 week apart, before the day of sale or, in the case of a private

sale, before the day on or after which the sale is to be made. For good cause shown, the court may decrease the number of publications to one and shorten the time for publication to a period not less than 8 days.

2. ~~If the~~ **The court may waive the requirement of publication if:**

(a) **The** personal representative is the sole devisee or heir of the estate, or if all devisees or heirs of the estate consent in writing ~~[-the court may waive the requirement of publication.];~~

(b) **The personal representative provides proof that the property has been publicly listed in a public property listing service for a period of not less than 30 days; or**

(c) **The estate is subject to a lien or mortgage on the property in excess of the value of the real property and the estate has entered into an agreement with the holder of the lien or mortgage to waive the deficiency and accept the net sales proceeds.**

3. If it appears from the inventory and appraisal that the value of the property to be sold does not exceed \$5,000, the personal representative may waive the requirement of publication and, in lieu thereof, post a notice of the time and place of sale in three of the most public places in the county in which the property, or some portion of the property, is located, for 2 weeks before the day of the sale or, in the case of a private sale, before the day on or after which the sale is to be made.

4. The property proposed to be sold must be described with common certainty in the notice.

Sec. 27. NRS 148.260 is hereby amended to read as follows:

148.260 1. Except as otherwise provided in subsection 2, ~~[-no]~~ **a** sale of real property at **a** private sale ~~[-may]~~ **must not** be confirmed by the court unless the court is satisfied that the sum offered represents the fair market value of the property sold ~~[-, nor unless]~~ **and** the real property has been appraised within 1 year before the time of sale. If ~~[-it]~~ **the property** has not been appraised, a new appraisal must be ~~[-had,]~~ **performed**, as in the case of an original appraisal of an estate, ~~[-This may be done]~~ at any time before the sale or confirmation ~~[-thereof.]~~ **of the property.**

2. **The court may waive the requirement of an appraisal:**

(a) **For good cause shown; or**

(b) If the personal representative is the sole devisee or heir of the estate, or if all devisees or heirs consent in writing to sale without an appraisal, ~~[-the requirement of an appraisal may be dispensed with and]~~, **in which case** the personal representative may rely on the assessed value of the property for taxation in obtaining confirmation of the sale.

Sec. 28. NRS 148.270 is hereby amended to read as follows:

148.270 1. At the hearing, the court shall consider the necessity for the sale, or the advantage, benefit and interest of the estate in having the sale made, and must examine the return and the evidence in relation to the sale.

2. If it appears to the court that good reason existed for the sale, that the sale was legally made and fairly conducted, and complied with the

requirements of NRS 148.260, that the sum bid is not disproportionate to the value, and it does not appear that a sum exceeding the bid by at least 5 percent if the bid is not more than \$100,000, or by at least \$5,000 if the bid is \$100,000 or more, may be obtained, the court shall enter an order confirming the sale and directing conveyances to be executed. Otherwise, it shall vacate the sale. If the court directs that the property be resold, notice must be given and the sale in all respects conducted as if no previous sale had taken place.

3. If a written offer of 5 percent or \$5,000 more in amount than that named in the return is made to the court by a responsible person, as provided in subsection 2, and the bid complies with all provisions of the law, the court may accept the offer and confirm the sale to that person, order a new sale or conduct a public auction in open court.

4. If a higher bid is received at the time of a hearing to confirm the sale, the court may continue the hearing if it finds that the original bidder was not notified of the hearing and might desire to increase his or her bid, but failure to notify the original bidder or to continue the hearing is not grounds to void an order confirming a sale.

5. *If the court accepts a higher bid at the time of a hearing to confirm the sale, the court shall confirm the original purchase contract and include in the order confirming the sale the substitution of the new sale price and purchaser. The order confirming the sale is a sufficient addendum to the original contract to allow escrow to close.*

6. *Notwithstanding the provisions of this section, if the estate is subject to a lien or mortgage that exceeds the value of the property and the estate has entered into an agreement with the holder of the lien or mortgage to waive any deficiency as to other estate property and accept the net sales proceeds as full satisfaction of the lien or mortgage, the court shall confirm the sale without accepting bids on the property.*

Sec. 29. NRS 153.020 is hereby amended to read as follows:

153.020 1. If a ~~trust,~~ life estate or estate for years is created by or under any will to continue after distribution ~~of the estate,~~ *life estate or estate for years* by final distribution ~~of the estate,~~ but retains jurisdiction of it until the distribution of the residue *of the life estate or estate for years* to those entitled to it ~~The~~ *is complete. Proof of distribution of the residue* may be *made* upon petition of ~~the trustee, his or her successor in interest or of~~ any person entitled to share in the distribution *of the life estate or estate for years, which terminates the jurisdiction of the court upon decree of the court. The court does not retain jurisdiction over a testamentary trust created by or under a will after distribution of that portion of the estate to such a testamentary trust.*

2. *Notwithstanding the provisions of subsection 1, before the entry of an order granting final distribution of the estate, the court may consider a petition filed by the trustee or any beneficiary of the testamentary trust requesting the court to retain jurisdiction of the testamentary trust and,*

upon good cause shown, the court may order such continued jurisdiction. Such a petition must be filed with the clerk of the court before the hearing on the petition for final distribution of the estate and must be served on all interested persons in accordance with NRS 155.010.

3. This section must not be construed to limit the ability of an interested person to subsequently seek submission of a testamentary trust to the jurisdiction of the court pursuant to NRS 164.010.

Sec. 30. NRS 153.031 is hereby amended to read as follows:

153.031 1. A trustee or beneficiary may petition the court regarding any aspect of the affairs of the trust, including:

- (a) Determining the existence of the trust;
- (b) Determining the construction of the trust instrument;
- (c) Determining the existence of an immunity, power, privilege, right or duty;
- (d) Determining the validity of a provision of the trust;
- (e) Ascertaining beneficiaries and determining to whom property is to pass or be delivered upon final or partial termination of the trust, to the extent not provided in the trust instrument;
- (f) Settling the accounts and reviewing the acts of the trustee, including the exercise of discretionary powers;
- (g) Instructing the trustee;
- (h) ~~Compelling~~ **Subject to the requirements of chapter 165 of NRS, compelling** the trustee to report information about the trust or account, to the beneficiary;
- (i) Granting powers to the trustee;
- (j) Fixing or allowing payment of the trustee's compensation, or reviewing the reasonableness of the trustee's compensation;
- (k) Appointing or removing a trustee;
- (l) Accepting the resignation of a trustee;
- (m) Compelling redress of a breach of the trust;
- (n) Approving or directing the modification or termination of the trust;
- (o) Approving or directing the combination or division of trusts;
- (p) Amending or conforming the trust instrument in the manner required to qualify the estate of a decedent for the charitable estate tax deduction under federal law, including the addition of mandatory requirements for a charitable-remainder trust;
- (q) Compelling compliance with the terms of the trust or other applicable law; and
- (r) Permitting the division or allocation of the aggregate value of community property assets in a manner other than on a pro rata basis.

2. A petition under this section must state the grounds of the petition and the name and address of each interested person, including the Attorney General if the petition relates to a charitable trust, and the relief sought by the petition. Except as otherwise provided in this chapter, the clerk shall set the petition for hearing and the petitioner shall give notice for the period and in

the manner provided in NRS 155.010. The court may order such further notice to be given as may be proper.

3. If the court grants any relief to the petitioner, the court may, in its discretion, order any or all of the following additional relief if the court determines that such additional relief is appropriate to redress or avoid an injustice:

(a) Order a reduction in the trustee's compensation.

(b) Order the trustee to pay to the petitioner or any other party all reasonable costs incurred by the party to adjudicate the affairs of the trust pursuant to this section, including, without limitation, reasonable attorney's fees. The trustee may not be held personally liable for the payment of such costs unless the court determines that the trustee was negligent in the performance of or breached his or her fiduciary duties.

Sec. 31. NRS 153.041 is hereby amended to read as follows:

153.041 ~~The trustee [may, upon petition of a beneficiary or the guardian of a beneficiary, be ordered to appear at a hearing and render an account. The trustee must be served with a citation]~~ **of a testamentary trust shall account in accordance with the provisions of chapter 165 of NRS. This section must not be interpreted to abridge the authority of a court having jurisdiction over a testamentary trust pursuant to NRS 153.020 or 164.010 to order a trustee of a testamentary trust to account, upon good cause, to the persons and** in the manner ~~[provided in NRS 155.050. Unless otherwise]~~ ordered by the court. ~~[, the citation must be served at least 30 days before the day of the hearing. The petition may not be denied unless an account has been filed with the court within 1 year before the petition is filed.]~~

Sec. 32. NRS 153.070 is hereby amended to read as follows:

153.070 ~~[On the settlement of each account]~~ **The expenses and compensation of a trustee [,] of a testamentary trust must initially be governed by the terms of the will which created the testamentary trust or as otherwise ordered by the court at the time the testamentary trust is established. Thereafter, subject to any contrary terms of the testamentary trust or an order of the court,** the court shall allow the trustee his or her proper expenses and such compensation for services as ~~[the court may deem]~~ **are** just and reasonable. Where there are several trustees, ~~[it shall apportion the]~~ compensation **must be apportioned** among ~~[them]~~ **the trustees** according to the respective services rendered ~~[, it], and such compensation may [fix]~~ **be a fixed** yearly compensation for each trustee, ~~[in]~~ a set amount **for the term of service, an hourly rate for services rendered** or pursuant to a standard schedule of fees. ~~[, to continue as long as the]~~ **The provisions of this section must not be interpreted to abridge the authority of a court [may deem proper.] having jurisdiction over a testamentary trust pursuant to NRS 153.020 or 164.010 to review and settle the expenses and compensation of the trustee of a testamentary trust upon the petition of any interested person.**

Sec. 33. NRS 153.090 is hereby amended to read as follows:

153.090 1. A person named or designated as a trustee *of a testamentary trust* in a will may, at any time before distribution of any of the estate to the person, decline to act as trustee, and an order of court must be entered accepting the resignation, but the declination of any person who has qualified as trustee may not be accepted by the court unless *the testamentary trust is subject to ongoing court jurisdiction pursuant to NRS 153.020 and* a petition to accept the declination is filed in the proceeding for administration of the ~~estate~~ *testamentary trust*. Upon the filing of the petition, the clerk shall set it for hearing and the petitioner shall give notice to all interested persons for the period and in the manner provided in NRS 155.010.

2. *A person named or designated as a trustee of a testamentary trust in a will that is no longer subject to ongoing court jurisdiction may resign as trustee in accordance with the terms of the testamentary trust or will which created the testamentary trust or, if the testamentary trust or will is silent on the matter, may seek court approval of such resignation in conjunction with a petition under NRS 164.010 or 164.030.*

3. In accepting a declination ~~or resignation~~, the court may enter and enforce any order which may be necessary for the preservation of the estate.

Sec. 34. Chapter 155 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any provision in this title, if an act is authorized or required to be performed at or within a specified period pursuant to this chapter:

1. *The period may be extended upon the agreement of all interested persons, by written stipulation of counsel filed in the action; or*

2. *The court, for good cause shown, may at any time:*

(a) *Regardless of whether there has been a motion, petition or notice, order that the period be extended if a request for the extension is made before the expiration of the specified period as originally prescribed or as extended by a previous order; or*

(b) *Upon a motion made after the expiration of the specified period, authorize a person to perform the act if the failure to perform the act in a timely manner was the result of excusable neglect.*

Sec. 35. NRS 155.050 is hereby amended to read as follows:

155.050 1. The citation described in NRS 155.040 ~~is to~~ *must* be served ~~in the same manner as the personal~~ *by*:

(a) *Certified mail, with a return receipt requested, on each person required to be served; or*

(b) *Personal service ~~of summons~~ in the manner provided pursuant to Rule 4(d) of the Nevada Rules of Civil Procedure.*

2. If ~~personal~~, *after due diligence*, service cannot be made upon the person to be served, *service of* the citation may be ~~served~~ *made by publication in the manner provided by Rule 4(e) of the Nevada Rules of*

Civil Procedure, by leaving a copy with the person's attorney of record or in such other manner as the court may direct.

Sec. 36. NRS 162.280 is hereby amended to read as follows:

162.280 At the time for distribution of any property of an estate or trust, the fiduciary may withhold any part or all of the property from the beneficiaries if the fiduciary determines that the property may be subject to ***claims of offset held by the fiduciary in his or her fiduciary capacity***, conflicting claims, tax deficiencies or other liabilities, contingent or otherwise, relating to the estate or trust.

Sec. 37. NRS 162.300 is hereby amended to read as follows:

162.300 1. A fiduciary may ***establish a trust or*** form a corporation, limited-liability company or other entity, and transfer, assign and convey to the ***trust***, corporation, limited-liability company or entity all or any part of an estate or of any trust property in exchange for the stock, securities or obligations of the ***trust***, corporation, limited-liability company or entity, and continue to hold the stock and securities and obligations.

2. A ***trust established or a*** corporation, limited-liability company or other entity incorporated, organized or registered under the laws of this State that acts as a fiduciary or trustee of an estate or trust administered under the laws of this State may be owned or controlled by the trust if the trust instrument authorizes the trust to own an affiliate.

3. As used in this section, "affiliate" has the meaning ascribed to it in NRS 163.020.

Sec. 38. Chapter 163 of NRS is hereby amended by adding thereto the provisions set forth as sections 39 and 40 of this act.

Sec. 39. *Except as otherwise provided in NRS 163.0075 or another provision of law:*

1. *A trust may be created for a noncharitable purpose without a definite ascertainable beneficiary or for a noncharitable but otherwise valid purpose. The noncharitable purpose for which a trust is created must be stated with sufficient particularity in the trust instrument as to be ascertainable by a finder of fact.*

2. *A trust authorized by this section may be enforced by a trustee, trust adviser, trust protector or person appointed under the terms of the trust or, if no such person is appointed, by the court.*

3. *Except to the extent the court determines that the value of the trust property exceeds the amount required for the intended use, property of a trust authorized by this section may be applied only to its intended use, including, without limitation, appointing trust property to or for the benefit of an existing or new trust whose purposes are limited to one or more purposes of the original trust. Except as otherwise provided by the terms of the trust, property not required for the intended use must be distributed to the settlor, if living, or otherwise to the settlor's successors in interest.*

4. As used in this section:

(a) *"Trust adviser" has the meaning ascribed to it in NRS 163.5545.*

(b) *“Trust protector” has the meaning ascribed to it in NRS 163.5547.*

(c) *“Valid purpose” means any purpose that is not illegal or against public policy.*

Sec. 40. *Unless otherwise ordered or provided for in a property or separation agreement approved by the court in a proceeding for a divorce or annulment, the divorce, annulment of the marriage or termination of the domestic partnership of the descendant of a settlor revokes:*

1. *Every devise, beneficial interest or designation to serve as trustee that was given by the settlor to the former spouse or domestic partner of the descendant in a revocable inter vivos trust executed before the entry of the decree of divorce or annulment or the termination of the domestic partnership, unless otherwise provided in the trust instrument, and the provisions of the trust take effect in the same manner as if the spouse or domestic partner of the descendant predeceased the settlor; and*

2. *The appointment of the spouse or domestic partner of the descendant as a trust protector, trust adviser or consultant.*

Sec. 41. NRS 163.00195 is hereby amended to read as follows:

163.00195 1. Except as otherwise provided in subsections 3 and 4, a no-contest clause in a trust must be enforced by the court ~~if~~ ***because public policy favors enforcing the intent of the settlor. However, because public policy does not favor forfeitures, a no-contest clause must be strictly construed by the court and must not be extended beyond the plain meaning of the express provisions of the trust.***

2. A no-contest clause must be construed to carry out the settlor’s intent ~~if~~ ***such intent is clear and unambiguous. No*** extrinsic evidence is ~~not~~ ***admissible to establish the settlor’s intent concerning the no-contest clause. The provisions of this subsection do not prohibit*** ~~such~~ ***extrinsic*** evidence from being admitted for any other purpose authorized by law. Except as otherwise provided in subsections 3 and 4, a beneficiary’s share may be reduced or eliminated under a no-contest clause based upon conduct that is set forth by the settlor in the trust. Such conduct may include, without limitation:

(a) Conduct other than formal court action; and

(b) Conduct which is unrelated to the trust itself, including, without limitation:

(1) The commencement of civil litigation against the settlor’s probate estate or family members;

(2) Interference with the administration of another trust or a business entity;

(3) Efforts to frustrate the intent of the settlor’s power of attorney; and

(4) Efforts to frustrate the designation of beneficiaries related to a nonprobate transfer by the settlor.

3. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated ~~if~~ **because of any action taken by** the beneficiary ~~seeks~~ **seeking** only to:

(a) Enforce the terms of the trust, any document referenced in or affected by the trust, or any other trust-related instrument;

(b) Enforce the beneficiary's legal rights related to the trust, any document referenced in or affected by the trust, or any trust-related instrument; ~~for~~

(c) Obtain ~~a~~ court ~~ruling~~ **instruction** with respect to the **proper administration of the trust or the** construction or legal effect of the trust, **the provisions thereof or** any document referenced in or affected by the trust, or any other trust-related instrument ~~it~~; **or**

(d) Enforce the fiduciary duties of the trustee.

4. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated under a no-contest clause in a trust because the beneficiary institutes legal action seeking to invalidate a trust, any document referenced in or affected by the trust, or any other trust-related instrument if the legal action is instituted **and maintained** in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that the trust, any document referenced in or affected by the trust, or other trust-related instrument is invalid.

5. ***Unless the trust expressly provides otherwise, a no-contest clause must not be applied to a settlor who is also a beneficiary of the trust.***

6. As used in this section:

(a) "No-contest clause" means one or more provisions in a trust that express a directive to reduce or eliminate the share allocated to a beneficiary or to reduce or eliminate the distributions to be made to a beneficiary if the beneficiary takes action to frustrate or defeat the settlor's intent as expressed in the trust or in a trust-related instrument.

(b) "Trust" means the original trust instrument and each amendment made pursuant to the terms of the original trust instrument.

(c) "Trust-related instrument" means any document purporting to transfer property to or from the trust or any document made pursuant to the terms of the trust purporting to direct the distribution of trust assets or to affect the management of trust assets, including, without limitation, documents that attempt to exercise a power of appointment.

Sec. 42. NRS 163.002 is hereby amended to read as follows:

163.002 **1.** Except as otherwise provided by specific statute, a trust may be created by any of the following methods:

~~1-1~~ **(a)** A declaration by the owner of property that he or she **or another person** holds the property as trustee. In the absence of a contrary declaration by the owner of the property or of a transfer of the property to a third party and regardless of formal title to the property:

~~1(a)~~ **(1)** Property declared to be trust property, together with all income therefrom and the reinvestment thereof, must remain trust property; and

~~{(b)}~~ (2) If the property declared to be trust property includes an account, contract, certificate, note, judgment, business interest, contents of a safe deposit box or other property interest that is subject to additions or contributions, all subsequent additions and contributions to the property are also trust property.

~~{2-}~~ (b) A transfer of property by the owner during his or her lifetime to another person as trustee.

~~{3-}~~ (c) A testamentary transfer of property by the owner to another person as trustee.

~~{4-}~~ (d) An exercise of a power of appointment in trust.

~~{5-}~~ (e) An enforceable promise to create a trust.

2. A declaration pursuant to paragraph (a) of subsection 1 may include a schedule or list of trust assets that is signed by the owner of the property or that is incorporated by reference into a document that is signed by the owner of the property.

Sec. 43. NRS 163.006 is hereby amended to read as follows:

163.006 A trust is created only if there is a beneficiary. This requirement is satisfied if the trust instrument provides for:

1. A beneficiary or class of beneficiaries that is ascertainable with reasonable certainty or that is sufficiently described so that it can be determined whether a person meets the description or is within the class;

2. A grant of power to the trustee or some other person to select the beneficiary based on a standard or in the discretion of the trustee or other person;

3. A charitable trust as defined in NRS 163.460;

4. A trust for the care of one or more animals created pursuant to NRS 163.0075; ~~{or}~~

5. A public benefit trust as defined in NRS 163.551 ~~{-}~~; **or**

6. A noncharitable trust without an ascertainable beneficiary pursuant to section 39 of this act.

Sec. 44. NRS 163.008 is hereby amended to read as follows:

163.008 1. A trust created in relation to real property is not valid unless it is created by operation of law or is evidenced by:

(a) A written instrument signed by the trustee, or by the agent of the trustee if the agent is authorized in writing to do so; or

(b) A written instrument, including, without limitation, an electronic trust, conveying the trust property and signed by the settlor, or by the agent of the settlor if the agent is authorized in writing to do so.

2. Such a trust may be recorded in the office of the county recorder in the county where all or a portion of the real property is located.

3. This section must not be construed to require a declaration by an owner of property pursuant to NRS 163.002 that specifically identified real property is held in trust to be in writing. As used in this subsection, "specifically identified real property" includes property that is identified by legal description, street address or the applicable assessor's parcel number.

Sec. 45. NRS 163.027 is hereby amended to read as follows:

163.027 1. Except as otherwise provided in subsection 2 or in the trust, a trustee may distribute property and money:

- (a) In divided or undivided interests; and
- (b) With or without proration.

2. Each affected beneficiary must consent before property or money is distributed without proration ~~if~~ unless the trust specifically authorizes the trustee to make that distribution ~~if~~ **or the distribution is otherwise authorized by law.**

Sec. 46. NRS 163.115 is hereby amended to read as follows:

163.115 1. If a trustee commits or threatens to commit a breach of trust, a beneficiary or cotrustee of the trust may maintain a proceeding for any of the following purposes that is appropriate:

- (a) To compel the trustee to perform his or her duties.
- (b) To enjoin the trustee from committing the breach of trust.
- (c) To compel the trustee to redress the breach of trust by payment of money or otherwise.
- (d) To appoint a receiver or temporary trustee to take possession of the trust property and administer the trust.
- (e) To remove the trustee.
- (f) To set aside acts of the trustee.
- (g) To reduce or deny compensation of the trustee.
- (h) To impose an equitable lien or a constructive trust on trust property.
- (i) To trace trust property that has been wrongfully disposed of and recover the property or its proceeds.

2. *On petition or ex parte application of a beneficiary or trustee, the court by temporary order, with or without bond, may restrain a trustee from performing specified acts of administration, disbursement or distribution, or exercising any powers or discharging any duties of the office, or enter any other order to secure proper performance of the duties of the office. Notwithstanding any other provision of law governing temporary injunctions, if it appears to the court that the trustee otherwise may take some action that would jeopardize unreasonably the interest of the petitioner, another beneficiary or the trust, the court may enter the temporary order. A person with whom the trustee may transact business may be made a party to the temporary order.*

3. *Any temporary order entered pursuant to subsection 2 must be set for hearing within 10 days after entry of the temporary order, unless the parties otherwise agree, or on a date the court otherwise determines is in the best interests of the trust. Notice of entry of the temporary order must be given by the petitioner to the trustee and the attorney of record of the trustee, if any, to any other party named as a party in the temporary order and as otherwise directed by the court.*

4. The provision of remedies in ~~{subsection 4}~~ **this section** does not preclude resort to any other appropriate remedy provided by statute or common law.

~~{3}~~ 5. A proceeding under this section must be commenced by filing **or bringing in conjunction with the filing of** a petition under NRS 164.010 and 164.015.

Sec. 47. NRS 163.130 is hereby amended to read as follows:

163.130 1. A trustee who has incurred personal liability for a tort committed in the administration of the trust is entitled to exoneration therefor from the trust property if the trustee has not discharged the claim, or to be reimbursed therefor out of trust funds if the trustee has paid the claim, if:

(a) The tort was a common incident of the kind of business activity in which the trustee was properly engaged for the trust; ~~for~~

(b) Although the tort was not a common incident of such activity, neither the trustee nor any officer or employee of the trustee was guilty of personal fault in incurring the liability ~~{ }~~; **or**

(c) The trust instrument authorizes the exoneration or reimbursement of a trustee and the actions of the trustee did not constitute willful misconduct or gross negligence.

2. If a trustee commits a tort which increases the value of the trust property, the trustee shall be entitled to exoneration or reimbursement with respect thereto to the extent of such increase in value, even though the trustee would not otherwise be entitled to exoneration or reimbursement.

3. Nothing in this section shall be construed to change the existing law with regard to the liability of trustees of charitable trusts for torts of themselves or their employees.

Sec. 48. NRS 163.4185 is hereby amended to read as follows:

163.4185 1. A distribution interest may be classified as:

(a) A mandatory interest if the trustee has no discretion to determine whether a distribution should be made, when a distribution should be made or the amount of the distribution.

~~(b) A support interest if the {distribution of a support interest contains a standard for distribution for the support of a person which may be interpreted by the trustee or a court, as necessary. A provision in a trust which provides a support interest may contain mandatory language which a} trustee {must follow.}~~ **is required to make distributions to the beneficiary pursuant to an ascertainable standard.**

(c) A discretionary interest if the trustee has discretion to determine whether a distribution should be made, when a distribution should be made and the amount of the distribution.

2. If a trust contains a combination of a mandatory interest, a support interest or a discretionary interest, the trust must be separated as:

(a) A mandatory interest only to the extent of the mandatory language provided in the trust;

(b) A support interest only to the extent of the support language provided in the trust; and

(c) A discretionary interest for any remaining trust property.

3. If a trust provides for a support interest that also includes mandatory language but the mandatory language is qualified by discretionary language, the support interest must be classified and separated as a discretionary interest.

4. As used in this section, “ascertainable standard” means a standard relating to a person’s health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code, 26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States Treasury promulgated thereunder.

Sec. 49. NRS 163.556 is hereby amended to read as follows:

163.556 1. Except as otherwise provided in this section, unless the terms of a testamentary instrument or irrevocable trust provide otherwise, a trustee with discretion or authority to distribute trust income or principal to or for a beneficiary of the trust may exercise such discretion or authority by appointing the property subject to such discretion or authority in favor of a second trust as provided in this section.

2. The second trust to which a trustee appoints property of the first trust may only have as beneficiaries one or more of the beneficiaries of the original trust:

(a) To or for whom a distribution of income or principal may be made from the original trust;

(b) To or for whom a distribution of income or principal may be made in the future from the original trust at a time or upon the happening of an event specified under the first trust; or

(c) Both paragraphs (a) and (b).

➔ For purposes of this subsection, a permissible appointee of a power of appointment exercised by a beneficiary of the second trust is not considered a beneficiary of the second trust.

3. A trustee may not appoint property of the original trust to a second trust if:

(a) Appointing the property will reduce any income interest of any income beneficiary of the original trust if the original trust is:

(1) A trust for which a marital deduction has been taken for federal or state income, gift or estate tax purposes;

(2) A trust for which a charitable deduction has been taken for federal or state income, gift or estate tax purposes; or

(3) A grantor-retained annuity trust or unitrust under ~~27~~ 26 C.F.R. § 25.2702-3(b) and (c).

➔ As used in this paragraph, “unitrust” has the meaning ascribed to it in NRS 164.700.

(b) The property to be appointed is subject to a power of withdrawal which is held by a beneficiary of the original trust and may be executed at the

time of the proposed appointment, unless after the exercise of such appointment, the beneficiary of the original trust's power of withdrawal is unchanged with respect to the trust property.

(c) Property specifically allocated for one beneficiary of the original trust is no longer allocated for that beneficiary under either or both trusts, unless the beneficiary consents in writing.

(d) Property held for the benefit of one or more beneficiaries under both the original and the second trust has a lower value than the value of the property held for the benefit of the same beneficiaries under only the original trust, unless:

(1) The benefit provided is limited to a specific amount or periodic payments of a specific amount; and

(2) The value of the property held in either or both trusts for the benefit of one or more beneficiaries is actuarially adequate to provide the benefit.

(e) A contribution made to the original trust qualified for a gift tax exclusion as described in section 2503(b) of the Internal Revenue Code, 26 U.S.C. § 2503(b), by reason of the application of section 2503(c) of the Internal Revenue Code, 26 U.S.C. § 2503(c), unless the second trust provides that the beneficiary's remainder interest must vest not later than the date upon which such interest would have vested under the terms of the original trust.

4. A trustee who is a beneficiary of the original trust may not exercise the authority to appoint property of the original trust to a second trust if:

(a) Under the terms of the original trust or pursuant to law governing the administration of the original trust:

(1) The trustee does not have discretion to make distributions to himself or herself;

(2) The trustee's discretion to make distributions to himself or herself is limited by an ascertainable standard, and under the terms of the second trust, the trustee's discretion to make distributions to himself or herself is not limited by the same ascertainable standard; or

(3) The trustee's discretion to make distributions to himself or herself can only be exercised with the consent of a cotrustee or a person holding an adverse interest and under the terms of the second trust the trustee's discretion to make distributions to himself or herself is not limited by an ascertainable standard and may be exercised without consent; or

(b) Under the terms of the original trust or pursuant to law governing the administration of the original trust, the trustee of the original trust does not have discretion to make distributions that will discharge the trustee's legal support obligations but under the second trust the trustee's discretion is not limited.

5. Notwithstanding the provisions of subsection 1, a trustee who may be removed by the beneficiary or beneficiaries of the original trust and replaced with a trustee that is related to or subordinate, as described in section 672 of the Internal Revenue Code, 26 U.S.C. § 672(c), to a beneficiary, may not

exercise the authority to appoint property of the original trust to a second trust to the extent that the exercise of the authority by such trustee would have the effect of increasing the distributions that can be made from the second trust to such beneficiary or group of beneficiaries that held the power to remove the trustee of the original trust and replace such trustee with a related or subordinate person, unless the distributions that may be made from the second trust to such beneficiary or group of beneficiaries described in paragraph (a) of subsection 4 are limited by an ascertainable standard.

6. The provisions of subsections 4 and 5 do not prohibit a trustee who is not a beneficiary of the original trust or who may not be removed by the beneficiary or beneficiaries and replaced with a trustee that is related to or subordinate to a beneficiary from exercising the authority to appoint property of the original trust to a second trust pursuant to the provisions of subsection 1.

7. Before appointing property pursuant to subsection 1, a trustee may give notice of a proposed action pursuant to NRS 164.725 or may petition a court for approval pursuant to NRS 153.031, 164.015 or 164.725. Any notice of a proposed action or a petition for a court's approval must include the trustee's opinion of how the appointment of property will affect the trustee's compensation and the administration of other trust expenses.

8. The trust instrument of the second trust may:

(a) Grant a general or limited power of appointment to one or more of the beneficiaries of the second trust who are beneficiaries of the original trust.

(b) Provide that, at a time or occurrence of an event specified in the trust instrument, the remaining trust assets in the second trust must be held for the beneficiaries of the original trust upon terms and conditions that are substantially identical to the terms and conditions of the original trust.

9. The power to appoint the property of the original trust pursuant to subsection 1 must be exercised by a writing, signed by the trustee and filed with the records of the trust.

10. The exercise of the power to invade principal of the original trust pursuant to subsection 1 is considered the exercise of a power of appointment, other than power to appoint the property to the trustee, the trustee's creditors, the trustee's estate or the creditors of the trustee's estate and the provisions of NRS 111.1031 apply to such power of appointment.

11. The provisions of this section do not abridge the right of any trustee who has the power to appoint property which arises under any other law.

12. The provisions of this section do not impose upon a trustee a duty to exercise the power to appoint property pursuant to subsection 1.

13. The power to appoint property to another trust pursuant to subsection 1 is not a power to amend the trust and a trustee is not prohibited from appointing property to another trust pursuant to subsection 1 if the original trust is irrevocable or provides that it may not be amended.

14. A trustee's power to appoint property to another trust pursuant to subsection 1 is not limited by the existence of a spendthrift provision in the original trust.

15. A trustee exercising any power granted pursuant to this section may designate himself or herself or any other person permitted to act as a trustee as the trustee of the second trust.

16. The trustee of a second trust, resulting from the exercise of the power to appoint property to another trust pursuant to subsection 1, may also exercise the powers granted pursuant to this section with respect to the second trust.

17. ~~For the purposes of this section, "second trust" means an irrevocable trust that receives trust income or principal appointed by the trustee of the original trust, and may be established by any person, including, without limitation, a new trust created by the trustee, acting in that capacity, of the original trust. If the trustee of the original trust establishes the second trust, then for purposes of creating the new second trust, the requirement of NRS 163.008 that the instrument be signed by the settlor shall be deemed to be satisfied by the signature of the trustee of the second original trust. The second trust may be a trust created under the same trust instrument as the original trust or under a different trust instrument.~~

~~18. As used in this section, "ascertainable standard" means a standard relating to an individual's health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code, 26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States Treasury promulgated thereunder.~~

~~19.] This section applies to a trust that is governed by, sitused in or administered under the laws of this State, whether the trust is initially governed by, sitused in or administered under the laws of this State pursuant to the terms of the trust instrument or whether the governing law, situs or administration of the trust is moved to this State from another state or foreign jurisdiction.~~

18. *The power to appoint to a second trust pursuant to this section may be exercised to appoint to a second trust that is a special needs trust, pooled trust or third-party trust.*

19. *As used in this section:*

(a) *"Ascertainable standard" means a standard relating to a person's health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code, 26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States Treasury promulgated thereunder.*

(b) *"Pooled trust" means a trust described in 42 U.S.C. § 1396p(d)(4)(C) that meets the requirements for such a trust under any law or regulation of this State relating to the treatment of trusts for purposes of eligibility for Medicaid or other needs-based public assistance.*

(c) *“Second trust” means an irrevocable trust that receives trust income or principal appointed by the trustee of the original trust, and may be established by any person, including, without limitation, a new trust created by the trustee, acting in that capacity, of the original trust. If the trustee of the original trust establishes the second trust, then for purposes of creating the new second trust, the requirement of NRS 163.008 that the instrument be signed by the settlor shall be deemed to be satisfied by the signature of the trustee of the second original trust. The second trust may be a trust created under the same trust instrument as the original trust or under a different trust instrument.*

(d) *“Special needs trust” means a trust under 42 U.S.C. § 1396p(d)(4)(A) that meets the requirements for such a trust under any law or regulation of this State relating to the treatment of trusts for purposes of eligibility for Medicaid or other needs-based public assistance.*

(e) *“Third-party trust” means a trust that is:*

(1) *Established by a third party with the assets of the third party to provide for the supplemental needs of a person who is eligible for needs-based public assistance at or after the time of the creation of the trust; and*

(2) *Exempt from the provisions of any law or regulation of this State relating to the treatment of trusts for purposes of eligibility for Medicaid.*

Sec. 50. NRS 163.610 is hereby amended to read as follows:

163.610 ~~{A fiduciary}~~ ***Unless otherwise provided by the trust instrument, a trustee may {take such actions as are necessary to cause} include capital gains from the sale or exchange of {trust assets, as determined for federal income tax purposes, to be taxed for federal income tax purposes as part of a distribution of income, including, without limitation, income which has been increased by an adjustment from principal to income under NRS 164.795, a unitrust distribution or a distribution of principal} capital assets in distributable net income to the extent the gains are, in a reasonable and impartial exercise of discretion by the trustee, allocated to:***

1. Income pursuant to the power of the trustee to adjust between principal and income pursuant to NRS 164.795;

2. Principal and treated consistently by the trustee in the books, records and tax returns of the trust as part of the distribution to a beneficiary; or

3. Principal but distributed to a beneficiary or utilized by the trustee in determining the amount that is distributed or required to be distributed to a beneficiary.

Sec. 51. NRS 164.010 is hereby amended to read as follows:

164.010 1. Upon petition of any person appointed as trustee of an express trust by any written instrument other than a will, or upon petition of a settlor or beneficiary of the trust, the district court of the county in which ~~{the}~~ ***any*** trustee resides or conducts business ~~{}~~ ***at the time of the filing of the petition*** or in which the trust has been domiciled ~~{}~~ ***as of the time of the filing of the petition*** shall ~~{consider the application to}~~ ***assume jurisdiction of the trust as a proceeding in rem {} unless another court has properly***

assumed continuing jurisdiction in rem in accordance with the laws of that jurisdiction and the district court determines that it is not appropriate for the district court to assume jurisdiction under the circumstances.

2. ~~For the purposes of this section, a trust is domiciled in this State notwithstanding that the trustee neither resides nor conducts business in this State if:~~

(a) The trust instrument expressly provides that the situs of the trust is in this State or that a court in this State has jurisdiction over the trust;

(b) A person has designated for the trust that this State is the situs or has jurisdiction, if such person made the designation at a time during which he or she held the power to make such a designation under the express terms of the trust instrument;

(c) The trust owns an interest in real property located in this State;

(d) The trust owns personal property, wherever situated, if the trustee is:

(1) Incorporated or authorized to do business in this State;

(2) A trust company licensed under chapter 669 of NRS;

(3) A family trust company, as defined in NRS 669A.080; or

(4) A national association having an office in this State;

(e) One or more beneficiaries of the trust reside in this State; or

(f) At least part of the administration of the trust occurs in this State.

3. *Notwithstanding the provisions of this section, if a court of a jurisdiction other than this State has jurisdiction over a trust and grants an order authorizing a transfer of jurisdiction over that trust to this State, the district court has the power to assume jurisdiction over the trust and to otherwise supervise the administration of that trust in accordance with the procedures set forth in this title.*

4. *For the purposes of determining venue, preference is given in the following order:*

(a) To the county in which the situs or domicile was most recently declared by a person granted the power to make such a declaration under the terms of the trust instrument at the time of the filing of the petition;

(b) To the county in which the situs or domicile is declared in the trust instrument; and

(c) To the county in which the situs or domicile is declared by the trustee at the time of the filing of the petition in a certification of the trust which complies with subsection 2 of NRS 164.400 and subsection 2 of NRS 164.410 and which contains a declaration of the trust's situs or domicile as authorized in subsection 1 of NRS 164.410.

5. ~~When the court grants the petition,~~ *assumes jurisdiction pursuant to this section, the court:*

(a) Has jurisdiction of the trust as a proceeding in rem ~~as of the date of the filing of the petition;~~

*(b) Shall be deemed to have personal jurisdiction over **any trustee confirmed by the court and** any person ~~pursuant to NRS 164.045;~~*

appearing in the matter, unless such an appearance is made solely for the purpose of objecting to the jurisdiction of the court;

(c) May confirm at the same time the appointment of the trustee and specify the manner in which the trustee must qualify; and

(d) May consider at the same time granting orders on other matters relating to the trust, including, without limitation, matters that might be addressed in a declaratory judgment relating to the trust under subsection 2 of NRS 30.040 or petitions filed pursuant to NRS 153.031 or 164.015 whether such matters are raised in the petition to assume jurisdiction pursuant to this section or in one or more separate petitions that are filed concurrently with the petition to assume jurisdiction.

~~3.1~~ 6. At any time, the trustee may petition the court for removal of the trust from continuing jurisdiction of the court.

~~4. For the purposes of this section, a trust is domiciled:~~

~~— (a) In this State if there is a clear and sufficient nexus between the trust and this State pursuant to subsection 4 of NRS 164.045.~~

~~— (b) In a county of this State that provides the nexus required pursuant to paragraph (a) giving preference:~~

~~— (1) First, to the situs or domicile most recently declared by a person granted the power to make such a declaration under the terms of the trust instrument;~~

~~— (2) Second, to the situs or domicile declared in the trust instrument; and~~

~~— (3) Finally, to the situs or domicile declared by the trustee in a certification of the trust which complies with subsection 2 of NRS 164.400 and subsection 2 of NRS 164.410 and which contains a declaration of the trust's situs or domicile as authorized in subsection 1 of NRS 164.410.~~

~~5.1~~ 7. As used in this section, “written instrument” includes, without limitation, an electronic trust as defined in NRS 163.0015.

Sec. 52. NRS 164.045 is hereby amended to read as follows:

164.045 1. The laws of this State govern the validity and construction of a trust if:

(a) The trust instrument so provides;

(b) Designated by a person who, under the terms of the trust instrument, has the right to designate the laws that govern the validity and construction of the trust, at the time the designation is made; or

(c) The trust instrument does not provide for the law that governs the validity and construction of the trust, a person designated under the terms of the trust instrument to designate the law that governs the validity and construction of the trust, if any, has not made such a designation and the settlor or the trustee of the trust was a resident of this State at the time the trust was created or at the time the trust became irrevocable.

➡ ***A trust instrument or designation cannot extend the duration of the trust beyond the rule against perpetuities otherwise applicable to the trust at the time of its creation.***

2. A person not domiciled in this State may have the right to designate the laws that govern the validity and construction of a trust if properly designated under the trust instrument.

3. ~~If the district court, as defined in NRS 132.116, determines that there is a clear and sufficient nexus between a trust and this State, the court may assume jurisdiction during a proceeding conducted pursuant to NRS 164.010 unless:~~

~~—(a) Another court has properly assumed jurisdiction in accordance with the laws of that jurisdiction;~~

~~—(b) The trust instrument expressly provides that the situs of the trust is outside of this State or that a court of a jurisdiction other than this State has jurisdiction over the trust; or~~

~~—(c) A person has designated for the trust a situs or jurisdiction other than this State, if such person made the designation at a time during which he or she held the power to make such a designation under the express terms of the trust instrument.~~

~~4. For the purposes of this section, there is a clear and sufficient nexus between a trust and this State if:~~

~~—(a) The trust owns an interest in real property located in this State;~~

~~—(b) The trust owns personal property, wherever situated, if the trustee or cotrustee is:~~

~~—(1) A resident of this State;~~

~~—(2) Incorporated or authorized to do business in this State;~~

~~—(3) A trust company licensed under chapter 669 of NRS;~~

~~—(4) A family trust company, as defined in NRS 669A.080; or~~

~~—(5) A national association having an office in this State;~~

~~—(c) One or more beneficiaries of the trust reside in this State; or~~

~~—(d) At least part of the administration of the trust occurs in this State.~~

~~5. For paragraphs (c) and (d) of subsection 4 to apply with respect to a cotrustee, such cotrustee must have the authority to maintain records for the trust and to prepare income tax returns for the trust, even if such authority may also be exercised by another cotrustee.~~

~~6. Notwithstanding the provisions of this section, if a court of a jurisdiction other than this State has jurisdiction over a trust and grants an order authorizing a transfer of jurisdiction over the trust to this State, the district court has the power to assume jurisdiction over that trust and to otherwise supervise the administration of that trust in accordance with the procedures set forth in this title if the requirements of subsection 4 are satisfied.~~

~~7.] A trust, the situs of which is outside this State, that moves its situs to this State is valid whether or not the trust complies with the laws of this State at the time of its creation or after its creation.~~

Sec. 53. NRS 165.030 is hereby amended to read as follows:

165.030 ~~[Within 75]~~ ***An interested person to whom a trustee is required to account pursuant to this chapter may provide a written request to the***

trustee at any time 60 days or more after ~~the~~ the appointment of the trustee ~~[receives possession of trust property, the trustee shall serve a copy of an inventory setting forth all the trust property which has come into the possession or knowledge of]~~ **which seeks a list of the assets of the trust estate known to** the trustee. The trustee shall serve the ~~notice~~ **information to the requesting interested party** in the **same** manner **required for notice, as** set forth in NRS 155.010 ~~[to each interested person and beneficiary to whom the trustee is required to account pursuant to this chapter.]~~ **within 15 days after receipt of the written request.**

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 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 meets the requirements of subsection 2.

2. 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 (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

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.

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.

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.

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 include such an authorization in a validly executed will or durable power of attorney or*** may execute an affidavit before a notary public in substantially the following form:

State of Nevada }
 County of } ss

(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 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.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 319.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 343.

AN ACT relating to guardianships; revising provisions governing the guardianship of minors; authorizing the appointment of **a guardian ad litem or** an advocate for the best interests of a proposed protected minor in guardianship proceedings; revising the required contents of a citation in guardianship proceedings for a protected minor; revising the procedures for requesting the appointment of a temporary guardian for certain minors; requiring the assignment of child support payments to a guardian for the support of a protected minor; authorizing the award of visitation rights between a protected minor and certain relatives; revising the factors for consideration in guardianship determinations regarding a protected minor; revising provisions for changing the residence of a protected minor to a location outside of this State; revising provisions governing obligations due to or for a protected minor; establishing certain requirements for the filing of a verified account upon the emancipation of a protected minor; providing for the extension or establishment of a guardianship of a minor after the age of majority; establishing certain required showings for certain terminations of

guardianships; making various other changes pertaining to guardianships; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the procedures for the appointment of a guardian for a ward, the powers and duties of a guardian and the termination of a guardianship. (Chapter 159 of NRS) **Sections 2-157** of this bill create a new chapter applicable exclusively to guardianships of minors, incorporating, revising and supplementing those provisions from existing law as they currently relate to minors.

Section 27 : (1) authorizes the court to appoint a guardian ad litem or an advocate for the best interests of a proposed protected minor ~~and~~ **;(2)** sets forth the role of the guardian ad litem or advocate as an officer of the court ~~;~~ **; and (3) sets forth provisions governing the compensation of a guardian ad litem or advocate.**

Existing law requires a citation issued pursuant to a petition for the appointment of a guardian to include certain specified information concerning the rights of a proposed ward. (NRS 159.048) **Section 31** adds the requirement that a citation also include notice that: (1) the rights of any person having legal or physical custody of a proposed protected minor may be affected as specified in the petition; and (2) at any time in the proceedings, the court may appoint for the proposed protected minor an attorney, a guardian ad litem and an advocate for the best interests of the proposed protected minor.

Existing law provides that a petitioner may request the appointment of a temporary guardian for a ward who is a minor and who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. (NRS 159.052) **Section 36** of this bill revises the procedure by which a petitioner may request the appointment of a temporary guardian for a minor who is in need of immediate medical attention by eliminating the requirement that the petition be supported by a letter signed by a governmental agency in this State which conducts investigations or a police report indicating whether the proposed ward presents a danger to himself or herself or others, or whether the proposed ward is or has been subjected to abuse, neglect or exploitation.

Section 37 of this bill establishes a procedure by which a petitioner may, by verified petition, request the appointment of a temporary guardian for the person of a proposed protected minor, for his or her estate or for both, in circumstances other than when the minor is in need of immediate medical attention. **Section 37** requires the petition to state facts establishing good cause for the appointment of a temporary guardian and which show that: (1) the petitioner has tried in good faith to give notice of the petition as required by statute; (2) the minor would be at risk of immediate physical, emotional or financial harm if such notice were to be provided before the court determines whether to appoint a temporary guardian; or (3) giving such notice is not feasible under the circumstances. **Section 37** eliminates a requirement that

the court limit the powers of a temporary guardian for a protected minor to those necessary to respond to the risk which threatens the minor. **Section 37** requires, in the case of an ex parte application, the petition be accompanied by an affidavit which explains the emergency. **Section 37** also provides that, if no parent of a proposed protected minor has had the care, custody and control of the minor for the 6 months immediately preceding the petition, temporary guardianship is presumed to be in the minor's best interest. Finally, **section 37** provides that the court may extend a temporary guardianship beyond an initial period of 10 days for not more than two successive 60-day periods unless extraordinary circumstances necessitate a longer duration for the temporary guardianship.

Section 41 requires the assignment of payments of court-ordered child support to the guardian for the support of a protected minor.

Section 42 authorizes the award of rights of visitation between a protected minor and his or her parents or relatives who are within the fourth degree of consanguinity.

Existing law states that the parents of a minor, if qualified and suitable, are preferred over all others for appointment as guardian for the minor and sets forth certain factors for consideration by the court in determining the qualifications and suitability of any person who is proposed for appointment as guardian. (NRS 159.061) **Section 46** revises these provisions by establishing a presumption that a parent who petitioned for guardianship of a minor is suitable to serve as guardian, except when a countering presumption that a parent is unsuitable to care for the proposed protected minor is created by a showing that: (1) the parent is unable to provide for the basic needs of the minor; (2) the parent poses a significant risk of physical or emotional danger to the minor; or (3) the minor has not been in the care, custody and control of the parent for the 6 months immediately preceding the filing of the petition. **Section 46** also adds to the factors for consideration by the court the question of whether the parent or another person has engaged in domestic violence against the proposed protected minor, a parent of the minor or any other person who resides with the minor. **Section 46** provides that, in the event of competing petitions, any finding of unsuitability of a parent must be supported by clear and convincing evidence after a hearing on the merits or an evidentiary hearing. **Section 46** authorizes the court to award temporary guardianship, supported by findings of suitability, pending a trial or evidentiary hearing. Finally, **section 46** requires the court to always act in the best interests of the proposed protected minor.

Existing law: (1) requires a guardian to petition the court to change the residence of a ward to a location outside of this State; and (2) authorizes a guardian to move or place the ward in a secured residential long-term care facility without filing a petition if the court has previously granted the guardian such authority or the move or placement is pursuant to a written recommendation by a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of a

county or state office for protective services. (NRS 159.079) **Section 61** requires a guardian to file a petition for guardianship of a protected minor in the state of the minor's new residence not later than 6 months after changing the residence of the minor to a location outside of this State. **Section 61** also requires a guardian to file a petition with the court for authorization to move a protected minor to a secured residential long-term facility in all circumstances.

Section 73 revises provisions governing obligations due to or for a protected minor to provide for the payment of child support to a guardian for the support of the minor and to require a guardian to give notice to the court of the entry of an order for the payment of support for the minor or the approval of any public assistance for the minor.

Section 108 sets forth circumstances under which a guardian may sell, dispose of or authorize the immediate destruction of personal property of a protected minor without notice.

Section 110 provides that a guardian may sell the personal property of a protected minor only after notice of intent to sell is provided to the protected minor and all interested parties by personal delivery or by certified mail.

Section 128 requires a guardian of the estate of a minor to make and file a verified account within 90 days after the emancipation of the minor, unless the court authorizes a longer period.

Existing law sets forth circumstances under which the guardianship of the person or the estate of a ward is terminated. (NRS 159.191) **Section 144** ~~adds a requirement~~ **provides** that a hearing **may** be held not later than 90 days before the protected minor reaches the age of majority to determine whether guardianship is needed or requested beyond the age of majority and whether the guardian should be notified of any requirements of the guardianship which require compliance. **Section 144** also provides for the filing of a petition for guardianship pursuant to existing law governing guardianships for adults if the court determines that, upon reaching the age of majority, a protected minor would be deemed an incompetent adult.

Section 145 sets forth certain showings that a parent of a protected minor must make to terminate the guardianship of the minor.

Sections 158-192 of this bill revise the provisions of existing law in chapter 159 of NRS governing guardianships of adults to apply exclusively to guardianships of adults.

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

Section 1. Title 13 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 157, 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 14, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Care provider” includes any public or private institution located within or outside this State which provides facilities for the care or maintenance of minors.*

Sec. 4. *“Citation” means a document issued by the clerk of the court, as authorized by statute or ordered by the court, requiring a person to appear, directing a person to act or conduct himself or herself in a specified way, or notifying a person of a hearing.*

Sec. 5. *“Court” means any court or judge having jurisdiction of the persons and estates of minors.*

Sec. 6. *“Guardian” means any person appointed under this chapter as guardian of the person, of the estate, or of the person and estate for any other person, and includes an organization under NRS 662.245 and joint appointees. The term includes, without limitation, if the context so requires, a person appointed in another state who serves in the same capacity as a guardian in this State.*

Sec. 7. *“Home state” means the state in which the proposed protected minor was physically present for at least 6 consecutive months, including any temporary absence from the state, immediately before the filing of a petition for the appointment of a guardian.*

Sec. 8. *“Minor” means any person who is:*

1. *Less than 18 years of age; or*
2. *Less than 19 years of age if the guardianship is continued until the person reaches the age of 19 years pursuant to section 144 of this act.*

Sec. 9. 1. *“Private professional guardian” means a person who receives compensation for services as a guardian to three or more wards who are not related to the guardian by blood or marriage.*

2. *For the purposes of this chapter, the term includes:*

(a) *A person who serves as a private professional guardian and who is required to have a license issued pursuant to chapter 628B of NRS.*

(b) *A person who serves as a private professional guardian but who is exempt pursuant to NRS 159.0595 or 628B.110 or section 45 of this act from the requirement to have a license issued pursuant to chapter 628B of NRS.*

3. *The term does not include:*

(a) *A governmental agency.*

(b) *A public guardian appointed or designated pursuant to the provisions of chapter 253 of NRS.*

Sec. 10. *“Proposed protected minor” means any minor for whom proceedings for the appointment of a guardian have been initiated in this State or, if the context so requires, for whom similar proceedings have been initiated in another state.*

Sec. 11. *“Protected minor” means any minor for whom a guardian has been appointed.*

Sec. 12. *“Secured residential long-term care facility” has the meaning ascribed to it in NRS 159.0255.*

Sec. 13. *“State” has the meaning ascribed to it in NRS 159.0265.*

Sec. 14. *“Ward” means any person for whom a guardian has been appointed.*

Sec. 15. *As used in this chapter, unless the context otherwise requires, when the term “writing” or “written” is used in reference to a will or instrument, the term includes an electronic will as defined in NRS 132.119 and an electronic trust as defined in NRS 163.0015.*

Sec. 16. *Except as otherwise provided in this chapter, the provisions of this chapter do not apply to guardians ad litem.*

Sec. 17. 1. *Except as otherwise provided in this section, by specific statute or as ordered by the court, a petitioner in a guardianship proceeding shall give notice of the time and place of the hearing on any petition filed in the guardianship proceeding to:*

(a) Any protected minor who is 14 years of age or older.

(b) The parent or legal guardian of any protected minor who is less than 14 years of age.

(c) All known relatives of the protected minor who are within the second degree of consanguinity.

(d) Any other interested person or the person’s attorney who has filed a request for notice in the guardianship proceedings and has served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the request and the person’s name and address, or that of his or her attorney.

(e) The guardian, if the petitioner is not the guardian.

(f) Any person or care provider who is providing care for the protected minor, except that if the person or care provider is not related to the protected minor, such person or care provider must not receive copies of any inventory or accounting.

(g) The Director of the Department of Health and Human Services if the protected minor has received or is receiving benefits from Medicaid.

(h) Those persons entitled to notice if a proceeding were brought in the protected minor’s home state.

2. *The petitioner shall give notice not later than 10 days before the date set for the hearing:*

(a) By mailing a copy of the notice by certified, registered or ordinary first-class mail to the residence, office or post office address of each person required to be notified pursuant to this section;

(b) By personal service; or

(c) In any other manner ordered by the court, upon a showing of good cause.

3. Except as otherwise provided in this subsection, if none of the persons entitled to notice of a hearing on a petition pursuant to this section can, after due diligence, be served by certified mail or personal service and this fact is proven by affidavit to the satisfaction of the court, service of the notice must be made by publication in the manner provided by N.R.C.P. 4(e). In all such cases, the notice must be published not later than 10 days before the date set for the hearing. If, after the appointment of a guardian, a search for relatives of the protected minor listed in paragraph (c) of subsection 1 fails to find any such relative, the court may waive the notice by publication required by this subsection.

4. For good cause shown, the court may waive the requirement of giving notice.

5. A person entitled to notice pursuant to this section may waive such notice. Such a waiver must be in writing and filed with the court.

6. On or before the date set for the hearing, the petitioner shall file with the court proof of giving notice to each person entitled to notice pursuant to this section.

Sec. 18. If publication of a notice or citation is required pursuant to this chapter, the court may, for good cause shown:

1. Allow fewer publications to be made within the time for publication; and

2. Extend or shorten the time in which the publications must be made.

Sec. 19. If a petition, notice, objection, consent, waiver or other paper may be filed, a true and correct facsimile of it may be filed, if the original is filed within a reasonable time or at such time prescribed by the court.

Sec. 20. All notices required to be given by this chapter may be given by the clerk of the court without an order from the court, and when so given, for the time and in the manner required by law, they are legal and valid as though made upon an order from the court. If use of a citation is authorized or required by statute, the citation may be issued by the clerk of the court on the request of a party or the party's attorney without a court order, unless an order is expressly required by statute.

Sec. 21. 1. The venue for the appointment of a guardian when the proposed protected minor's home state is this State must be the county where the proposed protected minor resides.

2. If the proper venue may be in two or more counties, the county in which the proceeding is first commenced is the proper county in which to continue the proceedings.

3. Upon the filing of a petition showing that the proper venue is inconvenient, a venue other than that provided in subsection 1 may accept the proceeding.

Sec. 22. 1. If proceedings for the appointment of a guardian for the same proposed protected minor are commenced in more than one county in this State, and the proposed protected minor's home state is this State, the proceedings must be stayed, except in the county where first commenced,

until final determination of venue in that county. If the proper venue is finally determined to be in another county, the court shall cause a transcript of the proceedings and all original papers filed therein, all certified by the clerk of the court, to be sent to the clerk of the court of the proper county.

2. A proceeding is considered commenced by the filing of a petition.

3. The proceedings first legally commenced for the appointment of a guardian of the estate or of the person and estate extend to all the property of the proposed protected minor which is in this State.

Sec. 23. A court having before it any guardianship matter for a minor whose home state is this State may transfer the matter to another county in the interest of the minor or, if not contrary to the interest of the minor, for the convenience of the guardian. A petition for the transfer, setting forth the reasons therefor, may be filed in the guardianship proceeding. If the court is satisfied that the transfer is in the interest of the minor or, if not contrary to the interest of the minor, for the convenience of the guardian, the court shall make an order of transfer and cause a transcript of the proceedings in the matter, all original papers filed in such proceedings and the original bond filed by the guardian, to be certified by the clerk of the court originally hearing the matter and sent to the clerk of the court of the other county. Upon receipt of the transcript, papers and bond, and the filing of them for record, the court of the other county has complete jurisdiction of the matter, and thereafter all proceedings must be as though they were commenced in that court.

Sec. 24. 1. All petitions filed in a guardianship proceeding pursuant to this chapter must bear the title of the court and cause.

2. The caption of all petitions and other documents filed in a guardianship proceeding pursuant to this chapter must read, "In The Matter of the Guardianship of (the person, the estate, or the person and estate), ... (the legal name of the person), minor."

Sec. 25. 1. Except as otherwise provided in NRS 127.045, a proposed protected minor, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed protected minor.

(c) A copy of one of the following forms of identification of the proposed protected minor which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A birth certificate;

- (3) *A valid driver's license number;*
- (4) *A valid identification card number; or*
- (5) *A valid passport number.*

↪ *If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.*

(d) *The date on which the proposed protected minor will attain the age of majority and:*

(1) *Whether there is a current order concerning custody and, if so, the state in which the order was issued; and*

(2) *Whether the petitioner anticipates that the proposed protected minor will need guardianship after attaining the age of majority.*

(e) *Whether the proposed protected minor is a resident or nonresident of this State.*

(f) *The names and addresses of the relatives of the proposed protected minor who are within the second degree of consanguinity.*

(g) *The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of section 45 of this act. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.*

(h) *A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:*

- (1) *A social security number;*
- (2) *A birth certificate;*
- (3) *A valid driver's license number;*
- (4) *A valid identification card number; or*
- (5) *A valid passport number.*

(i) *Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which the proposed guardian was convicted and whether the proposed guardian was placed on probation or parole.*

(j) *A summary of the reasons why a guardian is needed and any available documentation demonstrating the need for a guardianship, including, without limitation, any orders or other information from a court concerning the custody of the proposed protected minor.*

(k) *A general description and the probable value of the property of the proposed protected minor and any income to which the proposed protected*

minor is or will be entitled, if the petition is for the appointment of a guardian of the estate.

(l) The name and address of any person or care provider having the care, custody or control of the proposed protected minor.

(m) If a petitioner is not a parent of the proposed protected minor, a declaration explaining the relationship of the petitioner to the proposed protected minor or to the proposed protected minor's parents and the interest, if any, of that petitioner in the appointment.

(n) Requests for any of the specific powers set forth in sections 117 to 126, inclusive, of this act necessary to enable the guardian to carry out the duties of the guardianship.

(o) If the guardianship is sought as the result of an investigation of a report of abuse or neglect of the proposed protected minor, whether the referral was from a law enforcement agency or a state or county agency.

(p) Whether the proposed protected minor or the proposed guardian is a party to any pending criminal or civil litigation.

(q) Whether the guardianship is sought for the purpose of initiating litigation.

(r) Whether the proposed guardian has filed for or received protection under the federal bankruptcy laws within the immediately preceding 7 years.

Sec. 26. 1. On or after the date of the filing of a petition to appoint a guardian:

(a) The court may appoint ~~fa person~~ an attorney to represent the protected minor or proposed protected minor ~~; fas a guardian ad litem;~~ and

(b) The ~~{guardian ad litem}~~ attorney must represent the protected minor or proposed protected minor ~~fas a guardian ad litem~~ until relieved of that duty by court order.

2. ~~{Upon the appointment of the guardian ad litem, the court shall set forth in the order of appointment the duties of the guardian ad litem.~~

~~3.~~ The ~~{guardian ad litem}~~ attorney is entitled to reasonable compensation from the estate of the protected minor or proposed protected minor. If the court finds that a person has unnecessarily or unreasonably caused the appointment of ~~fa guardian ad litem;~~ an attorney, the court may order the person to pay to the estate of the protected minor or proposed protected minor all or part of the expenses associated with the appointment of the ~~{guardian ad litem.}~~ attorney.

3. An attorney who is appointed pursuant to subsection 1 may not serve as a guardian ad litem or an advocate for the best interests of a protected minor or proposed protected minor.

Sec. 27. 1. The court may appoint a guardian ad litem or an advocate for the best interests of a protected minor or proposed protected minor who is the subject of guardianship proceedings conducted pursuant

to this chapter if the court believes that the minor could benefit from that appointment.

2. The court may not appoint an attorney as a guardian ad litem or an advocate for the best interests of a protected minor or proposed protected minor unless:

(a) The court believes that an attorney who represents the protected minor or proposed protected minor is unable to provide information which is required by the court to make a determination on the best interests of the minor;

(b) No volunteer is available to serve as an advocate; or

(c) Extraordinary circumstances exist in which an attorney may assist the court as an advocate.

3. ~~For~~ A guardian ad litem or an advocate for the best interests of a protected minor or proposed protected minor who is appointed pursuant to subsection 1:

(a) Is an officer of the court;

(b) Does not represent the protected minor or proposed protected minor;

(c) Shall not offer legal advice;

(d) Is not a party to the case;

(e) Shall advocate for the best interests of the protected minor or proposed protected minor; ~~and~~

(f) Shall provide information to the court in accordance with applicable court rule ~~4-1~~; and

(g) Shall serve until relieved of that duty by court order.

4. A guardian ad litem or an advocate for the best interests of a protected minor or proposed protected minor is entitled to reasonable compensation from the estate of the protected minor or proposed protected minor. If the protected minor or proposed protected minor is indigent, the court may order such compensation to be paid by the county. If the court finds that a person has unnecessarily or unreasonably caused the appointment of a guardian ad litem or an advocate for the best interests of a protected minor or proposed protected minor, the court may order the person to pay to the estate of the protected minor or proposed protected minor all or part of the expenses associated with the appointment of the guardian ad litem or advocate for the best interests of the protected minor or proposed protected minor.

Sec. 28. 1. Upon filing of the petition, or any time thereafter, the court may appoint one or more investigators to:

(a) Locate persons who perform services needed by the proposed protected minor and other public and private resources available to the proposed protected minor.

(b) Determine any competing interests in the appointment of a guardian.

(c) Investigate allegations or claims which affect a proposed protected minor.

(d) Investigate the suitability of a proposed guardian to provide for the basic needs of a proposed protected minor, including, without limitation, food, clothing, shelter, medical care and education.

(e) Locate relatives of the proposed protected minor who are within the second degree of consanguinity.

2. An investigator may be an employee of ~~the court, a social service agency, family service officer or~~ the court, ~~public guardian, physician or other qualified~~ a person ~~retained under contract with the court.~~

3. An investigator shall file with the court and parties a report concerning the scope of the appointment of the guardian and any special powers which a guardian would need to assist the proposed protected minor.

4. ~~An investigator who is appointed pursuant to this section is entitled to reasonable compensation from the estate of the proposed protected minor.~~ If the court finds that a person has unnecessarily or unreasonably caused the investigation, the court may order the person to pay to the ~~estate of the proposed protected minor~~ court all or part of the expenses associated with the investigation.

Sec. 29. 1. Except as otherwise provided in sections 30, 35, 36 and 37 of this act, upon the filing of a petition under section 25 of this act, the clerk shall issue a citation setting forth a time and place for the hearing and directing the persons or care provider referred to in subsection 2 to appear and show cause why a guardian should not be appointed for the proposed protected minor.

2. A citation issued under subsection 1 must be served upon:

- (a) A proposed protected minor who is 14 years of age or older;
- (b) All known relatives of the proposed protected minor who are:
 - (1) Fourteen years of age or older; and
 - (2) Within the second degree of consanguinity;
- (c) The parents and custodian of the proposed protected minor;
- (d) Any person or officer of a care provider having the care, custody or control of the proposed protected minor;
- (e) The proposed guardian, if the petitioner is not the proposed guardian; and
- (f) The Director of the Department of Health and Human Services if the proposed protected minor has received or is receiving any benefits from Medicaid.

Sec. 30. 1. A copy of the citation issued pursuant to section 29 of this act must be served by:

- (a) Certified mail, with a return receipt requested, on each person required to be served pursuant to section 29 of this act at least 20 days before the hearing; or
- (b) Personal service in the manner provided pursuant to N.R.C.P. 4(d) at least 10 days before the date set for the hearing on each person required to be served pursuant to section 29 of this act.

2. If none of the persons on whom the citation is to be served can, after due diligence, be served by certified mail or personal service and this fact is proven, by affidavit, to the satisfaction of the court, service of the citation must be made by publication in the manner provided by N.R.C.P. 4(e). In all such cases, the citation must be published at least 20 days before the date set for the hearing.

3. A citation need not be served on a person or an officer of the care provider who has signed the petition or a written waiver of service of citation or who makes a general appearance.

4. The court may find that notice is sufficient if:

(a) The citation has been served by certified mail, with a return receipt requested, or by personal service on the proposed protected minor, care provider or ~~public~~ guardian required to be served pursuant to section 29 of this act; and

(b) At least one relative of the proposed protected minor who is required to be served pursuant to section 29 of this act has been served, as evidenced by the return receipt or the certificate of service. If the court finds that at least one relative of the proposed protected minor has not received notice that is sufficient, the court will require the citation to be published pursuant to subsection 2.

Sec. 31. The citation issued pursuant to section 29 of this act must state that:

1. A guardian may be appointed for the proposed protected minor;

2. The rights of the proposed protected minor and of any person having legal or physical custody of the proposed protected minor may be affected as specified in the petition;

3. The proposed protected minor has the right to appear at the hearing and to oppose the petition;

4. The proposed protected minor has the right to be represented by an attorney; and

5. At any time during proceedings on the citation, the court may appoint for the proposed protected minor:

(a) An attorney.

(b) A guardian ad litem ~~pursuant to section 26 of this act~~

~~(c) An~~ or an advocate for the best interests of the proposed protected minor pursuant to section 27 of this act.

Sec. 32. A protected minor or proposed protected minor who is the subject of proceedings held pursuant to this chapter may be represented by an attorney at all stages of the proceedings. If the protected minor or proposed protected minor is represented by an attorney, the attorney has the same authority and rights as an attorney representing a party to the proceedings.

Sec. 33. 1. A court may find that a petitioner is a vexatious litigant if a person, other than the protected minor:

(a) Files a petition which is without merit or intended to harass or annoy the guardian; and

(b) Has previously filed pleadings in a guardianship proceeding that were without merit or intended to harass or annoy the guardian.

2. If a court finds a person is a vexatious litigant pursuant to subsection 1, the court may impose sanctions on the petitioner in an amount sufficient to reimburse the estate of the protected minor for all or part of the expenses incurred by the estate of the protected minor to defend the petition, to respond to the petition and for any other pecuniary losses which are associated with the petition.

Sec. 34. Any court of competent jurisdiction may appoint:

1. Guardians of the person, of the estate, or of the person and estate for minors whose home state is this State.

2. Guardians of the person or of the person and estate for minors who, although not residents of this State, are physically present in this State and whose welfare requires such an appointment.

3. Guardians of the estate for nonresident minors who have property within this State.

4. Guardians ad litem.

Sec. 35. The court may, without issuing a citation, appoint a guardian for the proposed protected minor if the petitioner is a parent who has sole legal and physical custody of the proposed protected minor as evidenced by a valid court order or birth certificate and who is seeking the appointment of a guardian for the minor child of the parent. If the proposed protected minor is a minor who is 14 years of age or older:

1. The petition must be accompanied by the written consent of the minor to the appointment of the guardian; or

2. The minor must consent to the appointment of the guardian in open court.

Sec. 36. 1. A petitioner may request the court to appoint a temporary guardian for a proposed protected minor who is in need of immediate medical attention which he or she cannot obtain without the appointment of a temporary guardian. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Documentation which shows that the proposed protected minor needs immediate medical attention and, without the appointment of a temporary guardian, cannot obtain that medical attention. Such documentation must include, without limitation, a copy of the birth certificate of the proposed protected minor or other documentation verifying the age of the proposed protected minor.

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to section 29 of this act by telephone or in writing before the filing of the petition;

(2) *The proposed protected minor would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to section 29 of this act before the court determines whether to appoint a temporary guardian; or*

(3) *Giving notice to the persons entitled to notice pursuant to section 29 of this act is not feasible under the circumstances.*

2. *The court may appoint a temporary guardian to serve for 10 days if the court:*

(a) *Finds reasonable cause to believe that the proposed protected minor is in need of immediate medical attention which he or she cannot obtain without the appointment of a temporary guardian; and*

(b) *Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to section 29 of this act or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1.*

3. *Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to section 29 of this act, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.*

4. *If, before the appointment of a temporary guardian, the court was satisfied that giving notice to the persons entitled to notice pursuant to section 29 of this act was not feasible under the circumstances or determined that such notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to section 29 of this act without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.*

5. *Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsection 7, if the court finds by clear and convincing evidence that the protected minor continues to be in need of immediate medical attention which he or she cannot obtain without the extension of the temporary guardianship, the court may, pursuant to subsection 8, extend the temporary guardianship until a general guardian is appointed.*

6. *If the court appoints a temporary guardian or extends a temporary guardianship pursuant to this section, the court shall limit the powers of*

the temporary guardian to those necessary to respond to the need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

- (a) The provisions of section 30 of this act have been satisfied; or*
- (b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.*

8. The court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods.

Sec. 37. 1. A petitioner may request that the court appoint a temporary guardian for the person or the estate, or both, of a proposed protected minor by filing a verified petition.

2. The petition must state facts which establish good cause for the appointment of a temporary guardian and which show that:

(a) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to section 29 of this act by telephone or in writing before the filing of the petition;

(b) The proposed protected minor would be exposed to an immediate risk of physical, emotional or financial harm if the petitioner were to provide notice to the persons entitled to notice pursuant to section 29 of this act before the court determines whether to appoint a temporary guardian; or

(c) Giving notice to the persons entitled to notice pursuant to section 29 of this act is not feasible under the circumstances.

3. A petition which seeks an ex parte appointment of a temporary guardian must be accompanied by an affidavit which explains the emergency that requires a temporary guardian to be appointed before a hearing.

4. If no parent of the proposed protected minor has had the care, custody and control of the minor for the 6 months immediately preceding the petition, temporary guardianship of the person of the minor is presumed to be in the best interest of the minor.

5. The court may, upon that petition or other showing as it may require, appoint a temporary guardian of the person or the estate, or both, of the proposed protected minor.

6. Except as otherwise provided in subsection 7, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to section 29 of this act, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

7. If, before the appointment of a temporary guardian, the court was satisfied that giving notice to the persons entitled to notice pursuant to section 29 of this act was not feasible under the circumstances or determined that such notice was not required pursuant to paragraph (b) or

(c) of subsection 2, the petitioner shall notify the persons entitled to notice pursuant to section 29 of this act without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

8. Not later than 10 days after the date of an ex parte appointment of a temporary guardian pursuant to subsection 5, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsection 9, if the court finds by clear and convincing evidence that the protected minor continues to be in need of a temporary guardian, the court may, pursuant to subsection 10, extend the temporary guardianship until a general guardian is appointed.

9. The court may not extend a temporary guardianship pursuant to subsection 8 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of section 30 of this act have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

10. The court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, unless extraordinary circumstances necessitate a longer duration for the temporary guardianship.

11. If for any reason a guardian who is appointed for a protected minor cannot perform the duties of a guardian, the court may, upon a petition filed to request temporary guardianship for the minor, appoint a temporary guardian to exercise the powers of a guardian until another guardian is appointed for the minor.

Sec. 38. 1. A proposed protected minor who is found in this State must attend the hearing for the appointment of a guardian unless:

(a) A certificate signed by a physician or psychiatrist who is licensed to practice in this State specifically states the condition of the proposed protected minor, the reasons why the proposed protected minor is unable to appear in court and whether the proposed protected minor's attendance at the hearing would be detrimental to the physical or mental health of the proposed protected minor; or

(b) A certificate signed by any other person the court finds qualified to execute a certificate states the condition of the proposed protected minor, the reasons why the proposed protected minor is unable to appear in court and whether the proposed protected minor's attendance at the hearing would be detrimental to the physical or mental health of the proposed protected minor.

2. A proposed protected minor found in this State who cannot attend the hearing for the appointment of a guardian as set forth in a certificate pursuant to subsection 1 may appear by videoconference.

3. The court may prescribe the form in which a certificate required by this section must be filed. If the certificate consists of separate parts, each part must be signed by the person who is required to sign the certificate.

4. If the proposed protected minor is not in this State, the proposed protected minor must attend the hearing only if the court determines that the attendance of the proposed protected minor is necessary in the interests of justice.

Sec. 39. 1. If the court finds the proposed protected minor not in need of a guardian, the court shall dismiss the petition.

2. If the court finds that appointment of a guardian is required, the court shall appoint a guardian of the proposed protected minor's person, estate, or person and estate.

Sec. 40. 1. The petitioner has the burden of proving by clear and convincing evidence that the appointment of a guardian of the person, of the estate, or of the person and estate is necessary.

2. If it appears to the court that the allegations of the petition are sufficient and that a guardian should be appointed for the proposed protected minor, the court shall enter an order appointing a guardian. The order must:

(a) Specify whether the guardian appointed is guardian of the person, of the estate, or of the person and estate;

(b) Specify whether the proposed protected minor is a resident or nonresident of this State;

(c) Specify the amount of the bond to be executed and filed by the guardian; ~~and~~

(d) Designate the names and addresses, so far as may be determined, of:

(1) The relatives of the proposed protected minor upon whom notice must be served pursuant to section 29 of this act; and

(2) Any other interested person ~~for~~; and

(e) Specify whether the proposed protected minor will require a guardianship after reaching 18 years of age.

3. A notice of entry of the court order must be sent to:

(a) The relatives of the proposed protected minor upon whom notice must be served pursuant to section 29 of this act; and

(b) Any other interested person.

Sec. 41. If a court order is in effect for payment for the support of a proposed protected minor, upon entry of an order appointing a guardian for the minor, the court shall order the assignment of the payment to the guardian for the support of that minor.

Sec. 42. In an order appointing a guardian or in any order thereafter, the court may award rights of visitation between a protected minor and his

or her parents or relatives who are within the fourth degree of consanguinity.

Sec. 43. 1. Where the appointment of a guardian is sought for two or more proposed protected minors who are children of a common parent, ~~parent and child or husband and wife,~~ it is not necessary that separate petitions, bonds and other papers be filed with respect to each proposed protected minor or protected minors.

2. If a guardian is appointed for such proposed protected minors, the guardian:

- (a) Shall keep separate accounts of the estate of each protected minor;
- (b) May make investments for each protected minor;
- (c) May compromise and settle claims against one or more protected minors; and
- (d) May sell, lease, mortgage or otherwise manage the property of one or more protected minors.

3. The guardianship may be terminated with respect to less than all the protected minors in the same manner as provided by law with respect to a guardianship of a single protected minor.

Sec. 44. As a condition of the appointment of a guardian, the court may require the guardian to complete any available training concerning guardianships that the court determines appropriate.

Sec. 45. 1. In order for a person to serve as a private professional guardian, the person must be:

- (a) Qualified to serve as a guardian pursuant to section 46 of this act; and
- (b) A guardian who has a license issued pursuant to chapter 628B of NRS or a certified guardian who is not required to have such a license pursuant to subsection 3.

2. In order for an entity to serve as a private professional guardian, the entity must:

- (a) Have a license issued pursuant to chapter 628B of NRS unless the entity is not required to have such a license pursuant to subsection 3; and
- (b) Have a guardian who has a license issued pursuant to chapter 628B of NRS or a certified guardian who is not required to have such a license pursuant to subsection 3 involved in the day-to-day operation or management of the entity.

3. For a person or entity to serve as a private professional guardian, the person or entity is not required to have a license issued pursuant to chapter 628B of NRS if the person or entity is exempt from the requirement to have such a license pursuant to NRS 628B.110 and the person or entity:

- (a) Is a banking corporation as defined in NRS 657.016;
- (b) Is an organization permitted to act as a fiduciary pursuant to NRS 662.245;
- (c) Is a trust company as defined in NRS 669.070;

(d) *Is acting in the performance of his or her duties as an attorney at law;*

(e) *Acts as a trustee under a deed of trust; or*

(f) *Acts as a fiduciary under a court trust.*

4. *As used in this section:*

(a) *“Certified guardian” means a person who is certified by the Center for Guardianship Certification or any successor organization.*

(b) *“Entity” includes, without limitation, a corporation, whether or not for profit, a limited-liability company and a partnership.*

(c) *“Person” means a natural person.*

Sec. 46. 1. *The parents of a proposed protected minor, or either parent, if qualified and suitable, are preferred over all others for appointment as guardian for the person or estate or person and estate of the proposed protected minor. The appointment of a parent as guardian for the person or estate of a proposed protected minor must not conflict with a valid order for custody of the proposed protected minor.*

2. *Except as otherwise provided in subsection 4, if a parent of a proposed protected minor files a petition seeking appointment as guardian for the proposed protected minor, the parent is presumed to be suitable to serve as guardian for the proposed protected minor.*

3. *In determining whether the parents of a proposed protected minor, or either parent, or any other person who seeks appointment as guardian for the proposed protected minor is qualified and suitable, the court shall consider, if applicable and without limitation:*

(a) *Which parent has physical custody of the proposed protected minor;*

(b) *The ability of the parents, parent or other person to provide for the basic needs of the proposed protected minor, including, without limitation, food, shelter, clothing and medical care, taking into consideration any special needs of the proposed protected minor;*

(c) *Whether the parents, parent or other person has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS;*

(d) *Whether the parents, parent or other person has been convicted of a crime of moral turpitude, a crime involving domestic violence or a crime involving the abuse, neglect, exploitation, isolation or abandonment of a child, his or her spouse, his or her parent or any other adult;*

(e) *Whether the parents, parent or other person has been convicted in this State or any other jurisdiction of a felony; and*

(f) *Whether the parents, parent or other person has engaged in one or more acts of domestic violence against the proposed protected minor, a parent of the proposed protected minor or any other person who resides with the proposed protected minor.*

4. *A parent of a proposed protected minor is presumed to be unsuitable to care for the proposed protected minor if:*

(a) The parent is unable to provide for any or all of the basic needs of the proposed protected minor, including, without limitation:

- (1) Food;*
- (2) Shelter;*
- (3) Clothing;*
- (4) Medical care; and*
- (5) Education;*

(b) Because of action or inaction, the parent poses a significant safety risk of either physical or emotional danger to the proposed protected minor; or

(c) The proposed protected minor has not been in the care, custody and control of the parent for the 6 months immediately preceding the filing of the petition. The presumption created by this paragraph is a rebuttable presumption.

5. Subject to the preference set forth in subsection 1 and except as otherwise provided in subsection 7, the court shall appoint as guardian the qualified person who is most suitable and is willing to serve.

6. In determining which qualified person is most suitable, the court shall, in addition to considering any applicable factors set forth in subsections 2, 3 and 4, give consideration, among other factors, to:

(a) Any nomination of a guardian for the proposed protected minor contained in a will or other written instrument executed by a parent of the proposed protected minor.

(b) Any request made by the proposed protected minor, if he or she is 14 years of age or older, for the appointment of a person as guardian for the proposed protected minor.

(c) The relationship by blood or adoption of the proposed guardian to the proposed protected minor. In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the whole blood. The court may consider relatives in the following order of preference:

- (1) Parent.*
- (2) Adult sibling.*
- (3) Grandparent.*
- (4) Uncle or aunt.*

(d) Any recommendation made by a master of the court or special master pursuant to section 47 of this act.

(e) Any recommendation made by:

(1) An agency which provides child welfare services, an agency which provides child protective services or a similar agency; or

(2) A guardian ad litem or court appointed special advocate who represents the proposed protected minor.

(f) Any request for the appointment of any other interested person that the court deems appropriate.

7. The court may award temporary guardianship pursuant to this section, supported by findings of suitability, pending a trial or evidentiary hearing if that appointment is supported by findings.

8. Notwithstanding the presumption set forth in subsection 4, in the event of competing petitions for the appointment of guardianship of a proposed protected minor, any finding of unsuitability of a parent of the proposed protected minor must be found by clear and convincing evidence after a hearing on the merits or an evidentiary hearing.

9. In determining whether to appoint a guardian of the person or estate of a proposed protected minor and who should be appointed, the court must always act in the best interests of the proposed protected minor.

10. As used in this section, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

Sec. 47. 1. If the court determines that a minor may be in need of a guardian, the court may order the appointment of a master of the court or a special master from among the members of the State Bar of Nevada to conduct a hearing to identify the person most qualified and suitable to serve as guardian for the proposed protected minor.

2. Not later than 5 calendar days after the date of the hearing, the master of the court or special master shall prepare and submit to the court a recommendation regarding which person is most qualified and suitable to serve as guardian for the proposed protected minor.

Sec. 48. If the court or a master of the court or special master appointed pursuant to section 47 of this act finds that a parent or other relative, teacher, friend or neighbor of a proposed protected minor or any other interested person:

1. Has a personal interest in the well-being of the proposed protected minor; or

2. Possesses information that is relevant to the determination of who should serve as guardian for the proposed protected minor,

↪ the court or a master of the court or special master appointed pursuant to section 47 of this act may allow the person to testify at any hearing held pursuant to this chapter to determine the person most qualified and suitable to serve as guardian for the proposed protected minor.

Sec. 49. A parent of a minor may by will nominate a guardian. The person nominated must file a petition and obtain an appointment from the court before exercising the powers of a guardian.

Sec. 50. 1. Except as otherwise provided by law, every guardian shall, before entering upon his or her duties as guardian, execute and file in the guardianship proceeding a bond, with sufficient surety or sureties, in such amount as the court determines necessary for the protection of the protected minor and the estate of the protected minor, and conditioned upon the faithful discharge by the guardian of his or her authority and duties according to law. The bond must be approved by the clerk. Sureties must be jointly and severally liable with the guardian and with each other.

2. *If a banking corporation, as defined in NRS 657.016, doing business in this State, is appointed guardian of the estate of a protected minor, no bond is required of the guardian, unless specifically required by the court.*

3. *Joint guardians may unite in a bond to the protected minor or protected minors, or each may give a separate bond.*

4. *If there are no assets of the protected minor, no bond is required of the guardian.*

5. *If a person has been nominated to be guardian in a will, power of attorney or other written instrument that has been acknowledged before two disinterested witnesses or acknowledged before a notary public and the will, power of attorney or other written instrument provides that no bond is to be required of the guardian, the court may direct letters of guardianship to issue to the guardian after the guardian:*

(a) Takes and subscribes the oath of office; and

(b) Files the appropriate documents which contain the full legal name and address of the guardian.

6. *In lieu of executing and filing a bond, the guardian may request that access to certain assets be blocked. The court may grant the request and order letters of guardianship to issue to the guardian if sufficient evidence is filed with the court to establish that such assets are being held in a manner that prevents the guardian from accessing the assets without a specific court order.*

Sec. 51. 1. *The court may at any time, for good cause and after notice to the guardian, increase or decrease the amount of the bond required of a guardian.*

2. *The court may at any time, if the bond or the sureties are determined to be insufficient or for other good cause, require a guardian to execute and file a new or additional bond. The court may exonerate the sureties on a former bond from any liabilities thereunder arising from the acts or omissions of their principal after such exoneration.*

Sec. 52. *Every bond given by a guardian must be filed and preserved in the office of the clerk of the district court of the county in which the guardianship proceeding is conducted. In case of the breach of any condition of such bond, an action may be maintained in behalf of the protected minor or protected minors jointly if all are interested, or of any person interested in the estate, and such bond is not void on the first recovery. If the action on the bond is in behalf of one protected minor on a bond given to more than one protected minor, the other protected minors mentioned in the bond need not be united in or made parties to such action.*

Sec. 53. *No action may be maintained against the sureties on any bond given by a guardian unless it is commenced within 3 years after the time the guardian is discharged, unless at the time of such discharge the person entitled to bring the action is under any legal disability to sue, in which case the action may be brought at any time within 3 years after the disability is removed.*

Sec. 54. 1. Every guardian, before entering upon his or her duties as guardian and before letters of guardianship may issue, shall:

(a) Take and subscribe the official oath which must:

(1) Be endorsed on the letters of guardianship; and

(2) State that the guardian will well and faithfully perform the duties of guardian according to law.

(b) File in the proceeding the appropriate documents which include, without limitation, the full legal name of the guardian and the residence and post office addresses of the guardian.

(c) Except as otherwise provided in subsection 2, make and file in the proceeding a verified acknowledgment of the duties and responsibilities of a guardian. The acknowledgment must set forth:

(1) A summary of the duties, functions and responsibilities of a guardian, including, without limitation, the duty to:

(I) Act in the best interest of the protected minor at all times.

(II) Provide the protected minor with medical, surgical, dental, psychiatric, psychological, hygienic or other care and treatment as needed, with adequate food and clothing and with safe and appropriate housing.

(III) Protect, preserve and manage the income, assets and estate of the protected minor and utilize the income, assets and estate of the protected minor solely for the benefit of the protected minor.

(IV) Maintain the assets of the protected minor in the name of the protected minor or the name of the guardianship. The assets of the protected minor must not be commingled with the assets of any third party.

(V) Notify the court, all interested parties, the trustee, and named executor or appointed personal representative of the estate of the protected minor of the death of the protected minor within 30 days after the death.

(2) A summary of the statutes, regulations, rules and standards governing the duties of a guardian.

(3) A list of actions regarding the protected minor that require the prior approval of the court.

(4) A statement of the need for accurate recordkeeping and the filing of annual reports with the court regarding the finances and well-being of the protected minor.

2. The court may exempt a public guardian or private professional guardian from filing an acknowledgment in each case and, in lieu thereof, require the public guardian or private professional guardian to file a general acknowledgment covering all guardianships to which the guardian may be appointed by the court.

Sec. 55. 1. A copy of the order appointing the guardian must be served personally or by mail upon the protected minor not later than 5 days after the date of the appointment of the guardian.

2. The order must contain the names, addresses and telephone numbers of the guardian, the protected minor's attorney, if any, and the investigator.

Sec. 56. When a guardian has taken the official oath and filed a bond as provided in this chapter, the court shall order letters of guardianship to issue to the guardian. Letters of guardianship may be in the following form:

On (month) (day), ... (year), the Judicial District Court, ... County, State of Nevada, appointed..... (name of guardian)(guardian of the person or estate or person and estate) for (name of protected minor), a minor, that the named guardian has qualified and has the authority and shall perform the duties of (guardian of the person or estate or person and estate) for the named protected minor as provided by law.

In Testimony Whereof, I have hereunto subscribed my name and affixed the seal of the court at my office on (month) (day), ... (year).

.....
Clerk

(SEAL)

.....
Deputy Clerk

Sec. 57. If, at the time of the appointment of the guardian or thereafter, the estate of a protected minor consists of personal property having a value not exceeding by more than \$10,000 the aggregate amount of unpaid expenses of administration of the guardianship estate and claims against the estate, the guardian of the estate, with prior approval of the court by order, may pay those expenses and claims from the estate and deliver all the remaining personal property to such person as the court may designate in the order, to be held, invested or used as ordered by the court. The recipient of the property so delivered shall give a receipt therefor to the guardian. The receipt is a release and acquittance to the guardian as to the property so delivered. The guardian shall file in the proceeding proper receipts or other evidence satisfactory to the court showing the delivery, and the guardian is released from his or her trust and the bond of the guardian is exonerated.

Sec. 58. 1. The court may grant a summary administration if, at any time, it appears to the court that after payment of all claims and expenses

of the guardianship the value of the protected minor's property does not exceed \$10,000.

2. If the court grants a summary administration, the court may:

(a) Authorize the guardian of the estate who is authorized to manage the protected minor's property to convert the property to cash and sell any of the property, with or without notice, as the court may direct. After the payment of all claims and the expenses of the guardianship, the guardian shall deposit the money in savings accounts or invest the money as provided in section 84 of this act, and hold the investment and all interest, issues, dividends and profits for the benefit of the protected minor. The court may dispense with annual accountings and all other proceedings required by this chapter.

(b) Terminate the guardianship of the estate and direct the guardian to deliver the protected minor's property to the custodial parent or parents, guardian or custodian of the protected minor to hold, invest or use as the court may order.

3. Whether the court grants a summary administration at the time the guardianship is established or at any other time, the guardian shall file an inventory and record of value with the court.

4. If, at any time, the net value of the estate of the protected minor exceeds \$10,000:

(a) The guardian shall file an amended inventory and accounting with the court;

(b) The guardian shall file annual accountings; and

(c) The court may require the guardian to post a bond.

Sec. 59. A guardian of the person and estate has the authority and shall perform the duties as provided by law for a guardian of the person and a guardian of the estate.

Sec. 60. 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Except as otherwise provided in this paragraph, make or change the designation of a beneficiary in a will, trust, insurance policy, bank account or any other type of asset of the protected minor which includes the designation of a beneficiary. The guardian is not required to petition the court for an order authorizing the guardian to utilize an asset which has a designated beneficiary, including the closure or discontinuance of the asset, for the benefit of a protected minor if:

(1) The asset is the only liquid asset available with which to pay for the proper care, maintenance, education and support of the protected minor;

(2) The asset, or the aggregate amount of all the assets if there is more than one type of asset, has a value that does not exceed \$5,000; or

(3) The asset is a bank account, investment fund or insurance policy and is required to be closed or discontinued in order for the protected minor to qualify for a federal program of public assistance.

(b) Create for the benefit of the protected minor or others a revocable or irrevocable trust of the property of the estate.

(c) Except as otherwise provided in this paragraph, exercise the right of the protected minor to revoke or modify a revocable trust or to surrender the right to revoke or modify a revocable trust. The court shall not authorize or require the guardian to exercise the right to revoke or modify a revocable trust if the instrument governing the trust:

(1) Evidences an intent of the protected minor to reserve the right of revocation or modification exclusively to the protected minor;

(2) Provides expressly that a guardian may not revoke or modify the trust; or

(3) Otherwise evidences an intent that would be inconsistent with authorizing or requiring the guardian to exercise the right to revoke or modify the trust.

2. Any other interested person may also petition the court for an order authorizing or directing the guardian to take any action described in subsection 1.

3. The court may authorize the guardian to take any action described in subsection 1 if, after notice to any person who is adversely affected by the proposed action and an opportunity for a hearing, the court finds by clear and convincing evidence that:

(a) A reasonably prudent person or the protected minor would take the proposed action and that a person has committed or is about to commit any act, practice or course of conduct which operates or would operate as a fraud or act of exploitation upon the protected minor or estate of the protected minor and that person:

(1) Is designated as a beneficiary in or otherwise stands to gain from an instrument which was executed by or on behalf of the protected minor; or

(2) Will benefit from the lack of such an instrument; or

(b) The proposed action is otherwise in the best interests of the protected minor for any other reason not listed in this section.

4. The petition must contain, to the extent known by the petitioner:

(a) The name, date of birth and current address of the protected minor;

(b) A concise statement as to the condition of the protected minor's estate; and

(c) A concise statement as to the necessity for the proposed action.

5. As used in this section:

(a) "Exploitation" means any act taken by a person who has the trust and confidence of a protected minor to:

(1) Obtain control, through deception, intimidation or undue influence, over the money, assets or property of the protected minor with the intention of permanently depriving the protected minor of the ownership, use, benefit or possession of the protected minor's money, assets or property.

(2) Convert money, assets or property of the protected minor with the intention of permanently depriving the protected minor of the ownership, use, benefit or possession of the protected minor's money, assets or property.

↪ As used in this paragraph, "undue influence" does not include the normal influence that one member of a family has over another.

(b) "Fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the person with the intent to deprive the protected minor of the protected minor's rights or property or to otherwise injure the protected minor.

(c) "Interested person" has the meaning ascribed to it in NRS 132.185 and also includes a named beneficiary under a trust or other instrument if the validity of the trust or other instrument may be in question.

Sec. 61. 1. Except as otherwise ordered by the court, a guardian of the person has the care, custody and control of the person of the protected minor, and has the authority and, subject to subsection 2, shall perform the duties necessary for the proper care, maintenance, education and support of the protected minor, including, without limitation, the following:

(a) Supplying the protected minor with food, clothing, shelter and all incidental necessities, including locating an appropriate residence for the protected minor.

(b) Authorizing medical, surgical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the protected minor.

(c) Seeing that the protected minor is properly trained and educated and that the protected minor has the opportunity to learn a trade, occupation or profession.

2. In the performance of the duties enumerated in subsection 1 by a guardian of the person, due regard must be given to the extent of the estate of the protected minor. A guardian of the person may be required to incur expenses on behalf of the protected minor if the estate of the protected minor is insufficient to reimburse the guardian.

3. A guardian of the person is the protected minor's personal representative for purposes of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and any applicable regulations. The guardian of the person has authority to obtain information from any government agency, medical provider, business, creditor or third party who may have information pertaining to the protected minor's health care or health insurance.

4. Except as otherwise provided in subsection 6, a guardian of the person may establish and change the residence of the protected minor at any place within this State without the permission of the court. The guardian shall select the least restrictive appropriate residence which is available and necessary to meet the needs of the protected minor and which is financially feasible.

5. Except as otherwise provided in subsection 6, a guardian of the person shall petition the court for an order authorizing the guardian to change the residence of the protected minor to a location outside of this State. The guardian must show that changing the residence of the protected minor to a location outside of this State is in the best interest of the protected minor or that there is no appropriate residence available for the protected minor in this State. The court shall retain jurisdiction over the guardianship unless the guardian files for termination of the guardianship pursuant to section 143 or 144 of this act or the jurisdiction of the guardianship is transferred to the other state. Not later than 6 months after changing the residence of a protected minor to a location outside of this State, the guardian shall file a petition for guardianship in the state of the protected minor's residence.

6. A guardian of the person must file a petition with the court requesting authorization to move a protected minor to or place a protected minor in a secured residential long-term care facility.

7. This section does not relieve a parent or other person of any duty required by law to provide for the care, support and maintenance of any dependent.

Sec. 62. 1. Except as otherwise provided in subsection 2, a guardian shall not consent to:

(a) The experimental medical, biomedical or behavioral treatment of a protected minor;

(b) The sterilization of a protected minor; or

(c) The participation of a protected minor in any biomedical or behavioral experiment.

2. The guardian may consent to and commence any treatment or experiment described in subsection 1 if the guardian applies to and obtains from the court authority to consent to and commence the treatment or experiment.

3. The court may authorize the guardian to consent to and commence any treatment or experiment described in subsection 1 only if the treatment or experiment:

(a) Is of direct benefit to, and intended to preserve the life of or prevent serious impairment to the mental or physical health of, the protected minor; or

(b) Is intended to assist the protected minor to develop or regain the protected minor's abilities.

Sec. 63. 1. A guardian of the person shall make and file in the guardianship proceeding for review of the court a written report on the condition of the protected minor and the exercise of authority and performance of duties by the guardian:

(a) Annually, not later than 60 days after the anniversary date of the appointment of the guardian;

(b) Within 10 days ~~of moving~~ after changing the residence of a protected minor; ~~to a secured residential long-term care facility;~~ and

(c) At such other times as the court may order.

2. A report filed pursuant to paragraph (b) of subsection 1 must:

(a) Include a copy of the written recommendation upon which the transfer was made; and

(b) Be served, without limitation, on the attorney for the protected minor, if any.

3. The court may prescribe the form and contents for filing a report described in subsection 1.

4. The guardian of the person shall give to the guardian of the estate, if any, a copy of each report not later than 30 days after the date the report is filed with the court.

5. The court is not required to hold a hearing or enter an order regarding the report.

Sec. 64. A guardian of the estate shall:

1. Protect, preserve, manage and dispose of the estate of the protected minor according to law and for the best interests of the protected minor.

2. Apply the estate of the protected minor for the proper care, maintenance, education and support of the protected minor having due regard for other income or property available to support the protected minor.

3. Have such other authority and perform such other duties as are provided by law.

Sec. 65. 1. Not later than 60 days after the date of the appointment of a guardian of the estate or, if necessary, such further time as the court may allow, the guardian shall make and file in the guardianship proceeding a verified inventory of all of the property of the protected minor which comes to the possession or knowledge of the guardian.

2. A temporary guardian of the estate shall file an inventory with the court by not later than the date on which the temporary guardian files a final accounting as required pursuant to section 128 of this act.

3. The guardian shall take and subscribe an oath, which must be endorsed or attached to the inventory, before any person authorized to administer oaths, that the inventory contains a true statement of:

(a) All of the estate of the protected minor which has come into the possession of the guardian;

(b) All of the money that belongs to the protected minor; and

(c) All of the just claims of the protected minor against the guardian.

4. Whenever any property of the protected minor not mentioned in the inventory comes to the possession or knowledge of a guardian of the estate, the guardian shall:

(a) Make and file in the proceeding a verified supplemental inventory not later than 30 days after the date the property comes to the possession or knowledge of the guardian; or

(b) Include the property in the next accounting.

5. The court may order which of the two methods described in subsection 4 the guardian shall follow.

6. The court may order all or any part of the property of the protected minor appraised as provided in sections 67 and 155 of this act.

7. If the guardian neglects or refuses to file the inventory within the time required pursuant to subsection 1, the court may, for good cause shown and upon such notice as the court deems appropriate:

(a) Revoke the letters of guardianship and the guardian is liable on the bond for any loss or injury to the estate caused by the neglect of the guardian; or

(b) Enter a judgment for any loss or injury to the estate caused by the neglect of the guardian.

Sec. 66. 1. Except as otherwise provided in subsection 2, the guardian of an estate shall cause an appraisal or valuation of any asset of a guardianship estate to be conducted by a disinterested appraiser, certified public accountant or expert in valuation and file the appraisal or valuation with the court.

2. In lieu of an appraisal, the guardian may file:

(a) A verified record of value of an asset where the value of the asset can be determined with reasonable certainty, including, without limitation:

(1) Money, deposits in banks, bonds, policies of life insurance or securities for money, when equal in value to cash; and

(2) Personal property, including, without limitation, household goods, if the combined value of the personal property does not exceed \$5,000.

(b) A statement of the assessed value of real property as determined by the county assessor for tax purposes, except that if the real property is to be sold, the guardian must file an appraisal.

Sec. 67. 1. Before appraising or valuing any asset of the guardianship estate, each appraiser, certified public accountant or expert in valuation shall certify that the appraiser, accountant or expert will truthfully, honestly and impartially appraise or value the property according to the best of his or her knowledge and ability. The certification must be included in the appraisal or valuation and filed with the court.

2. The appraisal or valuation must list each asset that has a value of more than \$100 separately with a statement of the value of the asset opposite the asset.

3. An appraiser, certified public accountant or expert in valuation who performs an appraisal or valuation of a guardianship estate is entitled to reasonable compensation for the appraisal or valuation and may be paid by the guardian out of the estate at any time after the appraisal or valuation is completed.

4. An appraiser, certified public accountant or expert in valuation who directly or indirectly purchases any asset of an estate without full disclosure to and approval by the court is guilty of a misdemeanor. A sale

made in violation of the provisions of this subsection is void, and the asset sold may be recovered by the guardian, protected minor or proposed protected minor.

Sec. 68. 1. *Not later than 60 days after the date of the appointment of a guardian of the estate, the guardian shall record, or cause to be recorded, in the office of the recorder of each county in which real property of the protected minor is located, a copy, certified by the clerk of the court, of the letters of guardianship.*

2. *The guardian shall attach, or cause to be attached, to the copy of the letters of guardianship recorded pursuant to subsection 1 a cover sheet containing:*

- (a) The name, address and telephone number of the guardian;*
- (b) The assessor's parcel number and the address of the real property of the protected minor; and*
- (c) If the estate of the protected minor includes a manufactured home or mobile home, the location and serial number of the manufactured home or mobile home.*

3. *As used in this section:*

(a) "Manufactured home" has the meaning ascribed to it in NRS 489.113.

(b) "Mobile home" has the meaning ascribed to it in NRS 489.120.

Sec. 69. 1. *A guardian of the estate shall take possession of:*

- (a) All of the property of substantial value of the protected minor;*
- (b) Rents, income, issues and profits from the property, whether accruing before or after the appointment of the guardian; and*
- (c) The proceeds from the sale, mortgage, lease or other disposition of the property.*

2. *The guardian may allow the protected minor to have possession and control of the personal property and funds as are appropriate to the needs and capacities of the protected minor.*

3. *The title to all property of the protected minor is in the protected minor and not in the guardian.*

4. *A guardian shall secure originals, when available, or copies of any:*

- (a) Contract executed by the protected minor;*
- (b) Revocable or irrevocable trust in which the protected minor has a vested interest as a beneficiary; and*
- (c) Writing evidencing a present or future vested interest in any real or intangible property.*

Sec. 70. 1. *A guardian shall present a copy of the court order appointing the guardian and letters of guardianship to a bank or other financial institution that holds any account or other assets of the protected minor before the guardian may access the account or other assets.*

2. *The bank or other financial institution shall accept the copy of the court order appointing the guardian and letters of guardianship as proof of guardianship and allow the guardian access to the account or other assets*

of the protected minor, subject to any limitations set forth in the court order.

3. Unless the bank or other financial institution is a party to the guardianship proceeding, the bank or other financial institution is not entitled to a copy of any:

(a) ~~Competency evaluation of the protected minor or any other confidential~~ Confidential information concerning the medical condition or the placement of the protected minor; or

(b) Inventory or accounting of the estate of the protected minor.

Sec. 71. 1. The guardian may retain assets for the anticipated expense of the protected minor's funeral and the disposal of his or her remains. Of the amount so retained, \$3,000 is exempt from all claims, including those of this State.

2. The guardian may place assets so retained in a pooled account or trust. If the assets are invested in a savings account or other financial account, the assets are not subject to disposition as unclaimed property during the lifetime of the protected minor.

3. Assets so retained may be disbursed for the protected minor's funeral or the disposal of his or her remains without prior authorization of the court. An amount not so disbursed becomes part of the protected minor's estate.

Sec. 72. Upon the filing of a petition in the guardianship proceeding by the guardian, the protected minor or any other interested person, alleging that any person is indebted to the protected minor, has or is suspected of having concealed, embezzled, converted or disposed of any property of the protected minor or has possession or knowledge of any such property or of any writing relating to such property, the court may require the person to appear and answer under oath concerning the matter.

Sec. 73. 1. A guardian of the estate:

(a) Shall demand all debts and other choses in action due to the protected minor; and

(b) With prior approval of the court, may sue for and receive all debts and other choses in action due to the protected minor.

2. A guardian of the estate, with prior approval of the court by order, may compound or compromise any debt or other chose in action due to the protected minor and give a release and discharge to the debtor or other obligor.

3. A guardian of the person:

(a) May obtain an order which requires one or both parents of the protected minor to pay the guardian an amount established pursuant to NRS 125B.070 and 125B.080 for the support of the protected minor.

(b) Shall give notice to the court of the entry of an order for the payment of the support of the protected minor or the approval of any public assistance for the protected minor not later than 30 days after the entry of the order or the approval of public assistance. The guardian shall file a

copy of the order of support or document which evidences approval of public assistance with the notice which is filed with the court.

Sec. 74. 1. *A guardian of the estate shall appear for and represent the protected minor in all actions, suits or proceedings to which the protected minor is a party, unless the court finds that the interests of the guardian conflict with the interests of the protected minor or it is otherwise appropriate to appoint a guardian ad litem in the action, suit or proceeding.*

2. *Upon final resolution of the action, suit or proceeding, the guardian of the estate or the guardian ad litem shall notify the court of the outcome of the action, suit or proceeding.*

3. *If the person of the protected minor would be affected by the outcome of any action, suit or proceeding, the guardian of the person, if any, should be joined to represent the protected minor in the action, suit or proceeding.*

Sec. 75. *Any contract, except to the extent of the reasonable value of necessities, and any transaction with respect to the property of a protected minor made by the protected minor are voidable by the guardian of the estate.*

Sec. 76. *A guardian of the estate is not personally liable on any written or oral contract entered into for or on behalf of the protected minor where the guardian is acting within his or her authority as such guardian. Any action, suit or proceeding on any such contract must be brought against the guardian in his or her fiduciary capacity only, and any judgment or decree obtained in such action, suit or proceeding must be satisfied only from property of the protected minor.*

Sec. 77. *A guardian of the estate shall pay from the guardianship estate pursuant to sections 78, 79 and 80 of this act all just claims against the protected minor, the estate or the guardian as such, whether accruing before or after the appointment of the guardian and whether arising in contract, in tort or otherwise.*

Sec. 78. 1. *Other than claims for attorney's fees that are subject to the provisions of subsection 3, a guardian of the estate may pay from the guardianship estate the following claims without complying with the provisions of this section and sections 79 and 80 of this act:*

(a) *The guardian's claims against the protected minor or the estate; and*
(b) *Any claims accruing after the appointment of the guardian which arise from contracts entered into by the guardian on behalf of the protected minor.*

2. *The guardian shall report all claims and the payment of claims made pursuant to subsection 1 in the account that the guardian makes and files in the guardianship proceeding following each payment.*

3. *Claims for attorney's fees which are associated with the commencement and administration of the guardianship of the estate:*

(a) May be made at the time of the appointment of the guardian of the estate or any time thereafter; and

(b) May not be paid from the guardianship estate unless the payment is made in compliance with the provisions of this section and sections 79 and 80 of this act.

Sec. 79. Except as otherwise provided in section 78 of this act, all claims against the protected minor, the guardianship estate or the guardian of the estate as such must be presented to the guardian of the estate. Each such claim must be in writing, must describe the nature and the amount of the claim, if ascertainable, and must be accompanied by the affidavit of the claimant, or someone on behalf of the claimant, who has personal knowledge of the fact. The affidavit must state that within the knowledge of the affiant the amount claimed is justly due, no payments have been made thereon which are not credited and there is no counterclaim thereto, except as stated in the affidavit. If such claim is founded on a written instrument, the original or a copy thereof with all endorsements must be attached to the claim. The original instrument must be exhibited to the guardian or the court, upon demand, unless it is lost or destroyed, in which case the fact of its loss or destruction must be stated in the claim.

Sec. 80. 1. A guardian of the estate shall examine each claim presented to the guardian for payment. If the guardian is satisfied that the claim is appropriate and just, the guardian shall:

(a) Endorse upon the claim the words "examined and allowed" and the date;

(b) Officially subscribe the notation; and

(c) Pay the claim from the guardianship estate.

2. If the guardian is not satisfied that the claim is just, the guardian shall:

(a) Endorse upon the claim the words "examined and rejected" and the date;

(b) Officially subscribe the notation; and

(c) Not later than 60 days after the date the claim was presented to the guardian, notify the claimant by personal service or by mailing a notice by registered or certified mail that the claim was rejected.

Sec. 81. 1. If, not later than 60 days after the date the claim was presented to the guardian, a rejected claim is returned to the claimant or the guardian of the estate fails to approve or reject and return a claim, the claimant, before the claim is barred by the statute of limitations, may:

(a) File a petition for approval of the rejected claim in the guardianship proceeding for summary determination by the court; or

(b) Commence an action or suit on the claim against the guardian in the guardian's fiduciary capacity and any judgment or decree obtained must be satisfied only from property of the protected minor.

2. If a claimant files a request for approval of a rejected claim or a like claim in the guardianship proceeding for summary determination, the

claimant shall serve notice that he or she has filed such a request on the guardian.

3. Not later than 20 days after the date of service, the guardian may serve notice of objection to summary determination on the claimant. If the guardian serves the claimant with notice and files a copy of the notice with the court, the court shall not enter a summary determination and the claimant may commence an action or suit on the claim against the guardian in the guardian's fiduciary capacity as provided in subsection 1.

4. If the guardian fails to serve the claimant with notice of objection to summary determination or file a copy of the notice with the court, the court shall:

(a) Hear the matter and determine the claim or like claim in a summary manner; and

(b) Enter an order allowing or rejecting the claim, either in whole or in part. No appeal may be taken from the order.

Sec. 82. 1. Before taking any of the following actions, the guardian of the estate shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the protected minor pursuant to section 84 of this act.

(b) Borrow money for the protected minor pursuant to section 85 of this act.

(c) Except as otherwise provided in section 61 of this act, enter into contracts for the protected minor or complete the performance of contracts of the protected minor pursuant to section 86 of this act.

(d) Make gifts from the protected minor's estate pursuant to section 87 of this act.

(e) Sell, lease or place in trust any property of the protected minor pursuant to section 88 of this act.

(f) Exchange or partition the protected minor's property pursuant to section 126 of this act.

(g) Exercise or release the power of the protected minor as a donee of a power of appointment.

(h) Exercise the right of the protected minor to take under or against a will.

(i) Transfer to a trust created by the protected minor any property unintentionally omitted from the trust.

(j) Submit a revocable trust to the jurisdiction of the court if:

(1) The protected minor is the grantor and sole beneficiary of the income of the trust; or

(2) The trust was created by the court.

(k) Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the protected minor.

(l) Transfer money in a protected minor's blocked account to the Nevada Higher Education Prepaid Tuition Trust Fund created pursuant to NRS 353B.140.

2. *Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:*

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the protected minor's property.

(b) Take any other action which the guardian deems would be in the best interests of the protected minor.

3. *The petition must be signed by the guardian and contain:*

(a) The name, age, residence and address of the protected minor.

(b) A concise statement as to the condition of the protected minor's estate.

(c) A concise statement as to the advantage to the protected minor of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

4. *Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.*

5. *A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional orders authorizing the guardian to continue the business of the protected minor, enter contracts for the protected minor or complete contracts of the protected minor.*

Sec. 83. 1. *Upon the filing of any petition under section 60 or 82 of this act, or any account, notice must be given in the manner prescribed by section 17 of this act.*

2. *The notice must:*

(a) Give the name of the protected minor.

(b) Give the name of the petitioner.

(c) Give the date, time and place of the hearing.

(d) State the nature of the petition.

(e) Refer to the petition for further particulars, and notify all persons interested to appear at the time and place mentioned in the notice and show cause why the court order should not be made.

Sec. 84. 1. *Upon approval of the court by order, a guardian of the estate may:*

(a) Invest the property of the protected minor, make loans and accept security therefor, in the manner and to the extent authorized by the court.

(b) Exercise options of the protected minor to purchase or exchange securities or other property.

2. A guardian of the estate may, without securing the prior approval of the court, invest the property of the protected minor in the following:

(a) Savings accounts in any bank, credit union or savings and loan association in this State, to the extent that the deposits are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

(b) Interest-bearing obligations of or fully guaranteed by the United States.

(c) Interest-bearing obligations of the United States Postal Service.

(d) Interest-bearing obligations of the Federal National Mortgage Association.

(e) Interest-bearing general obligations of this State.

(f) Interest-bearing general obligations of any county, city or school district of this State.

(g) Money market mutual funds which are invested only in those instruments listed in paragraphs (a) to (f), inclusive.

3. A guardian of the estate for two or more wards may invest the property of two or more of the wards in property in which each ward whose property is so invested has an undivided interest. The guardian shall keep a separate record showing the interest of each ward in the investment and in the income, profits or proceeds therefrom.

4. A guardian of the estate may access or manage a guardianship account via the Internet on a secured website established by the bank, credit union or broker holding the account.

Sec. 85. 1. A guardian of the estate, with prior approval of the court by order, may borrow money for the account of the protected minor when necessary:

(a) To pay claims against the protected minor, the guardianship estate or the guardian of the estate as such.

(b) To provide for the proper care, maintenance, education and support of the protected minor.

(c) For any other purpose that is in the best interests of the protected minor.

2. If the court determines that the borrowing is necessary or proper, the court shall make an order approving the borrowing and may authorize one or more separate loans. The order must prescribe the maximum amount of each loan, the maximum rate of interest and the date of final maturity of each loan, and may authorize the guardian to secure any loan by mortgage, deed of trust, pledge or other security transaction authorized by the laws of this State. The order must describe the property, if any, to be given as security for each loan.

Sec. 86. If a protected minor for whom a guardian of the estate is appointed was, at the time of the appointment, a party to a contract which

has not been fully performed, and which was made by the minor while not under any legal disability other than being under the age of majority, the guardian of the estate, with prior approval of the court by order, may complete the performance of such contract. If such contract requires the conveyance of any real or personal property, or any interest in such property, the court may authorize the guardian to convey the interest and estate of the protected minor in the property, and the effect of such conveyance is the same as though made by the protected minor while not under legal disability. If the contract requires a sale, no notice of sale is required under this section unless otherwise ordered by the court.

Sec. 87. 1. *A guardian of the estate, with prior approval of the court by order, may, from the estate of the protected minor which is not necessary for the proper care, maintenance, education and support of the protected minor, make reasonable gifts directly, or into a trust, on behalf of the protected minor.*

2. *Any petition filed by a guardian pursuant to this section must state whether:*

(a) The purpose of the guardian in seeking approval to make the gift is to dispose of assets to make the ward eligible for Medicaid; and

(b) Making the gift will cause the ward to become eligible for Medicaid.

Sec. 88. *A guardian of the estate, with prior approval of the court by order, may sell, lease or place in trust any of the property of the protected minor:*

1. *For the purpose of paying claims against the protected minor, the guardianship estate or the guardian of the estate.*

2. *For the purpose of providing for the proper care, maintenance, education and support of the protected minor.*

3. *For the purpose of investing the proceeds.*

4. *To obtain income through rentals or royalties.*

5. *For any other purpose that is in the best interests of the protected minor.*

Sec. 89. *Any interest of a protected minor in real or personal property, including interests in contracts and choses in action, may be sold pursuant to this chapter.*

Sec. 90. 1. *All sales of real property of a protected minor must be:*

(a) Reported to the court; and

(b) Confirmed by the court before the title to the real property passes to the purchaser.

2. *The report and a petition for confirmation of the sale must be filed with the court not later than 30 days after the date of each sale.*

3. *The court shall set the date of the hearing and give notice of the hearing in the manner required pursuant to section 83 of this act or as the court may order.*

4. *An interested person may file written objections to the confirmation of the sale. If such objections are filed, the court shall conduct a hearing*

regarding those objections during which the interested person may offer witnesses in support of the objections.

5. Before the court confirms a sale, the court must find that notice of the sale was given in the manner required pursuant to sections 98, 99 and 100 of this act, unless the sale was exempt from notice pursuant to section 86 of this act.

Sec. 91. If the guardian neglects or refuses to sell any real property of the estate when it is necessary or in the best interests of the protected minor, an interested person may petition the court for an order requiring the guardian to sell the property. The court shall set the petition for a hearing, and the petitioner shall serve notice on the guardian at least 10 days before the hearing.

Sec. 92. If real property of the estate of a protected minor is sold that is subject to a mortgage or other lien which is a valid claim against the estate, the money from the sale must be applied in the following order:

1. To pay the necessary expenses of the sale.
2. To satisfy the mortgage or other lien, including, without limitation, payment of interest and any other lawful costs and charges. If the mortgagee or other lienholder cannot be found, the money from the sale may be paid as ordered by the court and the mortgage or other lien shall be deemed to be satisfied.
3. To the estate of the protected minor, unless the court orders otherwise.

Sec. 93. At a sale of real property that is subject to a mortgage or lien, the holder of the mortgage or lien may become the purchaser. The receipt for the amount owed to the holder from the proceeds of the sale is a payment pro tanto.

Sec. 94. 1. In the manner required by this chapter for the sale of like property, a guardian may sell:

- (a) The equity of the estate in any real property that is subject to a mortgage or lien; and
- (b) The property that is subject to the mortgage or lien.

2. If a claim has been filed upon the debt secured by the mortgage or lien, the court shall not confirm the sale unless the holder of the claim files a signed and acknowledged document which releases the estate from all liability upon the claim.

Sec. 95. 1. A guardian may enter into a written contract with any bona fide agent, broker or multiple agents or brokers to secure a purchaser for any real property of the estate. Such a contract may grant an exclusive right to sell the property to the agent, broker or multiple agents or brokers.

2. The guardian shall provide for the payment of a commission upon the sale of the real property which:

- (a) Must be paid from the proceeds of the sale;
- (b) Must be fixed in an amount not to exceed:

- (1) Ten percent for unimproved real property; or
- (2) Seven percent for improved real property; and
- (c) Must be authorized by the court by confirmation of the sale.

3. Upon confirmation of the sale by the court, the contract for the sale becomes binding and enforceable against the estate.

4. A guardian may not be held personally liable and the estate is not liable for the payment of any commission set forth in a contract entered into with an agent or broker pursuant to this section until the sale is confirmed by the court, and then is liable only for the amount set forth in the contract.

Sec. 96. 1. When an offer to purchase real property of a guardianship estate is presented to the court for confirmation:

- (a) Other persons may submit higher bids to the court; and
- (b) The court may confirm the highest bid.

2. Upon confirmation of a sale of real property by the court, the commission for the sale must be divided between the listing agent or broker and the agent or broker who secured the purchaser to whom the sale was confirmed, if any, in accordance with the contract with the listing agent or broker.

Sec. 97. 1. If a protected minor owns real property jointly with one or more other persons, the interest owned by the protected minor may be sold to one or more joint owners of the property only if:

- (a) The guardian files a petition with the court to confirm the sale pursuant to section 90 of this act; and
- (b) The court confirms the sale.

2. ~~The~~ Except as otherwise provided in subsection 3, the court shall confirm the sale only if:

(a) The net amount of the proceeds from the sale to the estate of the protected minor is not less than 90 percent of the fair market value of the portion of the property to be sold; and

(b) Upon confirmation, the estate of the protected minor will be released from all liability for any mortgage or lien on the property.

3. Upon good cause shown, the court may waive the requirement set forth in paragraph (a) of subsection 2.

Sec. 98. 1. Except as otherwise provided in this section and except for a sale pursuant to section 86 or 97 of this act, a guardian may sell the real property of a protected minor only after notice of the sale is published in:

(a) A newspaper that is published in the county in which the property, or some portion of the property, is located; or

(b) If a newspaper is not published in that county:

- (1) In a newspaper of general circulation in the county; or
- (2) In such other newspaper as the court orders.

2. Except as otherwise provided in this section and except for a sale of real property pursuant to section 86 or 97 of this act:

(a) The notice of a public auction for the sale of real property must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.

(b) The notice of a private sale must be published not less than three times before the date on which offers will be accepted, over a period of 14 days and 7 days apart.

3. For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

4. The court may waive the requirement of publication pursuant to this section if:

(a) The guardian is the sole devisee or heir of the estate; or

(b) All devisees or heirs of the estate consent to the waiver in writing.

5. Publication for the sale of real property is not required pursuant to this section if the property to be sold is reasonably believed to have a value of \$10,000 or less. In lieu of publication, the guardian shall post notice of the sale in three of the most public places in the county in which the property, or some portion of the property, is located for at least 14 days before:

(a) The date of the sale at public auction; or

(b) The date on which offers will be accepted for a private sale.

6. Any notice published or posted pursuant to this section must include, without limitation:

(a) For a public auction:

(1) A description of the real property which reasonably identifies the property to be sold; and

(2) The date, time and location of the auction.

(b) For a private sale:

(1) A description of the real property which reasonably identifies the property to be sold; and

(2) The date, time and location that offers will be accepted.

Sec. 99. 1. Except for a sale pursuant to section 86 or 97 of this act, a public auction for the sale of real property must be held:

(a) In the county in which the property is located or, if the real property is located in two or more counties, in either county;

(b) Between the hours of 9 a.m. and 5 p.m.; and

(c) On the date specified in the notice, unless the sale is postponed.

2. If, on or before the date and time set for the public auction, the guardian determines that the auction should be postponed:

(a) The auction may be postponed for not more than 3 months after the date first set for the auction; and

(b) Notice of the postponement must be given by a public declaration at the place first set for the sale on the date and time that was set for the sale.

Sec. 100. 1. *Except for the sale of real property pursuant to section 86 or 97 of this act, a sale of real property of a guardianship estate at a private sale:*

(a) Must not occur before the date stated in the notice.

(b) Except as otherwise provided in this paragraph, must not occur sooner than 14 days after the date of the first publication or posting of the notice. For good cause shown, the court may shorten the time in which the sale may occur to not sooner than 8 days after the date of the first publication or posting of the notice. If the court so orders, the notice of the sale and the sale may be made to correspond with the court order.

(c) Must occur not later than 1 year after the date stated in the notice.

2. *The offers made in a private sale:*

(a) Must be in writing; and

(b) May be delivered to the place designated in the notice or to the guardian at any time:

(1) After the date of the first publication or posting of the notice; and

(2) Before the date on which the sale is to occur.

Sec. 101. 1. *Except as otherwise provided in subsection 2, the court shall not confirm a sale of real property of a guardianship estate at a private sale unless:*

(a) The court is satisfied that the amount offered represents the fair market value of the property to be sold; and

(b) Except for a sale of real property pursuant to section 86 of this act, the real property has been appraised within 1 year before the date of the sale. If the real property has not been appraised within this period, a new appraisal must be conducted pursuant to sections 66 and 67 of this act at any time before the sale or confirmation by the court of the sale.

2. *The court may waive the requirement of an appraisal and allow the guardian to rely on the assessed value of the real property for purposes of taxation in obtaining confirmation by the court of the sale.*

Sec. 102. 1. *At the hearing to confirm the sale of real property, the court shall:*

(a) Consider whether the sale is necessary or in the best interest of the estate of the protected minor; and

(b) Examine the return on the investment and the evidence submitted in relation to the sale.

2. *The court shall confirm the sale and order conveyances to be executed if it appears to the court that:*

(a) Good reason existed for the sale;

(b) The sale was conducted in a legal and fair manner;

(c) The amount of the offer or bid is not disproportionate to the value of the property; and

(d) It is unlikely that an offer or bid would be made which exceeds the original offer or bid:

(1) By at least 5 percent if the offer or bid is less than \$100,000; or

(2) By at least \$5,000 if the offer or bid is \$100,000 or more.

3. The court shall not confirm the sale if the conditions in this section are not satisfied.

4. If the court does not confirm the sale, the court:

(a) May order a new sale;

(b) May conduct a public auction in open court; or

(c) May accept a written offer or bid from a responsible person and confirm the sale to the person if the written offer complies with the laws of this State and exceeds the original bid:

(1) By at least 5 percent if the bid is less than \$100,000; or

(2) By at least \$5,000 if the bid is \$100,000 or more.

5. If the court does not confirm the sale and orders a new sale:

(a) Notice must be given in the manner set forth in section 98 of this act; and

(b) The sale must be conducted in all other respects as though no previous sale has taken place.

6. If a higher offer or bid is received by the court during the hearing to confirm the sale, the court may continue the hearing rather than accept the offer or bid as set forth in paragraph (c) of subsection 4 if the court determines that the person who made the original offer or bid was not notified of the hearing and that the person who made the original offer or bid may wish to increase his or her bid. This subsection does not grant a right to a person to have a continuance granted and may not be used as a ground to set aside an order confirming a sale.

7. Except as otherwise provided in this subsection, if a higher offer or bid is received by the court during the hearing to confirm the sale and the court does not accept that offer or bid, each successive bid must be for not less than:

(a) An additional \$5,000, if the original offer is for \$100,000 or more; or

(b) An additional \$250 if the original offer is less than \$100,000.

➡ Upon the request of the guardian during the hearing to confirm the sale, the court may set other incremental bid amounts.

Sec. 103. 1. If the court confirms a sale of real property of a guardianship estate, the guardian shall execute a conveyance of the property to the purchaser.

2. The conveyance must include a reference to the court order confirming the sale, and a certified copy of the court order must be recorded in the office of the recorder of the county in which the property, or any portion of the property, is located.

3. A conveyance conveys all the right, title and interest of the protected minor in the property on the date of the sale, and if, before the date of the sale, by operation of law or otherwise, the protected minor has acquired any right, title or interest in the property other than or in addition to that of

the protected minor at the time of the sale, that right, title or interest also passes by the conveyance.

Sec. 104. 1. If a sale of real property is made upon credit, the guardian shall take:

(a) The note or notes of the purchaser for the unpaid portion of the sale; and

(b) A mortgage on the property to secure the payment of the notes.

2. The mortgage may contain a provision for release of any part of the property if the court approves the provision.

Sec. 105. 1. After confirmation of the sale of real property, if the purchaser neglects or refuses to comply with the terms of the sale, the court may set aside the order of confirmation and order the property to be resold:

(a) On motion of the guardian; and

(b) After notice is given to the purchaser.

2. If the amount realized on the resale of the property is insufficient to cover the bid and the expenses of the previous sale, the original purchaser is liable to the estate of the protected minor for the deficiency.

Sec. 106. A guardian who fraudulently sells any real property of a protected minor in a manner inconsistent with the provisions of this chapter is liable for double the value of the property sold, as liquidated damages, to be recovered in an action by or on behalf of the protected minor.

Sec. 107. The periods of limitation prescribed in NRS 11.260 apply to all actions:

1. For the recovery of real property sold by a guardian in accordance with the provisions of this chapter; and

2. To set aside a sale of real property.

Sec. 108. 1. A guardian may sell ~~perishable property and other~~, dispose of or authorize the immediate destruction of personal property of the protected minor without notice, and title to the property passes without confirmation by the court if ~~the~~ :

(a) The property ~~is~~

~~(a) Will will depreciate in value if not disposed of promptly; ~~or~~~~

~~(b) Will The property will incur loss or expense by being kept ~~for~~ ;~~

(c) The property has been contaminated by vermin or biological or chemical agents and the expenses related to the decontamination of the property cause salvage to be impractical;

(d) The property constitutes an immediate threat to the public health or safety; or

(e) The handling, transfer or storage of the property might endanger public health or safety or exacerbate contamination.

2. The guardian is responsible for the actual value of the personal property unless the guardian obtains confirmation by the court of the sale.

Sec. 109. A guardian may sell any security of the protected minor if:

1. The guardian petitions the court for confirmation of the sale;
2. The clerk sets the date of the hearing;
3. The guardian gives notice in the manner required pursuant to section 17 of this act unless, for good cause shown, the court shortens the period within which notice must be given or dispenses with notice; and
4. The court confirms the sale.

Sec. 110. ~~111~~ Except as otherwise provided in sections 108 and 109 of this act, a guardian may sell the personal property of the protected minor only after notice of the ~~sale is published in:~~

- ~~(a) A newspaper that is published in the county in which the property, or some portion of the property, is located; or~~
- ~~(b) If a newspaper is not published in that county:~~
 - ~~(1) In a newspaper of general circulation in the county; or~~
 - ~~(2) In such other newspaper as the court orders.~~

~~2. Except as otherwise provided in this section:~~

- ~~(a) The notice of a public sale must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.~~
- ~~(b) The notice of a private sale must be published not less than three times before the date on which offers will be accepted, over a period of 14 days and 7 days apart.~~

~~3. For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.~~

~~4. The notice must include, without limitation:~~

- ~~(a) For a public sale:~~
 - ~~(1) A description of the personal property to be sold; and~~
 - ~~(2) The date, time and location of the sale.~~
 - ~~(b) For a private sale:~~
 - ~~(1) A description of the personal property to be sold; and~~
 - ~~(2) The date, time and location that offers will be accepted.~~
 - ~~(c) For a sale on an appropriate auction website on the Internet:~~
 - ~~(1) A description of the personal property to be sold;~~
 - ~~(2) The date the personal property will be listed; and~~
 - ~~(3) The Internet address of the website on which the sale will be posted.~~
- intent to sell is provided to the protected minor and all interested parties, by personal delivery or by certified mail, not less than 30 days before the sale.

Sec. 111. 1. The guardian may sell the personal property of a protected minor by public sale at:

- (a) The residence of the protected minor; or
- (b) Any other location designated by the guardian.

2. The guardian may sell the personal property by public sale only if the property is made available for inspection at the time of the sale or photographs of the personal property are posted on an appropriate auction website on the Internet.

3. *Personal property may be sold at a public or private sale for cash or upon credit.*

Sec. 112. *The following interests of the estate of the protected minor may be sold in the same manner as other personal property:*

1. *An interest in personal property that has been pledged to the protected minor; and*

2. *Choses in action.*

Sec. 113. *A guardian of the estate may lease any real property of the protected minor or any interest in real property:*

1. *Without securing prior court approval, where the tenancy is from month to month or for a term not to exceed 1 year and the reasonable fixed rental for the property or the protected minor's proportionate interest in such rental does not exceed \$250 per month.*

2. *With prior approval of the court by order, for such period of time as may be authorized by the court, not exceeding any time limitation prescribed by law, and upon such terms and conditions as the court may approve. Such lease may extend beyond the period of minority of a protected minor.*

Sec. 114. *The court may authorize the guardian to enter into a written contract with one or more licensed real estate brokers to secure a lessee of the protected minor's property, which contract may provide for the payment of a commission, not exceeding 5 percent of the fixed rental for the first 2 years, to be paid out of the proceeds of any such lease.*

Sec. 115. 1. *Petitions to secure court approval of any lease:*

(a) *Must include the parcel number assigned to the property to be leased and the physical address of the property, if any; and*

(b) *Must set forth the proposed fixed rental, the duration of the lease and a brief description of the duties of the proposed lessor and lessee.*

2. *Upon the hearing of a petition pursuant to subsection 1, if the court is satisfied that the lease is for the best interests of the protected minor and the estate of the protected minor, the court shall enter an order authorizing the guardian to enter into the lease.*

Sec. 116. *A guardian of the estate, with prior approval of the court by order, may enter into agreements providing for the rental or bailment of the protected minor's personal property. All proceedings to obtain such a court order must be the same as required for the lease of real property.*

Sec. 117. 1. *If the property to be leased consists of mining claims, an interest in the mining claims, property worked as a mine or lands containing oil, gas, steam, gravel or any minerals, the court may authorize the guardian to enter into a lease which provides for payment by the lessee of a royalty, in money or in kind, in lieu of a fixed rental. The court may also authorize the guardian to enter into a lease which provides for a pooling agreement or authorizes the lessee to enter into pooling or other cooperative agreements with lessees, operators or owners of other lands and minerals for the purpose of bringing about the cooperative*

development and operation of any mine, oil field or other unit of which the protected minor's property is a part.

2. *If the proposed lease contains an option to purchase, and the property to be sold under the option consists of mining claims, property worked as a mine, or interests in oil, gas, steam, gravel or any mineral, which has a speculative or undefined market value, the court may authorize the guardian to enter into such a lease and sales agreement or give an option to purchase without requiring the property to be sold at public auction or by private sale in the manner required by this chapter for sales of other real property.*

3. *If the petition filed pursuant to this section requests authority to enter into a lease with an option to purchase, in addition to the notice required by section 17 of this act, the guardian shall publish a copy of the notice at least twice, the first publication to be at least 10 days before the date set for the hearing and the second publication to be not earlier than 7 days after the date of the first publication. The notice must be published in:*

(a) A newspaper that is published in the county where the property is located; or

(b) If no newspaper is published in the county where the property is located, a newspaper of general circulation in that county which is designated by the court.

Sec. 118. 1. *To enter into an agreement to sell or to give an option to purchase a mining claim or real property worked as a mine which belongs to the estate of the protected minor, the guardian or an interested person shall file a petition with the court that:*

(a) Describes the property or claim;

(b) States the terms and general conditions of the agreement;

(c) Shows any advantage that may accrue to the estate of the protected minor from entering into the agreement; and

(d) Requests confirmation by the court of the agreement.

2. *The court shall set the date of the hearing on the petition.*

3. *The petitioner shall give notice in the manner provided in section 17 of this act.*

Sec. 119. 1. *At the time appointed and if the court finds that due notice of the hearing concerning an agreement has been given, the court shall hear a petition filed pursuant to section 118 of this act and any objection to the petition that is filed or presented.*

2. *After the hearing, if the court is satisfied that the agreement will be to the advantage of the estate of the protected minor, the court:*

(a) Shall order the guardian to enter into the agreement; and

(b) May prescribe in the order the terms and conditions of the agreement.

3. *A certified copy of the court order must be recorded in the office of the county recorder of each county in which the property affected by the agreement, or any portion of the property, is located.*

Sec. 120. 1. *If the court orders the guardian to enter into the agreement pursuant to section 119 of this act, the court shall order the guardian to provide an additional bond and specify the amount of the bond in the court order.*

2. *The guardian is not entitled to receive any of the proceeds from the agreement until the guardian provides the bond and the court approves the bond.*

3. *When the court order is entered, the guardian shall execute, acknowledge and deliver an agreement which:*

- (a) Contains the conditions specified in the court order;*
- (b) States that the agreement or option is approved by court order; and*
- (c) Provides the date of the court order.*

Sec. 121. 1. *If the purchaser or option holder neglects or refuses to comply with the terms of the agreement approved by the court pursuant to section 119 of this act, the guardian may petition the court to cancel the agreement. The court shall cancel the agreement after notice is given to the purchaser or option holder.*

2. *The cancellation of an agreement pursuant to this section does not affect any liability created by the agreement.*

Sec. 122. 1. *If the purchaser or option holder complies with the terms of an agreement approved by the court pursuant to section 119 of this act and has made all payments according to the terms of the agreement, the guardian shall:*

- (a) Make a return to the court of the proceedings; and*
- (b) Petition the court for confirmation of the proceedings.*

2. *Notice must be given to the purchaser or option holder regarding the petition for confirmation.*

3. *The court:*

- (a) Shall hold a hearing regarding the petition for confirmation; and*
- (b) May order or deny confirmation of the proceedings and execution of the conveyances in the same manner and with the same effect as when the court orders or denies a confirmation of a sale of real property.*

Sec. 123. 1. *A guardian of the estate, with prior approval of the court, may accept an offer for the purchase of the interest or estate of the protected minor, in real or personal property or both real and personal property, where it appears from the petition and the court determines that:*

(a) The interest or estate of the protected minor in such property is an interest in a partnership, joint venture or closely held corporation, in which the offeror or offerors own the remaining interests in the partnership, joint venture or closely held corporation, or are offering to purchase such remaining interests.

(b) The interest or estate of the protected minor in such property is an undivided interest in property in which the offeror or offerors own the remaining interests in such property or are offering to purchase such remaining interests.

(c) The interest or estate of the protected minor to be sold or granted is an easement in or creates a servitude upon the protected minor's property.

2. A guardian of the estate, with prior approval of the court, may accept an offer to surrender the interest or estate of the protected minor in real or personal property or both real and personal property, where it appears from the petition and the court determines that:

(a) The interest or estate of the protected minor is contingent or dubious.

(b) The interest or estate of the protected minor in such property is a servitude upon the property of another.

Sec. 124. 1. A guardian of the estate may petition the court for advice and instructions in any matter concerning:

(a) The administration of the protected minor's estate;

(b) The priority of paying claims;

(c) The propriety of making any proposed disbursement of funds;

(d) Exercising for or on behalf of the protected minor:

(1) Any options or other rights under any policy of insurance or annuity; and

(2) The right to take under a will, trust or other devise;

(e) The propriety of exercising any right exercisable by owners of property; and

(f) Matters of a similar nature.

2. Any act done by a guardian of the estate after securing court approval or instructions with reference to the matters set forth in subsection 1 is binding upon the protected minor or those claiming through the protected minor, and the guardian is not personally liable for performing any such act.

3. If any interested person may be adversely affected by the proposed act of the guardian, the court shall direct the issuance of a citation to that interested person, to be served upon the person at least 20 days before the hearing on the petition. The citation must be served in the same manner that summons is served in a civil action and must direct the interested person to appear and show cause why the proposed act of the guardian should not be authorized or approved. All interested persons so served are bound by the order of the court which is final and conclusive, subject to any right of appeal.

Sec. 125. 1. A guardian of the estate shall record a certified copy of any court order authorizing the sale, mortgage, lease, surrender or conveyance of real property in the office of the county recorder of the county in which any portion of the land is located.

2. To carry out effectively any transaction affecting the protected minor's property as authorized by this chapter, the court may authorize the guardian to execute any promissory note, mortgage, deed of trust, deed, lease, security agreement or other legal document or instrument which is reasonably necessary to carry out such transaction.

Sec. 126. 1. *A guardian of the estate, with prior approval of the court by order, where it appears from the petition and the court determines that the best interests of the protected minor are served by such action, may:*

(a) Accept an offer to exchange all or any interest of the protected minor in real or personal property or both real and personal property for real or personal property or both real and personal property of another, and pay or receive any cash or other consideration to equalize the values on such exchange; or

(b) Effect a voluntary partition of real or personal property or both real and personal property in which the protected owner owns an undivided interest.

2. *Upon hearing the petition, the court shall inquire into the value of the property to be exchanged or partitioned, the rental or income therefrom, and the use for which the property is best suited.*

Sec. 127. *Every guardianship established pursuant to this chapter must be reviewed by the court annually.*

Sec. 128. *A guardian of the estate shall make and file a verified account in the guardianship proceeding:*

1. *Annually, not later than 60 days after the anniversary date of the appointment of the guardian, unless the court orders such an account to be made and filed at a different interval upon a showing of good cause and with the appropriate protection of the interests of the protected minor.*

2. *Upon filing a petition to resign and before the resignation is accepted by the court.*

3. *Within 30 days after the date of his or her removal, unless the court authorizes a longer period.*

4. *Within 90 days after the date of termination of the guardianship or the emancipation or death of the protected minor, unless the court authorizes a longer period.*

5. *At any other time as required by law or as the court may order.*

Sec. 129. 1. *An account made and filed by a guardian of the estate must include, without limitation, the following information:*

(a) The period covered by the account.

(b) All cash receipts and disbursements during the period covered by the account.

(c) All claims filed and the action taken regarding the account.

(d) Any changes in the protected minor's property due to sales, exchanges, investments, acquisitions, gifts, mortgages or other transactions which have increased, decreased or altered the protected minor's property holdings as reported in the original inventory or the preceding account.

(e) Any other information the guardian considers necessary to show the condition of the affairs of the protected minor.

2. *If the account is for the estates of two or more wards, it must show the interest of each ward in the receipts, disbursements and property.*

3. *Receipts or vouchers for all expenditures must be retained by the guardian for examination by the court or an interested person. Unless ordered by the court, the guardian is not required to file such receipts or vouchers with the court.*

4. *On the court's own motion or on ex parte application by an interested person which demonstrates good cause, the court may:*

(a) *Order production of the receipts or vouchers that support the account; and*

(b) *Examine or audit the receipts or vouchers that support the account.*

5. *If a receipt or voucher is lost or for good reason cannot be produced on settlement of an account, payment may be proved by the oath of at least one competent witness. The guardian must be allowed expenditures if it is proven that:*

(a) *The receipt or voucher for any disbursement has been lost or destroyed so that it is impossible to obtain a duplicate of the receipt or voucher; and*

(b) *Expenses were paid in good faith and were valid charges against the estate.*

Sec. 130. 1. *Any interested person may appear at the hearing and object to the account or file written objections to the account before the hearing.*

2. *If there are no objections to the account or if the court overrules any objections, the court may enter an order allowing and confirming the account.*

3. *Except as otherwise provided in this subsection, the order settling and allowing the account is a final order and is conclusive against all persons interested in the guardianship proceeding, including, without limitation, heirs and assigns. The order is not final against a protected minor who requests an examination of any account after the protected minor's legal disability is removed.*

4. *If the court finds that an interested person who objected to the account did not object in good faith or in furtherance of the best interests of the protected minor, the court may order the interested person to pay to the estate of the protected minor all or part of the expenses associated with the objection.*

Sec. 131. 1. *Subject to the discretion and approval of the court and except as otherwise provided in subsection 4, a guardian must be allowed:*

(a) *Reasonable compensation for the guardian's services;*

(b) *Necessary and reasonable expenses incurred in exercising the authority and performing the duties of a guardian; and*

(c) *Reasonable expenses incurred in retaining accountants, attorneys, appraisers or other professional services.*

2. *Reasonable compensation and services must be based upon similar services performed for persons who are not under a legal disability. In determining whether compensation is reasonable, the court may consider:*

- (a) The nature of the guardianship;*
- (b) The type, duration and complexity of the services required; and*
- (c) Any other relevant factors.*

3. *In the absence of an order of the court pursuant to this chapter shifting the responsibility of the payment of compensation and expenses, the payment of compensation and expenses must be paid from the estate of the protected minor. In evaluating the ability of a protected minor to pay such compensation and expenses, the court may consider:*

- (a) The nature, extent and liquidity of the protected minor's assets;*
- (b) The disposable net income of the protected minor;*
- (c) Any foreseeable expenses; and*
- (d) Any other factors that are relevant to the duties of the guardian pursuant to section 61 or 64 of this act.*

4. *A private professional guardian is not allowed compensation or expenses for services incurred by the private professional guardian as a result of a petition to have him or her removed as guardian if the court removes the private professional guardian pursuant to the provisions of paragraph (b), (d), (e), (f) or (h) of subsection 1 of section 133 of this act.*

Sec. 132. *If a protected minor resides with a care provider that is an institution or facility, the care provider shall furnish to the guardian an itemized accounting of all financial activity pertaining to the protected minor:*

- 1. On a quarterly basis; and*
- 2. At any other time, upon the request of the guardian.*

Sec. 133. 1. *The court may remove a guardian if the court determines that:*

(a) The guardian has become mentally incompetent, unsuitable or otherwise incapable of exercising the authority and performing the duties of a guardian as provided by law;

(b) The guardian is no longer qualified to act as a guardian pursuant to section 46 of this act;

(c) The guardian has filed for bankruptcy within the previous 5 years;

(d) The guardian of the estate has mismanaged the estate of the protected minor;

(e) The guardian has negligently failed to perform any duty as provided by law or by any order of the court and:

(1) The negligence resulted in injury to the protected minor or the estate of the protected minor; or

(2) There was a substantial likelihood that the negligence would result in injury to the protected minor or the estate of the protected minor;

(f) The guardian has intentionally failed to perform any duty as provided by law or by any lawful order of the court, regardless of injury;

(g) The best interests of the protected minor will be served by the appointment of another person as guardian; or

(h) The guardian is a private professional guardian who is no longer qualified as a private professional guardian pursuant to section 45 of this act.

2. A guardian may not be removed if the sole reason for removal is the lack of money to pay the compensation and expenses of the guardian.

Sec. 134. A guardian who, after appointment:

- 1. Is convicted of a gross misdemeanor or felony in any state;*
- 2. Files for or receives protection as an individual or as a principal of any entity under the federal bankruptcy laws;*
- 3. Has a driver's license suspended, revoked or cancelled for nonpayment of child support;*

4. Is suspended for misconduct or disbarred from:

- (a) The practice of law;*
- (b) The practice of accounting; or*
- (c) Any other profession which:*

(1) Involves or may involve the management or sale of money, investments, securities or real property; or

(2) Requires licensure in this State or any other state; or

5. Has a judgment entered against him or her for misappropriation of funds or assets from any person or entity in any state,

↪ shall immediately inform the court of the circumstances of those events. The court may remove the guardian and appoint a successor guardian, unless the court finds that it is in the best interest of the protected minor to allow the guardian to continue in his or her appointment.

Sec. 135. 1. The following persons may petition the court to have a guardian removed:

- (a) The protected minor;*
- (b) Any relative who is within the second degree of consanguinity to the protected minor;*

(c) A public guardian; or

(d) Any other interested person.

2. The petition must:

- (a) State with particularity the reasons for removing the guardian; and*
- (b) Show cause for the removal.*

3. If the court denies the petition for removal, the petitioner shall not file a subsequent petition unless a material change of circumstances warrants a subsequent petition.

4. If the court finds that the petitioner did not file a petition for removal in good faith or in furtherance of the best interests of the protected minor, the court may:

(a) Disallow the petitioner from petitioning the court for attorney's fees from the estate of the protected minor; and

(b) Impose sanctions on the petitioner in an amount sufficient to reimburse the estate of the protected minor for all or part of the expenses

incurred by the estate of the protected minor in responding to the petition and for any other pecuniary losses which are associated with the petition.

Sec. 136. 1. If a petition to have a guardian removed is filed with the court, the court shall issue ~~and serve~~ a citation to the petitioner. The petitioner shall serve the citation on the guardian and on all other interested persons.

2. The citation must require the guardian to appear and show cause why the court should not remove the guardian.

3. If it appears that the protected minor or estate may suffer loss or injury during the time required for service of the citation on the guardian, on the court's own motion or on petition, the court may:

(a) Suspend the powers of the guardian by issuing a 30-day temporary restraining order or an injunction;

(b) Compel the guardian to surrender the protected minor to a temporary guardian for not more than 30 days; and

(c) Compel the guardian to surrender the assets of the estate to a temporary guardian or to the public guardian until the date set for the hearing.

Sec. 137. If a petition to remove a guardian is deemed sufficient and the guardian fails to appear before the court, the court may take any or all of the following actions:

1. Hold the guardian in contempt of court.

2. Require the guardian to appear at a date and time set by the court.

3. Issue a bench warrant for the arrest and appearance of the guardian.

4. Find that the guardian caused harm to the protected minor or the estate of the protected minor and issue an order accordingly.

Sec. 138. 1. Notwithstanding any other provision of law, except as otherwise provided in subsection 3, the court shall not remove the guardian or appoint another person as guardian unless the court finds that removal of the guardian or appointment of another person as guardian is in the best interests of the protected minor.

2. For the purposes of this section in determining the best interests of the protected minor, the court shall consider, without limitation:

(a) The ability of the present guardian to provide for the basic needs of the protected minor, including, without limitation, food, shelter, clothing and medical care;

(b) The safety of the home in which the protected minor is residing;

(c) The length of time that the protected minor has been in the care of the present guardian;

(d) The current well-being of the protected minor, including whether the protected minor is prospering in the environment being provided by the present guardian;

(e) The emotional bond existing between the present guardian and the protected minor;

(f) If the person petitioning the court to replace the present guardian was previously removed from the care, custody or guardianship of the protected minor:

(1) The level of participation before the petition was filed by the petitioner in the welfare of the protected minor; and

(2) If applicable, whether the petitioner has received instruction in parenting, participated in a program of rehabilitation or undergone counseling for any problem or conduct that the court, in appointing the present guardian, considered as an indication of the previous unfitness of the petitioner; and

(g) The mental and physical health of the present guardian.

3. The court may remove the guardian of a protected minor or appoint another person as guardian if the guardian files a petition to resign his or her position as guardian.

Sec. 139. 1. When a guardian dies or is removed by order of the court, the court, upon the court's own motion or upon a petition filed by any interested person, may appoint another guardian in the same manner and subject to the same requirements as are provided by law for an original appointment of a guardian.

2. If a guardian of the person is appointed for a protected minor pursuant to this section, the protected minor must be served with the petition. If the protected minor does not object to the appointment, the protected minor is not required to attend the hearing.

Sec. 140. 1. A guardian of the person, of the estate, or of the person and the estate, may file with the court a petition tendering the resignation of the guardian.

2. If the guardian files a petition to resign, the court shall serve notice upon any person entitled to notice pursuant to section 29 of this act.

Sec. 141. 1. Before the court approves the resignation of a guardian of the person and discharges the guardian, the court shall appoint a successor guardian.

2. If a protected minor has more than one guardian, the court may approve the resignation of one of the guardians if the remaining guardian or guardians are qualified to act alone.

Sec. 142. 1. Before the court approves the resignation of a guardian of the estate and discharges the guardian, the court shall require the guardian to submit, on the date set for the hearing, an accounting of the estate through the end of the term.

2. If the guardian fails to file such an accounting, the court may impose sanctions upon the guardian.

3. If an estate has more than one guardian, the court may accept the resignation of one of the guardians if the remaining guardian or guardians are qualified to act alone. The court may waive the requirement of filing the accounting if the remaining guardian or guardians are:

- (a) Required to file the annual accounting, if applicable; and
- (b) Responsible for any discrepancies in the accounting.

4. Upon approval of the accounting, if any is required, and appointment of a successor guardian, the court may approve the resignation of a guardian and order the discharge of his or her duties.

Sec. 143. 1. A protected minor, the guardian or another person may petition the court for the termination or modification of a guardianship. The petition must state or contain:

- (a) The name and address of the petitioner.
- (b) The relationship of the petitioner to the protected minor.
- (c) The name, age and address of the protected minor, if the protected minor is not the petitioner, or the date of death of the protected minor if the protected minor is deceased.
- (d) The name and address of the guardian, if the guardian is not the petitioner.
- (e) The reason for termination or modification.
- (f) Whether the termination or modification is sought for a guardianship of the person, of the estate, or of the person and estate.
- (g) A general description and the value of the remaining property of the protected minor and the proposed disposition of that property.

2. Upon the filing of the petition, the court may appoint an attorney to represent the protected minor if:

- (a) The protected minor is unable to retain an attorney; and
- (b) The court determines that the appointment is necessary to protect the interests of the protected minor.

3. The petitioner has the burden of proof to show by clear and convincing evidence that the termination or modification of the guardianship of the person, of the estate, or of the person and estate is in the best interests of the protected minor.

4. The court shall issue a citation ~~to the guardian and all interested persons~~ requiring ~~them~~ all interested persons to appear and show cause why termination or modification of the guardianship should not be granted. The court shall serve the citation on the guardian and the petitioner. The petitioner shall serve the citation on all interested persons.

5. If the court finds that the petitioner did not file a petition for termination or modification in good faith or in furtherance of the best interests of the protected minor, the court may:

- (a) Disallow the petitioner from petitioning the court for attorney's fees from the estate of the protected minor; and
- (b) Impose sanctions on the petitioner in an amount sufficient to reimburse the estate of the protected minor for all or part of the expenses and for any other pecuniary losses which are incurred by the estate of the protected minor and associated with the petition.

Sec. 144. 1. A guardianship of the person, of the estate, or of the person and estate is terminated:

(a) By the death of the protected minor;
(b) Upon the protected minor's change of domicile to a place outside this State and the transfer of jurisdiction to the court having jurisdiction in the new domicile;

(c) Upon order of the court, if the court determines that the guardianship no longer is necessary;

(d) On the date on which the protected minor reaches 18 years of age; or

(e) On the date on which the protected minor graduates from high school or becomes 19 years of age, whichever occurs sooner, if:

(1) The protected minor will be older than 18 years of age upon graduation from high school; and

(2) The protected minor and the guardian consent to continue the guardianship and the consent is filed with the court at least 14 days before the date on which the protected minor will become 18 years of age.

2. A guardianship of the estate is terminated:

(a) If the court removes the guardian or accepts the resignation of the guardian and does not appoint a successor guardian;

(b) If the court determines that the guardianship is not necessary and orders the guardianship terminated; or

(c) By the death of the protected minor, subject to the provisions of section 147 of this act.

3. If the guardianship is of the person and estate, the court may order the guardianship terminated as to the person, the estate, or the person and estate.

4. The guardian shall notify the court, all interested parties, the trustee, and the named executor or appointed personal representative of the estate of the protected minor of the death of the protected minor within 30 days after the death.

5. Immediately upon the death or emancipation of the protected minor:

(a) The guardian of the estate shall have no authority to act for the protected minor except to wind up the affairs of the guardianship pursuant to section 147 of this act, and to distribute the property of the protected minor as provided in sections 148 and 149 of this act; and

(b) No person has standing to file a petition pursuant to section 60 of this act.

6. A hearing ~~must~~ may be held not later than 90 days before a protected minor reaches the age of majority to determine whether:

(a) Guardianship is needed beyond the age of majority;

(b) The protected minor desires an additional year of guardianship beyond the age of majority; and

(c) The guardian should be notified of any requirements of the guardianship which require compliance before termination of the guardianship.

7. If, at a hearing conducted pursuant to subsection 6, a court makes a determination that, upon reaching the age of majority, a protected minor

would be deemed incompetent, as defined in NRS 159.019, a petition may be filed in accordance with the provisions of chapter 159 of NRS to seek guardianship for the protected minor pursuant to that chapter to take effect when the protected minor reaches the age of majority. The protected minor has the right to be represented by counsel if guardianship is sought pursuant to this subsection.

Sec. 145. 1. If, before a protected minor is emancipated, a parent of the protected minor petitions the court for the termination of a guardianship of the protected minor, the parent has the burden of proof to show by clear and convincing evidence that:

(a) There has been a material change of circumstances since the time the guardianship was created. The parent must show that, as part of the change of circumstances, the parent has been restored to suitability as described in section 46 of this act.

(b) Except as otherwise provided in subsection 2, the welfare of the protected minor would be substantially enhanced by the termination of the guardianship and the placement of the protected minor with the parent.

2. If the parent consented to the guardianship when it was created, the parent is required to make only that showing set forth in paragraph (a) of subsection 1.

Sec. 146. 1. If a temporary guardianship is terminated and a petition for a general guardianship has not been filed:

(a) The temporary guardian shall immediately turn over all of the protected minor's property to the protected minor; or

(b) If the temporary guardian is awaiting certification from the appropriate authority acknowledging that the guardian has no further liability for taxes on the estate, the temporary guardian shall seek approval from the court to maintain possession of all or a portion of the protected minor's property.

2. If a temporary guardianship is terminated and a petition for general guardianship has been filed, the temporary guardian of the estate may:

(a) Continue possessing the protected minor's property; and

(b) Perform the duties of guardian for not more than 90 days after the temporary guardianship is terminated or until the court appoints another temporary or general guardian.

3. If the death of a protected minor causes the termination of a temporary guardianship before the hearing on a general guardianship:

(a) The temporary guardian of the estate may:

(1) Continue possessing the protected minor's property; and

(2) Except as otherwise provided in this paragraph, perform the duties of guardian for not more than 90 days after the date of the termination of the temporary guardianship or until the court appoints a personal representative of the estate, if any. If the temporary guardian is awaiting certification from the appropriate authority acknowledging that the guardian has no further liability for taxes on the estate and it will take

longer than 90 days after the date of the termination of the temporary guardianship to receive such certification, the temporary guardian must seek approval from the court to maintain possession of all or a portion of the protected minor's property until certification is received.

(b) If no personal representative has been appointed pursuant to chapter 138 or 139 of NRS, the temporary guardian shall pay all of the final expenses and outstanding debts of the protected minor to the extent possible using the assets in the possession of the temporary guardian.

Sec. 147. 1. *The guardian of the estate is entitled to retain possession of the protected minor's property already in the control of the guardian and is authorized to perform the duties of the guardian to wind up the affairs of the guardianship:*

(a) Except as otherwise provided in paragraph (b), (c) or (d), for not more than 180 days or a period that is reasonable and necessary as determined by the court after the termination of the guardianship;

(b) Except as otherwise provided in paragraph (d), for not more than 90 days after the date of the appointment of a personal representative of the estate of a deceased protected minor;

(c) Except as otherwise provided in paragraph (d), for not more than 90 days after the date of the appointment of a successor trustee of a trust of the deceased protected minor and upon request by the trustee; or

(d) Upon approval of the court, for more than 180 days or 90 days, as applicable, if the guardian is awaiting certification from the appropriate authority acknowledging that the guardian has no further liability for taxes on the estate.

2. *To wind up the affairs of the guardianship, the guardian shall:*

(a) Pay all expenses of administration of the guardianship estate, including those incurred in winding up the affairs of the guardianship.

(b) Complete the performance of any contractual obligations incurred by the guardianship estate.

(c) With prior approval of the court, continue any activity that:

(1) The guardian believes is appropriate and necessary; or

(2) Was commenced before the termination of the guardianship.

(d) If the guardianship is terminated for a reason other than the death of the protected minor, examine and allow and pay, or reject, all claims presented to the guardian before the termination of the guardianship for obligations incurred before the termination.

3. *If the assets are transferred to a personal representative or a successor trustee as provided for in paragraphs (b) and (c) of subsection 1, the court may authorize the guardian to retain sufficient assets to pay any anticipated expenses and taxes of the guardianship estate.*

Sec. 148. 1. *If the guardianship is terminated by reason of the death of the protected minor:*

(a) Except as otherwise provided in section 149 of this act, the guardian shall report to the personal representative claims which are presented to

the guardian, or which have been presented to the guardian but have not been paid, except those incurred in paying the expenses of administration of the guardianship estate and in winding up the affairs of the guardianship estate.

(b) Claims which have been allowed by the guardian, but not paid, must be paid by the personal representative in the course of probate in the priority provided by law for payment of claims against a decedent, and shall have the same effect and priority as a judgment against a decedent.

(c) Claims which have been presented and not allowed or rejected must be acted upon by the personal representative in the same manner as other claims against a decedent.

2. The personal representative must be substituted as the party in interest for the guardian in any action commenced or which may be commenced by the creditor pursuant to section 79 of this act, including summary determination, on any claim rejected by the guardian.

Sec. 149. 1. After the winding up of the affairs of the guardianship, the guardian shall deliver physical possession of all of the protected minor's property to the protected minor, the personal representative or the successor guardian, as the case may be, and obtain a receipt of the delivery of the property.

2. Before the guardian delivers physical possession of the protected minor's property to the personal representative and upon sufficient evidence of prior title, the guardian may petition the court to have the title to the property modified, on a pro rata basis, to reflect the manner in which title was held before the guardianship was established so that the property is distributed to the intended beneficiary or former joint owner of the property.

3. If the guardianship has terminated by reason of the death of the protected minor, the court, by order, may authorize the guardian to handle the deceased protected minor's property in the same manner as authorized by NRS 146.070 or 146.080, if the gross value of the property, less encumbrances, and less fees, costs and expenses that are approved by the court, remaining in the hands of the guardian does not exceed the amount authorized pursuant to NRS 146.070 or 146.080.

Sec. 150. 1. Upon the filing of receipts and vouchers showing compliance with the orders of the court in winding up the affairs of the guardianship, the court shall enter an order discharging the guardian and exonerating the bond of the guardian.

2. A guardian is not relieved of liability for his or her term as guardian until an order of discharge is entered and filed with the court.

Sec. 151. A guardian shall maintain all records and documents for each protected minor whom the guardian has authority over for a period of not less than 7 years after the court terminates the guardianship and shall maintain all financial records related to the guardianship for a period of not less than 7 years after the date of the last financial transaction.

Sec. 152. 1. *Where a guardian of the estate for a nonresident has not been appointed in this State, but the nonresident has a foreign guardian and a person within this State is indebted to such nonresident or such nonresident has property within this State that is capable of being removed and which is on deposit with or in the possession of a resident of this State, and such property is not subject to a mortgage, pledge, lien or other encumbrance restricting removal of the property from this State, the person in possession of the property may deliver such property or the person indebted may pay such debt, to the foreign guardian. The delivery of such property or the payment of such debt is, to the extent of such delivery or payment, a release and discharge with respect to such property or debt.*

2. *The court may require such foreign guardian to post a bond in the same manner as required of a resident guardian and may enter such orders as are necessary to protect secured creditors of the protected minor and unsecured creditors of the protected minor who are residents of this State.*

Sec. 153. 1. *Except as otherwise provided in this section or NRS 127.045, a parent, without the approval of a court, may appoint in writing a short-term guardianship for an unmarried minor child if the parent has legal custody of the minor child.*

2. *The appointment of a short-term guardianship is effective for a minor who is 14 years of age or older only if the minor provides written consent to the guardianship.*

3. *The appointment of a short-term guardian does not affect the rights of the other parent of the minor.*

4. *A parent shall not appoint a short-term guardian for a minor child if the minor child has another parent:*

- (a) Whose parental rights have not been terminated;*
 - (b) Whose whereabouts are known; and*
 - (c) Who is willing and able to make and carry out daily child care decisions concerning the minor,*
- ↪ unless the other parent of the minor child provides written consent to the appointment.*

5. *The written instrument appointing a short-term guardian becomes effective immediately upon execution and must include, without limitation:*

- (a) The date on which the guardian is appointed;*
- (b) The name of the parent who appointed the guardian, the name of the minor child for whom the guardian is appointed and the name of the person who is appointed as the guardian; and*
- (c) The signature of the parent and the guardian in the presence of a notary public acknowledging the appointment of the guardian. The parent and guardian are not required to sign and acknowledge the instrument in the presence of the other.*

6. *The short-term guardian appointed pursuant to this section serves as guardian of the minor for 6 months, unless the written instrument appointing the guardian specifies a shorter term or specifies that the*

guardianship is to terminate upon the happening of an event that occurs sooner than 6 months.

7. Only one written instrument appointing a short-term guardian for the minor child may be effective at any given time.

8. The appointment of a short-term guardian pursuant to this section:

(a) May be terminated by an instrument in writing signed by either parent if that parent has not been deprived of the legal custody of the minor.

(b) Is terminated by any order of a court of competent jurisdiction that appoints a guardian.

Sec. 154. 1. A member of the Armed Forces of the United States, a reserve component thereof or the National Guard may, by written instrument and without the approval of a court, appoint any competent adult residing in this State as the guardian of the person of a minor child who is a dependent of that member. The instrument must be:

(a) Executed by both parents if living, not divorced and having legal custody of the child, otherwise by the parent having legal custody; and

(b) Acknowledged in the same manner as a deed.

↪ If both parents do not execute the instrument, the executing parent shall send by certified mail, return receipt requested, to the other parent at his or her last known address, a copy of the instrument and a notice of the provisions of subsection 3.

2. The instrument must contain a provision setting forth the:

(a) Branch of the Armed Forces;

(b) Unit of current assignment;

(c) Current rank or grade; and

(d) Social security number or service number,

↪ of the parent who is the member.

3. The appointment of a guardian pursuant to this section:

(a) May be terminated by a written instrument signed by either parent of the child if that parent has not been deprived of his or her parental rights to the child; and

(b) Is terminated by any order of a court.

Sec. 155. 1. If a guardian, interested person, protected minor or proposed protected minor petitions the court upon oath alleging:

(a) That a person has or is suspected to have concealed, converted to his or her own use, conveyed away or otherwise disposed of any money, good, chattel or effect of the protected minor or proposed protected minor; or

(b) That the person has in his or her possession or knowledge any deed, conveyance, bond, contract or other writing which contains evidence of, or tends to disclose the right, title or interest of the protected minor or proposed protected minor in or to, any real or personal property, or any claim or demand,

↪ the judge may cause the person to be cited to appear before the district court to answer, upon oath, upon the matter of the petition.

2. If the person cited does not reside in the county where letters of guardianship have been issued pursuant to section 56 of this act, the person may be cited and examined before the district court of the county where the person resides, or before the court that issued the citation. Each party to the petition may produce witnesses, and such witnesses may be examined by either party.

Sec. 156. 1. If the court finds, after examination of a person cited pursuant to section 155 of this act, that the person has committed an act:

(a) Set forth in paragraph (a) of subsection 1 of section 155 of this act, the court may order the person to return the asset or the value of the asset to the guardian of the estate; or

(b) Set forth in paragraph (b) of subsection 1 of section 155 of this act, the court may order the person to return the asset or provide information concerning the location of the asset to the guardian of the estate.

2. The court may hold a person who is cited pursuant to section 155 of this act in contempt of court and deal with the person accordingly if the person:

(a) Refuses to appear and submit to examination or to testify regarding the matter complained of in the petition; or

(b) Fails to comply with an order of the court issued pursuant to subsection 1.

3. An order of the court pursuant to subsection 1 is *prima facie* evidence of the right of the proposed protected minor or the estate of the protected minor to the asset described in the order in any action that may be brought for the recovery thereof, and any judgment recovered therein must be double the value of the asset, and damages in addition thereof equal to the value of such property.

4. If the person who is cited pursuant to section 155 of this act appears and, upon consideration of the petition, the court finds that the person is not liable or responsible to the proposed protected minor or the estate of the protected minor, the court may order:

(a) The proposed protected minor or the estate of the protected minor to pay the attorney's fees and costs of the respondent; or

(b) If the court finds that the petitioner unnecessarily or unreasonably filed the petition, the petitioner personally to pay the attorney's fees and costs of the respondent.

Sec. 157. In addition to any order from which an appeal is expressly authorized pursuant to this chapter, an appeal may be taken to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution within 30 days after its notice of entry from an order:

1. Granting or revoking letters of guardianship.

2. Directing or authorizing the sale or conveyance, or confirming the sale, of property of the estate of a protected minor.

3. Settling an account.

4. *Ordering or authorizing a guardian to act pursuant to section 82 of this act.*

5. *Ordering or authorizing the payment of a debt, claim, devise, guardian's fees or attorney's fees.*

6. *Determining ownership interests in property.*

7. *Granting or denying a petition to enforce the liability of a surety.*

8. *Granting or denying a petition for modification or termination of a guardianship.*

9. *Granting or denying a petition for removal of a guardian or appointment of a successor guardian.*

Sec. 158. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

“Protected minor” has the meaning ascribed to it in section 11 of this act.

Sec. 159. NRS 159.013 is hereby amended to read as follows:

159.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 159.014 to 159.027, inclusive, **and section 158 of this act** have the meanings ascribed to them in those sections.

Sec. 160. NRS 159.014 is hereby amended to read as follows:

159.014 “Care provider” includes any public or private institution located within or outside this state which provides facilities for the care or maintenance of incompetents ~~[-] or persons of limited capacity . [or minors.]~~

Sec. 161. NRS 159.015 is hereby amended to read as follows:

159.015 “Court” means any court or judge having jurisdiction of the persons and estates of ~~[-] minors, [-] incompetent persons [-] or persons of limited capacity.~~

Sec. 162. NRS 159.023 is hereby amended to read as follows:

159.023 “Minor” means any person who is:

1. Less than 18 years of age; or
2. Less than 19 years of age if ~~[-] the [-]~~ guardianship **of the person** is continued until the person reaches the age of 19 years pursuant to ~~[-] NRS 159.191. [-]~~ **section 144 of this act.**

Sec. 163. NRS 159.024 is hereby amended to read as follows:

159.024 1. “Private professional guardian” means a person who receives compensation for services as a guardian to three or more wards who are not related to the guardian by blood or marriage.

2. For the purposes of this chapter, the term includes:

(a) A person who serves as a private professional guardian and who is required to have a license issued pursuant to chapter 628B of NRS.

(b) A person who serves as a private professional guardian but who is exempt pursuant to NRS 159.0595 or 628B.110 **or section 45 of this act** from the requirement to have a license issued pursuant to chapter 628B of NRS.

3. The term does not include:

- (a) A governmental agency.

(b) A public guardian appointed or designated pursuant to the provisions of chapter 253 of NRS.

4. As used in this section, “ward” includes a protected minor.

Sec. 164. NRS 159.025 is hereby amended to read as follows:

159.025 “Proposed ward” means any person , **other than a minor**, for whom proceedings for the appointment of a guardian have been initiated in this State or, if the context so requires, for whom similar proceedings have been initiated in another state.

Sec. 165. NRS 159.027 is hereby amended to read as follows:

159.027 “Ward” means any person , **other than a minor**, for whom a guardian has been appointed.

Sec. 166. NRS 159.034 is hereby amended to read as follows:

159.034 1. Except as otherwise provided in this section, by specific statute or as ordered by the court, a petitioner in a guardianship proceeding shall give notice of the time and place of the hearing on any petition filed in the guardianship proceeding to:

- ~~(a) Any minor ward who is 14 years of age or older.~~
- ~~—(b) The parent or legal guardian of any minor ward who is less than 14 years of age.~~
- ~~—(c) The spouse of the ward and all other known relatives of the ward who are within the second degree of consanguinity.~~
- ~~{(d)}~~ **(b)** Any other interested person or the person’s attorney who has filed a request for notice in the guardianship proceedings and has served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the request and the person’s name and address, or that of his or her attorney.

~~{(e)}~~ **(c)** The guardian, if the petitioner is not the guardian.

~~{(f)}~~ **(d)** Any person or care provider who is providing care for the ward, except that if the person or care provider is not related to the ward, such person or care provider must not receive copies of any inventory or accounting.

~~{(g)}~~ **(e)** Any office of the Department of Veterans Affairs in this State if the ward is receiving any payments or benefits through the Department of Veterans Affairs.

~~{(h)}~~ **(f)** The Director of the Department of Health and Human Services if the ward has received or is receiving benefits from Medicaid.

~~{(i)}~~ **(g)** Those persons entitled to notice if a proceeding were brought in the ward’s home state.

2. The petitioner shall give notice not later than 10 days before the date set for the hearing:

(a) By mailing a copy of the notice by certified, registered or ordinary first-class mail to the residence, office or post office address of each person required to be notified pursuant to this section;

(b) By personal service; or

(c) In any other manner ordered by the court, upon a showing of good cause.

3. Except as otherwise provided in this subsection, if none of the persons entitled to notice of a hearing on a petition pursuant to this section can, after due diligence, be served by certified mail or personal service and this fact is proven by affidavit to the satisfaction of the court, service of the notice must be made by publication in the manner provided by N.R.C.P. 4(e). In all such cases, the notice must be published not later than 10 days before the date set for the hearing. If, after the appointment of a guardian, a search for relatives of the ward listed in paragraph ~~4(e)~~ (a) of subsection 1 fails to find any such relative, the court may waive the notice by publication required by this subsection.

4. For good cause shown, the court may waive the requirement of giving notice.

5. A person entitled to notice pursuant to this section may waive such notice. Such a waiver must be in writing and filed with the court.

6. On or before the date set for the hearing, the petitioner shall file with the court proof of giving notice to each person entitled to notice pursuant to this section.

Sec. 167. NRS 159.037 is hereby amended to read as follows:

159.037 1. The venue for the appointment of a guardian when the **proposed** ward's home state is this State must be the county where the proposed ward resides.

2. If the proper venue may be in two or more counties, the county in which the proceeding is first commenced is the proper county in which to continue the proceedings.

3. Upon the filing of a petition showing that the proper venue is inconvenient, a venue other than that provided in subsection 1 may accept the proceeding.

Sec. 168. NRS 159.039 is hereby amended to read as follows:

159.039 1. If proceedings for the appointment of a guardian for the same proposed ward are commenced in more than one county in this State, and the **proposed** ward's home state is this State, they shall be stayed, except in the county where first commenced, until final determination of venue in that county. If the proper venue is finally determined to be in another county, the court shall cause a transcript of the proceedings and all original papers filed therein, all certified by the clerk of the court, to be sent to the clerk of the court of the proper county.

2. A proceeding is considered commenced by the filing of a petition.

3. The proceedings first legally commenced for the appointment of a guardian of the estate or of the person and estate extends to all the property of the proposed ward which is in this state.

Sec. 169. NRS 159.041 is hereby amended to read as follows:

159.041 A court having before it any guardianship matter for a ward **or proposed ward** whose home state is this State may transfer the matter to

another county in the interest of the ward **or proposed ward** or, if not contrary to the interest of the ward ~~{}~~ **or proposed ward**, for the convenience of the guardian. A petition for the transfer, setting forth the reasons therefor, may be filed in the guardianship proceeding. If the court is satisfied that the transfer is in the interest of the ward **or proposed ward** or, if not contrary to the interest of the ward ~~{}~~ **or proposed ward**, for the convenience of the guardian, the court shall make an order of transfer and cause a transcript of the proceedings in the matter, all original papers filed in such proceedings and the original bond filed by the guardian, to be certified by the clerk of the court originally hearing the matter and sent to the clerk of the court of the other county. Upon receipt of the transcript, papers and bond, and the filing of them for record, the court of the other county has complete jurisdiction of the matter, and thereafter all proceedings shall be as though they were commenced in that court.

Sec. 170. NRS 159.043 is hereby amended to read as follows:

159.043 1. All petitions filed in ~~{any}~~ **a** guardianship proceeding **pursuant to this chapter** must bear the title of the court and cause.

2. The caption of all petitions and other documents filed in a guardianship proceeding **pursuant to this chapter** must read, "In The Matter of the Guardianship of (the person, the estate, or the person and estate), ... (the legal name of the person), ~~{..... (adult or minor).}~~ **adult.**"

Sec. 171. NRS 159.044 is hereby amended to read as follows:

159.044 1. ~~{Except as otherwise provided in NRS 127.045, a}~~ **A** proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

- (a) The name and address of the petitioner.
- (b) The name, date of birth and current address of the proposed ward.
- (c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

- (1) A social security number;
- (2) A taxpayer identification number;
- (3) A valid driver's license number;
- (4) A valid identification card number; or
- (5) A valid passport number.

➡ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) ~~{If the proposed ward is a minor, the date on which the proposed ward will attain the age of majority and:~~

~~—(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and~~

~~—(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.~~

~~—(e)}~~ Whether the proposed ward is a resident or nonresident of this State.

~~{(f)}~~ **(e)** The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

~~{(g)}~~ **(f)** The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595 ~~{ }~~ **or section 45 of this act.** If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage. ~~{ }~~

~~—(h)}~~ **As used in this paragraph, “ward” includes a protected minor.**

(g) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

- (1) A social security number;
- (2) A taxpayer identification number;
- (3) A valid driver’s license number;
- (4) A valid identification card number; or
- (5) A valid passport number.

~~{(i)}~~ **(h)** Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which the proposed guardian was convicted and whether the proposed guardian was placed on probation or parole.

~~{(j)}~~ **(i)** A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. ~~If the proposed ward is an adult, the~~ **The** documentation must include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs, a letter signed by any governmental agency in this State which conducts investigations or a certificate signed by any other person whom the court finds qualified to execute a certificate, stating:

- (I) The need for a guardian;
- (II) Whether the proposed ward presents a danger to himself or herself or others;
- (III) Whether the proposed ward’s attendance at a hearing would be detrimental to the proposed ward;
- (IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and

(V) Whether the proposed ward is capable of living independently with or without assistance; and

(2) If the proposed ward is determined to have the limited capacity to consent to the appointment of a special guardian, a written consent to the appointment of a special guardian from the ward.

~~[(k)]~~ (j) Whether the appointment of a general or a special guardian is sought.

~~[(k)]~~ (k) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

~~[(m)]~~ (l) The name and address of any person or care provider having the care, custody or control of the proposed ward.

~~[(n)]~~ (m) If the petitioner is not the spouse or natural child of the proposed ward, a declaration explaining the relationship of the petitioner to the proposed ward or to the proposed ward's family or friends, if any, and the interest, if any, of the petitioner in the appointment.

~~[(o)]~~ (n) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

~~[(p)]~~ (o) If the guardianship is sought as the result of an investigation of a report of abuse, neglect, exploitation, isolation or abandonment of the proposed ward, whether the referral was from a law enforcement agency or a state or county agency.

~~[(q)]~~ (p) Whether the proposed ward or the proposed guardian is a party to any pending criminal or civil litigation.

~~[(r)]~~ (q) Whether the guardianship is sought for the purpose of initiating litigation.

~~[(s)]~~ (r) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

~~[(t)]~~ (s) Whether the proposed guardian has filed for or received protection under the federal bankruptcy laws within the immediately preceding 7 years.

3. Before the court makes a finding pursuant to NRS 159.054, a petitioner seeking a guardian for a proposed ~~adult~~ ward must provide the court with an assessment of the needs of the proposed ~~adult~~ ward completed by a licensed physician which identifies the limitations of capacity of the proposed ~~adult~~ ward and how such limitations affect the ability of the proposed ~~adult~~ ward to maintain his or her safety and basic needs. The court may prescribe the form in which the assessment of the needs of the proposed ~~adult~~ ward must be filed.

Sec. 172. NRS 159.047 is hereby amended to read as follows:

159.047 1. Except as otherwise provided in NRS 159.0475, **159.0523** and ~~159.049 to 159.0525, inclusive,~~ upon the filing of a petition under NRS 159.044, the clerk shall issue a citation setting forth a time and place for the hearing and directing the persons or care provider referred to in subsection 2 to appear and show cause why a guardian should not be appointed for the proposed ward.

2. A citation issued under subsection 1 must be served upon:

- (a) ~~1A~~ **The** proposed ward ; ~~who is 14 years of age or older;~~
- (b) The spouse of the proposed ward and all other known relatives of the proposed ward who are:
 - (1) Fourteen years of age or older; and
 - (2) Within the second degree of consanguinity;
- (c) The parents and custodian of the proposed ward;
- (d) Any person or officer of a care provider having the care, custody or control of the proposed ward;
- (e) The proposed guardian, if the petitioner is not the proposed guardian;
- (f) Any office of the Department of Veterans Affairs in this State if the proposed ward is receiving any payments or benefits through the Department of Veterans Affairs; and
- (g) The Director of the Department of Health and Human Services if the proposed ward has received or is receiving any benefits from Medicaid.

Sec. 173. NRS 159.0485 is hereby amended to read as follows:

159.0485 1. At the first hearing for the appointment of a guardian for a proposed ~~adult~~ ward, the court shall advise the proposed ~~adult~~ ward who is in attendance at the hearing or who is appearing by videoconference at the hearing of his or her right to counsel and determine whether the proposed ~~adult~~ ward wishes to be represented by counsel in the guardianship proceeding. If the proposed ~~adult~~ ward is not in attendance at the hearing because the proposed ~~adult~~ ward has been excused pursuant to NRS 159.0535 and is not appearing by videoconference at the hearing, the proposed ~~adult~~ ward must be advised of his or her right to counsel pursuant to subsection 2 of NRS 159.0535.

2. If ~~an adult~~ a ward or proposed ~~adult~~ ward is unable to retain legal counsel and requests the appointment of counsel at any stage in a guardianship proceeding and whether or not the ~~adult~~ ward or proposed ~~adult~~ ward lacks or appears to lack capacity, the court shall, at or before the time of the next hearing, appoint an attorney who works for legal aid services, if available, or a private attorney to represent the ~~adult~~ ward or proposed ~~adult~~ ward. The appointed attorney shall represent the ~~adult~~ ward or proposed ~~adult~~ ward until relieved of the duty by court order.

3. Subject to the discretion and approval of the court, the attorney for the ~~adult~~ ward or proposed ~~adult~~ ward is entitled to reasonable compensation and expenses. Unless the court determines that the ~~adult~~ ward or proposed ~~adult~~ ward does not have the ability to pay such compensation and expenses

or the court shifts the responsibility of payment to a third party, the compensation and expenses must be paid from the estate of the ~~adult~~ ward or proposed ~~adult~~ ward, unless the compensation and expenses are provided for or paid by another person or entity. If the court finds that a person has unnecessarily or unreasonably caused the appointment of an attorney, the court may order the person to pay to the estate of the ~~adult~~ ward or proposed ~~adult~~ ward all or part of the expenses associated with the appointment of the attorney.

Sec. 174. NRS 159.0487 is hereby amended to read as follows:

159.0487 Any court of competent jurisdiction may appoint:

1. Guardians of the person, of the estate, or of the person and estate for incompetents ~~for minors~~ whose home state is this State.
2. Guardians of the person or of the person and estate for incompetents ~~for minors~~ who, although not residents of this State, are physically present in this State and whose welfare requires such an appointment.
3. Guardians of the estate for nonresident incompetents ~~for nonresident minors~~ who have property within this State.
4. Special guardians.
5. Guardians ad litem.

Sec. 175. NRS 159.0523 is hereby amended to read as follows:

159.0523 1. A petitioner may request the court to appoint a temporary guardian for a **proposed** ward ~~who is an adult and~~ who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) Documentation which shows the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to respond to the risk of harm or obtain the necessary medical attention. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs, a letter signed by any governmental agency in this State which conducts investigations or a police report indicating:

(1) That the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;

(2) Whether the proposed ward presents a danger to himself or herself or others; and

(3) Whether the proposed ward is or has been subjected to abuse, neglect, exploitation, isolation or abandonment; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; and

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in subsection 7, the court may extend the temporary guardianship until a general or special guardian is appointed pursuant to subsection 8 if:

(a) The court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; and

(b) The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and

immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

- (a) The provisions of NRS 159.0475 have been satisfied; or
- (b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. The court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 176. NRS 159.0535 is hereby amended to read as follows:

159.0535 1. A proposed ward who is found in this State must attend the hearing for the appointment of a guardian unless:

(a) A certificate signed by a physician or psychiatrist who is licensed to practice in this State or who is employed by the Department of Veterans Affairs specifically states the condition of the proposed ward, the reasons why the proposed ward is unable to appear in court and whether the proposed ward's attendance at the hearing would be detrimental to the physical or mental health of the proposed ward; or

(b) A certificate signed by any other person the court finds qualified to execute a certificate states the condition of the proposed ward, the reasons why the proposed ward is unable to appear in court and whether the proposed ward's attendance at the hearing would be detrimental to the physical or mental health of the proposed ward.

2. A proposed ward found in this State who cannot attend the hearing for the appointment of a general or special guardian as set forth in a certificate pursuant to subsection 1 may appear by videoconference. If the proposed ward ~~is an adult and~~ cannot attend by videoconference, the person who signs the certificate described in subsection 1 or any other person the court finds qualified shall:

(a) Inform the proposed ~~adult~~ ward that the petitioner is requesting that the court appoint a guardian for the proposed ~~adult~~ ward;

(b) Ask the proposed ~~adult~~ ward for a response to the guardianship petition;

(c) Inform the proposed ~~adult~~ ward of his or her right to counsel and ask whether the proposed ~~adult~~ ward wishes to be represented by counsel in the guardianship proceeding; and

(d) Ask the preferences of the proposed ~~adult~~ ward for the appointment of a particular person as the guardian of the proposed ~~adult~~ ward.

3. ~~If the proposed ward is an adult, the~~ **The** person who informs the proposed ~~adult~~ ward of the rights of the proposed ~~adult~~ ward pursuant to subsection 2 shall state in a certificate signed by that person:

(a) That the proposed ~~adult~~ ward has been advised of his or her right to counsel and asked whether he or she wishes to be represented by counsel in the guardianship proceeding;

(b) The responses of the proposed ~~adult~~ ward to the questions asked pursuant to subsection 2; and

(c) Any conditions that the person believes may have limited the responses by the proposed ~~adult~~ ward.

4. The court may prescribe the form in which a certificate required by this section must be filed. If the certificate consists of separate parts, each part must be signed by the person who is required to sign the certificate.

5. If the proposed ward is not in this State, the proposed ward must attend the hearing only if the court determines that the attendance of the proposed ward is necessary in the interests of justice.

Sec. 177. NRS 159.054 is hereby amended to read as follows:

159.054 1. If the court finds the proposed ward competent and not in need of a guardian, the court shall dismiss the petition.

2. If the court finds the proposed ward to be of limited capacity and in need of a special guardian, the court shall enter an order accordingly and specify the powers and duties of the special guardian.

3. If the court finds that appointment of a general guardian is required, the court shall appoint a general guardian of the **proposed** ward's person, estate, or person and estate.

Sec. 178. NRS 159.055 is hereby amended to read as follows:

159.055 1. The petitioner has the burden of proving by clear and convincing evidence that the appointment of a guardian of the person, of the estate, or of the person and estate is necessary.

2. If it appears to the court that the allegations of the petition are sufficient and that a guardian should be appointed for the proposed ward, the court shall enter an order appointing a guardian. The order must:

(a) Specify whether the guardian appointed is guardian of the person, of the estate, of the person and estate or a special guardian;

(b) Specify whether the **proposed** ward is a resident or nonresident of this State;

(c) Specify the amount of the bond to be executed and filed by the guardian; and

(d) Designate the names and addresses, so far as may be determined, of:

(1) The relatives of the proposed ward upon whom notice must be served pursuant to NRS 159.047; and

(2) Any other interested person.

3. A notice of entry of the court order must be sent to:

(a) The relatives of the proposed ward upon whom notice must be served pursuant to NRS 159.047; and

(b) Any other interested person.

Sec. 179. NRS 159.0595 is hereby amended to read as follows:

159.0595 1. In order for a person to serve as a private professional guardian, the person must be:

(a) Qualified to serve as a guardian pursuant to NRS 159.0613 ; ~~if the ward is an adult or NRS 159.061 if the ward is a minor;~~ and

(b) A guardian who has a license issued pursuant to chapter 628B of NRS or a certified guardian who is not required to have such a license pursuant to subsection 3.

2. In order for an entity to serve as a private professional guardian, the entity must:

(a) Be qualified to serve as a guardian pursuant to NRS 159.0613 ; ~~if the ward is an adult;~~

(b) Have a license issued pursuant to chapter 628B of NRS unless the entity is not required to have such a license pursuant to subsection 3; and

(c) Have a guardian who has a license issued pursuant to chapter 628B of NRS or a certified guardian who is not required to have such a license pursuant to subsection 3 involved in the day-to-day operation or management of the entity.

3. In order for a person or entity to serve as a private professional guardian, the person or entity is not required to have a license issued pursuant to chapter 628B of NRS if the person or entity is exempt from the requirement to have such a license pursuant to NRS 628B.110 and the person or entity:

(a) Is a banking corporation as defined in NRS 657.016;

(b) Is an organization permitted to act as a fiduciary pursuant to NRS 662.245;

(c) Is a trust company as defined in NRS 669.070;

(d) Is acting in the performance of his or her duties as an attorney at law;

(e) Acts as a trustee under a deed of trust; or

(f) Acts as a fiduciary under a court trust.

4. As used in this section:

(a) "Certified guardian" means a person who is certified by the Center for Guardianship Certification or any successor organization.

(b) "Entity" includes, without limitation, a corporation, whether or not for profit, a limited-liability company and a partnership.

(c) "Person" means a natural person.

Sec. 180. NRS 159.0613 is hereby amended to read as follows:

159.0613 1. Except as otherwise provided in subsection 3, in a proceeding to appoint a guardian for ~~an adult,~~ **a ward or proposed ward,** the court shall give preference to a nominated person or relative, in that order of preference:

(a) Whether or not the nominated person or relative is a resident of this State; and

(b) If the court determines that the nominated person or relative is qualified and suitable to be appointed as guardian for the ~~{adult}~~ **ward or proposed ward**.

2. In determining whether any nominated person, relative or other person listed in subsection 4 is qualified and suitable to be appointed as guardian for ~~{an adult}~~, **a ward or proposed ward**, the court shall consider, if applicable and without limitation:

(a) The ability of the nominated person, relative or other person to provide for the basic needs of the ~~{adult}~~ **ward or proposed ward**, including, without limitation, food, shelter, clothing and medical care;

(b) Whether the nominated person, relative or other person has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS;

(c) Whether the nominated person, relative or other person has been judicially determined to have committed abuse, neglect, exploitation, isolation or abandonment of a child, his or her spouse, his or her parent or any other adult, unless the court finds that it is in the best interests of the ward to appoint the person as guardian for the ~~{adult}~~ **ward or proposed ward**;

(d) Whether the nominated person, relative or other person is incompetent or has a disability; and

(e) Whether the nominated person, relative or other person has been convicted in this State or any other jurisdiction of a felony, unless the court determines that any such conviction should not disqualify the person from serving as guardian for the ~~{adult}~~ **ward or proposed ward**.

3. If the court finds that two or more nominated persons are qualified and suitable to be appointed as guardian for ~~{an adult}~~, **a ward or proposed ward**, the court may appoint two or more nominated persons as co-guardians or shall give preference among them in the following order of preference:

(a) A person whom the ~~{adult}~~ **ward or proposed ward** nominated for the appointment as guardian for the ~~{adult}~~ **ward or proposed ward** in a will, trust or other written instrument that is part of the ~~{adult's}~~ **ward's or proposed ward's** established estate plan and was executed by the ~~{adult}~~ **ward or proposed ward** while competent.

(b) A person whom the ~~{adult}~~ **ward or proposed ward** requested for the appointment as guardian for the ~~{adult}~~ **ward or proposed ward** in a written instrument that is not part of the ~~{adult's}~~ **ward's or proposed ward's** established estate plan and was executed by the ~~{adult}~~ **ward or proposed ward** while competent.

4. Subject to the preferences set forth in subsections 1 and 3, the court shall appoint as guardian the qualified person who is most suitable and is willing to serve. In determining which qualified person is most suitable, the court shall, in addition to considering any applicable factors set forth in subsection 2, give consideration, among other factors, to:

(a) Any nomination or request for the appointment as guardian by the ~~adult~~ **ward or proposed ward**.

(b) Any nomination or request for the appointment as guardian by a relative.

(c) The relationship by blood, adoption, marriage or domestic partnership of the proposed guardian to the ~~adult~~ **ward or proposed ward**. In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the whole blood. The court may consider any relative in the following order of preference:

(1) A spouse or domestic partner.

(2) A child.

(3) A parent.

(4) Any relative with whom the ~~adult~~ **ward or proposed ward** has resided for more than 6 months before the filing of the petition or any relative who has a power of attorney executed by the ~~adult~~ **ward or proposed ward** while competent.

(5) Any relative currently acting as agent.

(6) A sibling.

(7) A grandparent or grandchild.

(8) An uncle, aunt, niece, nephew or cousin.

(9) Any other person recognized to be in a familial relationship with the ~~adult~~ **ward or proposed ward**.

(d) Any recommendation made by a master of the court or special master pursuant to NRS 159.0615.

(e) Any request for the appointment of any other interested person that the court deems appropriate, including, without limitation, a person who is not a relative and who has a power of attorney executed by the ~~adult~~ **ward or proposed ward** while competent.

5. The court may appoint as guardian any nominated person, relative or other person listed in subsection 4 who is not a resident of this State. The court shall not give preference to a resident of this State over a nonresident if the court determines that:

(a) The nonresident is more qualified and suitable to serve as guardian; and

(b) The distance from the proposed guardian's place of residence and the ~~adult's~~ **ward's or proposed ward's** place of residence will not affect the quality of the guardianship or the ability of the proposed guardian to make decisions and respond quickly to the needs of the ~~adult~~ **ward or proposed ward** because:

(1) A person or care provider in this State is providing continuing care and supervision for the ~~adult~~ **ward or proposed ward**;

(2) The ~~adult~~ **ward or proposed ward** is in a secured residential long-term care facility in this State; or

(3) Within 30 days after the appointment of the proposed guardian, the proposed guardian will move to this State or the ~~adult~~ **ward or proposed ward** will move to the proposed guardian's state of residence.

6. If the court appoints a nonresident as guardian for the ~~adult~~ **ward or proposed ward**:

(a) The jurisdictional requirements of NRS 159.1991 to 159.2029, inclusive, must be met;

(b) The court shall order the guardian to designate a registered agent in this State in the same manner as a represented entity pursuant to chapter 77 of NRS; and

(c) The court may require the guardian to complete any available training concerning guardianships pursuant to NRS 159.0592, in this State or in the state of residence of the guardian, regarding:

(1) The legal duties and responsibilities of the guardian pursuant to this chapter;

(2) The preparation of records and the filing of annual reports regarding the finances and well-being of the ~~adult~~ **ward or proposed ward** required pursuant to NRS 159.073;

(3) The rights of the ~~adult~~ **ward or proposed ward**;

(4) The availability of local resources to aid the ~~adult~~ **ward or proposed ward**; and

(5) Any other matter the court deems necessary or prudent.

7. If the court finds that there is not any suitable nominated person, relative or other person listed in subsection 4 to appoint as guardian, the court may appoint as guardian:

(a) The public guardian of the county where the ~~adult~~ **ward or proposed ward** resides if:

(1) There is a public guardian in the county where the ~~adult~~ **ward or proposed ward** resides; and

(2) The ~~adult~~ **ward or proposed ward** qualifies for a public guardian pursuant to chapter 253 of NRS;

(b) A private fiduciary who may obtain a bond in this State and who is a resident of this State, if the court finds that the interests of the ~~adult~~ **ward or proposed ward** will be served appropriately by the appointment of a private fiduciary; or

(c) A private professional guardian who meets the requirements of NRS 159.0595 ~~1-1~~ **or section 45 of this act**.

8. A person is not qualified to be appointed as guardian for ~~an adult~~ **a ward or proposed ward** if the person has been suspended for misconduct or disbarred from any of the professions listed in this subsection, but the disqualification applies only during the period of the suspension or disbarment. This subsection applies to:

(a) The practice of law;

(b) The practice of accounting; or

(c) Any other profession that:

(1) Involves or may involve the management or sale of money, investments, securities or real property; and

(2) Requires licensure in this State or any other state in which the person practices his or her profession.

9. As used in this section:

(a) ~~“Adult” means a person who is a ward or a proposed ward and who is not a minor.~~

~~(b)~~ “Domestic partner” means a person in a domestic partnership.

~~(c)~~ (b) “Domestic partnership” means:

(1) A domestic partnership as defined in NRS 122A.040; or

(2) A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in NRS 122A.040, regardless of whether it bears the name of a domestic partnership or is registered in this State.

~~(d)~~ (c) “Nominated person” means a person, whether or not a relative, whom ~~an adult~~ **a ward or proposed ward**:

(1) Nominates for the appointment as guardian for the ~~adult~~ **ward or proposed ward** in a will, trust or other written instrument that is part of the ~~adult’s~~ **ward’s or proposed ward’s** established estate plan and was executed by the ~~adult~~ **ward or proposed ward** while competent.

(2) Requests for the appointment as guardian for the ~~adult~~ **ward or proposed ward** in a written instrument that is not part of the ~~adult’s~~ **ward’s or proposed ward’s** established estate plan and was executed by the ~~adult~~ **ward or proposed ward** while competent.

~~(e)~~ (d) “Relative” means a person who is 18 years of age or older and who is related to the ~~adult~~ **ward or proposed ward** by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity.

Sec. 181. NRS 159.062 is hereby amended to read as follows:

159.062 A parent or spouse of an incompetent ~~minor~~ or person of limited capacity may by will nominate a guardian. The person nominated must file a petition and obtain an appointment from the court before exercising the powers of a guardian.

Sec. 182. NRS 159.069 is hereby amended to read as follows:

159.069 Every bond given by a guardian shall be filed and preserved in the office of the clerk of the district court of the county in which the guardianship proceeding is conducted. In case of the breach of any condition of such bond, an action may be maintained in behalf of the ward or wards jointly if all are interested, or of any person interested in the estate, and such bond shall not be void on the first recovery. If the action on the bond is in behalf of one ward on a bond given to more than one ward, the other wards mentioned in the bond need not be united in or made parties to such action.

As used in this section, “ward” includes a protected minor.

159.075 When a guardian has taken the official oath and filed a bond as provided in this chapter, the court shall order letters of guardianship to issue to the guardian. Letters of guardianship may be in the following form:

State of Nevada }
 } ss.
County of..... }

On (month) (day) (year) the Judicial District Court, ... County, State of Nevada, appointed..... (name of guardian)(guardian of the person or estate or person and estate or special guardian) for (name of ward) ~~a(n), (minor or adult),~~ **an adult**, that the named guardian has qualified and has the authority and shall perform the duties of (guardian of the person or estate or person and estate or special guardian) for the named ward as provided by law.

In Testimony Whereof, I have hereunto subscribed my name and affixed the seal of the court at my office on (month) (day) (year).

.....
Clerk

(SEAL)

.....
Deputy Clerk

159.076 1. The court may grant a summary administration if, at any time, it appears to the court that after payment of all claims and expenses of the guardianship the value of the ward's property does not exceed \$10,000.

2. If the court grants a summary administration, the court may ~~authorize~~ **authorize** the guardian of the estate or special guardian who is authorized to manage the ward's property to convert the property to cash and sell any of the property, with or without notice, as the court may direct. After the payment of all claims and the expenses of the guardianship, the guardian shall deposit the money in savings accounts or invest the money as provided in NRS 159.117, and hold the investment and all interest, issues, dividends and profits for the benefit of the ward. The court may dispense with annual accountings and all other proceedings required by this chapter.

~~[(b) If the ward is a minor, terminate the guardianship of the estate and direct the guardian to deliver the ward's property to the custodial parent or parents, guardian or custodian of the minor to hold, invest or use as the court may order.]~~

3. Whether the court grants a summary administration at the time the guardianship is established or at any other time, the guardian shall file an inventory and record of value with the court.

4. If, at any time, the net value of the estate of the ward exceeds \$10,000:

(a) The guardian shall file an amended inventory and accounting with the court;

(b) The guardian shall file annual accountings; and

(c) The court may require the guardian to post a bond.

Sec. 185. NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian of the estate shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward pursuant to NRS 159.117.

(b) Continue the business of the ward pursuant to NRS 159.119.

(c) Borrow money for the ward pursuant to NRS 159.121.

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward pursuant to NRS 159.123.

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives pursuant to NRS 159.125.

(f) Sell, lease or place in trust any property of the ward pursuant to NRS 159.127.

(g) Exchange or partition the ward's property pursuant to NRS 159.175.

(h) Release the power of the ward as trustee, personal representative or custodian for a minor or guardian.

(i) Exercise or release the power of the ward as a donee of a power of appointment.

(j) Exercise the right of the ward to take under or against a will.

(k) Transfer to a trust created by the ward any property unintentionally omitted from the trust.

(l) Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

(m) Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.

~~[(n) Transfer money in a minor ward's blocked account to the Nevada Higher Education Prepaid Tuition Trust Fund created pursuant to NRS 353B.140.]~~

2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

4. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

5. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward or complete contracts of the ward.

Sec. 186. NRS 159.117 is hereby amended to read as follows:

159.117 1. Upon approval of the court by order, a guardian of the estate may:

(a) Invest the property of the ward, make loans and accept security therefor, in the manner and to the extent authorized by the court.

(b) Exercise options of the ward to purchase or exchange securities or other property.

2. A guardian of the estate may, without securing the prior approval of the court, invest the property of the ward in the following:

(a) Savings accounts in any bank, credit union or savings and loan association in this State, to the extent that the deposits are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

(b) Interest-bearing obligations of or fully guaranteed by the United States.

(c) Interest-bearing obligations of the United States Postal Service.

(d) Interest-bearing obligations of the Federal National Mortgage Association.

(e) Interest-bearing general obligations of this State.

(f) Interest-bearing general obligations of any county, city or school district of this State.

(g) Money market mutual funds which are invested only in those instruments listed in paragraphs (a) to (f), inclusive.

3. A guardian of the estate for two or more wards may invest the property of two or more of the wards in property in which each ward whose property is so invested has an undivided interest. The guardian shall keep a separate record showing the interest of each ward in the investment and in

the income, profits or proceeds therefrom. ***As used in this subsection, “ward” includes a protected minor.***

4. Upon approval of the court, for a period authorized by the court, a guardian of the estate may maintain the assets of the ward in the manner in which the ward had invested the assets before the ward’s incapacity.

5. A guardian of the estate may access or manage a guardianship account via the Internet on a secured website established by the bank, credit union or broker holding the account.

Sec. 187. NRS 159.157 is hereby amended to read as follows:

159.157 A guardian of the estate may lease any real property of the ward or any interest in real property:

1. Without securing prior court approval, where the tenancy is from month to month or for a term not to exceed 1 year and the reasonable fixed rental for the property or the ward’s proportionate interest in such rental does not exceed \$250 per month.

2. With prior approval of the court by order, for such period of time as may be authorized by the court, not exceeding any time limitation prescribed by law, and upon such terms and conditions as the court may approve. ~~[Such lease may extend beyond the period of minority of a minor ward.]~~

Sec. 188. NRS 159.179 is hereby amended to read as follows:

159.179 1. An account made and filed by a guardian of the estate or special guardian who is authorized to manage the ward’s property must include, without limitation, the following information:

(a) The period covered by the account.

(b) All cash receipts and disbursements during the period covered by the account.

(c) All claims filed and the action taken regarding the account.

(d) Any changes in the ward’s property due to sales, exchanges, investments, acquisitions, gifts, mortgages or other transactions which have increased, decreased or altered the ward’s property holdings as reported in the original inventory or the preceding account.

(e) Any other information the guardian considers necessary to show the condition of the affairs of the ward.

2. If the account is for the estates of two or more wards, it must show the interest of each ward in the receipts, disbursements and property. ***As used in this subsection, “ward” includes a protected minor.***

3. Receipts or vouchers for all expenditures must be retained by the guardian for examination by the court or an interested person. Unless ordered by the court, the guardian is not required to file such receipts or vouchers with the court.

4. On the court’s own motion or on ex parte application by an interested person which demonstrates good cause, the court may:

(a) Order production of the receipts or vouchers that support the account; and

(b) Examine or audit the receipts or vouchers that support the account.

5. If a receipt or voucher is lost or for good reason cannot be produced on settlement of an account, payment may be proved by the oath of at least one competent witness. The guardian must be allowed expenditures if it is proven that:

(a) The receipt or voucher for any disbursement has been lost or destroyed so that it is impossible to obtain a duplicate of the receipt or voucher; and

(b) Expenses were paid in good faith and were valid charges against the estate.

Sec. 189. NRS 159.185 is hereby amended to read as follows:

159.185 1. The court may remove a guardian if the court determines that:

(a) The guardian has become mentally incompetent, unsuitable or otherwise incapable of exercising the authority and performing the duties of a guardian as provided by law;

(b) The guardian is no longer qualified to act as a guardian pursuant to NRS 159.0613 ; ~~if the ward is an adult or NRS 159.061 if the ward is a minor;~~

(c) The guardian has filed for bankruptcy within the previous 5 years;

(d) The guardian of the estate has mismanaged the estate of the ward;

(e) The guardian has negligently failed to perform any duty as provided by law or by any order of the court and:

(1) The negligence resulted in injury to the ward or the estate of the ward; or

(2) There was a substantial likelihood that the negligence would result in injury to the ward or the estate of the ward;

(f) The guardian has intentionally failed to perform any duty as provided by law or by any lawful order of the court, regardless of injury;

(g) The best interests of the ward will be served by the appointment of another person as guardian; or

(h) The guardian is a private professional guardian who is no longer qualified as a private professional guardian pursuant to NRS 159.0595 ~~§~~ **or section 45 of this act.**

2. A guardian may not be removed if the sole reason for removal is the lack of money to pay the compensation and expenses of the guardian.

Sec. 190. NRS 159.191 is hereby amended to read as follows:

159.191 1. A guardianship of the person is terminated:

(a) By the death of the ward;

(b) Upon the ward's change of domicile to a place outside this state and the transfer of jurisdiction to the court having jurisdiction in the new domicile; **or**

(c) Upon order of the court, if the court determines that the guardianship no longer is necessary. ~~§ or~~

~~—(d) If the ward is a minor;~~

~~—(1) On the date on which the ward reaches 18 years of age; or~~

~~— (2) On the date on which the ward graduates from high school or becomes 19 years of age, whichever occurs sooner, if:~~

~~— (I) The ward will be older than 18 years of age upon graduation from high school; and~~

~~— (II) The ward and the guardian consent to continue the guardianship and the consent is filed with the court at least 14 days before the date on which the ward will become 18 years of age.}]~~

2. A guardianship of the estate is terminated:

(a) If the court removes the guardian or accepts the resignation of the guardian and does not appoint a successor guardian;

(b) If the court determines that the guardianship is not necessary and orders the guardianship terminated; or

(c) By the death of the ward, subject to the provisions of NRS 159.193.

3. If the guardianship is of the person and estate, the court may order the guardianship terminated as to the person, the estate, or the person and estate.

4. The guardian shall notify the court, all interested parties, the trustee, and the named executor or appointed personal representative of the estate of the ward of the death of the ward within 30 days after the death.

5. Immediately upon the death of the ward:

(a) The guardian of the estate shall have no authority to act for the ward except to wind up the affairs of the guardianship pursuant to NRS 159.193, and to distribute the property of the ward as provided in NRS 159.195 and 159.197; and

(b) No person has standing to file a petition pursuant to NRS 159.078.

Sec. 191. NRS 159.204 is hereby amended to read as follows:

159.204 1. To transfer jurisdiction of a guardianship or conservatorship to this State, the guardian, conservator or other interested party must petition the court of this State for guardianship pursuant to NRS 159.1991 to 159.2029, inclusive, to accept guardianship in this State. The petition must include a certified copy of the other state's provisional order of transfer and proof that the ward is physically present in, or is reasonably expected to move permanently to, this State.

2. The court shall issue a provisional order granting a petition filed under subsection 1, unless:

(a) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the ward; or

(b) The guardian or petitioner is not qualified for appointment as a guardian in this State pursuant to NRS 159.0613 . ~~[if the ward is an adult or NRS 159.061 if the ward is a minor.]~~

3. The court shall issue a final order granting guardianship upon filing of a final order issued by the other state terminating proceedings in that state and transferring the proceedings to this State.

4. Not later than 90 days after the issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine

whether the guardianship or conservatorship needs to be modified to conform to the laws of this State.

5. In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the ward's incapacity and the appointment of the guardian or conservator.

Sec. 192. NRS 159.315 is hereby amended to read as follows:

159.315 1. If the court finds, after examination of a person cited pursuant to NRS 159.305, that the person has committed an act:

(a) Set forth in paragraph (a) of subsection 1 of NRS 159.305, the court may order the person to return the asset or the value of the asset to the guardian of the estate; or

(b) Set forth in paragraph (b) of subsection 1 of NRS 159.305, the court may order the person to return the asset or provide information concerning the location of the asset to the guardian of the estate.

2. The court may hold a person who is cited pursuant to NRS 159.305 in contempt of court and deal with the person accordingly if the person:

(a) Refuses to appear and submit to examination or to testify regarding the matter complained of in the petition; or

(b) Fails to comply with an order of the court issued pursuant to subsection 1.

3. An order of the court pursuant to subsection 1 is prima facie evidence of the right of the proposed ward or the estate of the ward to the asset described in the order in any action that may be brought for the recovery thereof, and any judgment recovered therein must be double the value of the asset, and damages in addition thereof equal to the value of such property.

4. If the person who is cited pursuant to NRS 159.305 appears and, upon consideration of the petition, the court finds that the person is not liable or responsible to the **proposed ward or the** estate of the ~~ward or proposed~~ ward, the court may order:

(a) The **proposed ward or the** estate of the ward ~~for proposed ward~~ to pay the attorney's fees and costs of the respondent; or

(b) If the court finds that the petitioner unnecessarily or unreasonably filed the petition, the petitioner personally to pay the attorney's fees and costs of the respondent.

Sec. 193. NRS 160.090 is hereby amended to read as follows:

160.090 1. Before making an appointment under the provisions of this chapter, the court shall establish to its satisfaction that the person whose appointment as guardian is sought is a fit and proper person to be appointed.

2. Upon the appointment being made, the guardian shall, except as otherwise provided in this section, execute and file a bond to be approved by the court in an amount not less than the value of the personal property of the estate plus the anticipated annual income. Thereafter, the amount of the bond must be equal to the total value of the personal estate plus the annual income. The bond must be in the form and be conditioned as required of guardians

appointed pursuant to the provisions of chapter 159 of NRS ~~159~~ **or sections 2 to 157, inclusive, of this act**. The premiums on all such bonds must be paid from the estate.

3. If a banking corporation as defined in NRS 657.016, or a trust company, as defined by NRS 669.070, doing business in this state is appointed guardian of the estate of a ward, no bond is required of the guardian unless the court by specific order requires a bond. If the Director of the Department of Veterans Services is appointed guardian, no bond is required.

4. If the court orders that the estate and income, or a part thereof, be deposited in a banking corporation, as defined in NRS 657.016, or trust company, as defined by NRS 669.070, doing business in this state and that such estate and income, or any part thereof, must not be withdrawn without authorization of the court, then the amount of the guardian's bond must be reduced in an amount equal to the amount of the estate and income on deposit with the banking corporation, and the surety on the bonds must be exonerated from any loss to the estate in connection with the deposit.

5. Where a bond is tendered by a guardian with personal sureties, the sureties shall file with the court a certificate under oath which describes the property owned, both real and personal, and contains a statement that they are each worth the sum named in the bond as the penalty thereof over and above all their debts and liabilities and exclusive of property exempt from execution.

Sec. 194. NRS 3.223 is hereby amended to read as follows:

3.223 1. Except if the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. §§ 1901 et seq., in each judicial district in which it is established, the family court has original, exclusive jurisdiction in any proceeding:

(a) Brought pursuant to title 5 of NRS or chapter 31A, 123, 125, 125A, 125B, 125C, 126, 127, 128, 129, 130, ~~159,~~ 425 or 432B of NRS, **or sections 2 to 157, inclusive, of this act**, except to the extent that a specific statute authorizes the use of any other judicial or administrative procedure to facilitate the collection of an obligation for support.

(b) Brought pursuant to NRS 442.255 and 442.2555 to request the court to issue an order authorizing an abortion.

(c) For judicial approval of the marriage of a minor.

(d) Otherwise within the jurisdiction of the juvenile court.

(e) To establish the date of birth, place of birth or parentage of a minor.

(f) To change the name of a minor.

(g) For a judicial declaration of the sanity of a minor.

(h) To approve the withholding or withdrawal of life-sustaining procedures from a person as authorized by law.

(i) Brought pursuant to NRS 433A.200 to 433A.330, inclusive, for an involuntary court-ordered admission to a mental health facility.

(j) Brought pursuant to NRS 441A.510 to 441A.720, inclusive, for an involuntary court-ordered isolation or quarantine.

2. The family court, where established and, except as otherwise provided in paragraph (m) of subsection 1 of NRS 4.370, the justice court have concurrent jurisdiction over actions for the issuance of a temporary or extended order for protection against domestic violence.

3. The family court, where established, and the district court have concurrent jurisdiction over any action for damages brought pursuant to NRS 41.134 by a person who suffered injury as the proximate result of an act that constitutes domestic violence.

Sec. 195. NRS 33.030 is hereby amended to read as follows:

33.030 1. The court by a temporary order may:

(a) Enjoin the adverse party from threatening, physically injuring or harassing the applicant or minor child, either directly or through an agent;

(b) Exclude the adverse party from the applicant's place of residence;

(c) Prohibit the adverse party from entering the residence, school or place of employment of the applicant or minor child and order the adverse party to stay away from any specified place frequented regularly by them;

(d) If it has jurisdiction under chapter 125A of NRS, grant temporary custody of the minor child to the applicant;

(e) Enjoin the adverse party from physically injuring, threatening to injure or taking possession of any animal that is owned or kept by the applicant or minor child, either directly or through an agent;

(f) Enjoin the adverse party from physically injuring or threatening to injure any animal that is owned or kept by the adverse party, either directly or through an agent; and

(g) Order such other relief as it deems necessary in an emergency situation.

2. The court by an extended order may grant any relief enumerated in subsection 1 and:

(a) Specify arrangements for visitation of the minor child by the adverse party and require supervision of that visitation by a third party if necessary;

(b) Specify arrangements for the possession and care of any animal owned or kept by the adverse party, applicant or minor child; and

(c) Order the adverse party to:

(1) Avoid or limit communication with the applicant or minor child;

(2) Pay rent or make payments on a mortgage on the applicant's place of residence;

(3) Pay for the support of the applicant or minor child, including, without limitation, support of a minor child for whom a guardian has been appointed pursuant to ~~chapter 159 of NRS~~ **sections 2 to 157, inclusive, of this act** or a minor child who has been placed in protective custody pursuant to chapter 432B of NRS, if the adverse party is found to have a duty to support the applicant or minor child;

(4) Pay all costs and fees incurred by the applicant in bringing the action; and

(5) Pay monetary compensation to the applicant for lost earnings and expenses incurred as a result of the applicant attending any hearing concerning an application for an extended order.

3. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.

4. A temporary or extended order must specify, as applicable, the county and city, if any, in which the residence, school, child care facility or other provider of child care, and place of employment of the applicant or minor child are located.

5. A temporary or extended order must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after the person's arrest if:

(a) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;

(b) The person has previously violated a temporary or extended order for protection; or

(c) At the time of the violation or within 2 hours after the violation, the person has:

(1) A concentration of alcohol of 0.08 or more in the person's blood or breath; or

(2) An amount of a prohibited substance in the person's blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484C.110.

Sec. 196. NRS 143.030 is hereby amended to read as follows:

143.030 1. A personal representative shall take into possession all the estate of the decedent, real and personal, except that exempted as provided in this title, and shall collect all receivables due the decedent or the estate.

2. For the purpose of bringing actions to quiet title or for partition of the estate, the possession of the personal representative shall be deemed the possession of the heirs or devisees. The possession of heirs or devisees is subject, however, to the possession of the personal representative for all other purposes.

3. A personal representative shall not take into possession any assets held by a guardian of the decedent pursuant to chapter 159 of NRS **or sections 2 to 157, inclusive, of this act** until the guardianship is terminated according to the provisions of NRS 159.1905 or 159.191 **or section 143 or 144 of this act** and the guardian is ordered to distribute the assets to the personal representative.

Sec. 197. NRS 200.4685 is hereby amended to read as follows:

200.4685 1. Except as otherwise provided in this section, a person shall not:

(a) Recruit, transport, transfer, harbor, provide, obtain, maintain or solicit a child in furtherance of a transaction, or advertise or facilitate a transaction, pursuant to which a parent of the child or a person with custody of the child places the child in the physical custody of another person who is not a relative of the child, for the purpose of permanently avoiding or divesting himself or herself of responsibility for the child.

(b) Sell, transfer or arrange for the sale or transfer of a child to another person for money or anything of value or receive a child in exchange for money or anything of value.

2. The provisions of subsection 1 do not apply to:

(a) A placement of a child with a relative, stepparent, child-placing agency or an agency which provides child welfare services;

(b) A placement of a child by a child-placing agency or an agency which provides child welfare services;

(c) A temporary placement of a child with another person by a parent of the child or a person with legal or physical custody of the child, with an intent to return for the child, including, without limitation, a temporary placement of a child while the parent of the child or the person with legal or physical custody of the child is on vacation, incarcerated, serving in the military, receiving medical treatment or incapacitated;

(d) A placement of a child in accordance with NRS 127.330 ~~1, 159.205 or 159.215;~~ **or section 153 or 154 of this act.**

(e) A placement of a child that is approved by a court of competent jurisdiction; or

(f) Delivery of a child to a provider of emergency services pursuant to NRS 432B.630.

3. A person who violates the provisions of subsection 1 is guilty of trafficking in children and shall be punished for a category C felony as provided in NRS 193.130.

4. As used in this section:

(a) “Advertise” has the meaning ascribed to it in NRS 127.310.

(b) “Agency which provides child welfare services” has the meaning ascribed to it in NRS 432B.030.

(c) “Child” means a person who is less than 18 years of age.

(d) “Child-placing agency” has the meaning ascribed to it in NRS 127.220.

Sec. 198. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **and section 25 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. 199. NRS 253.150 is hereby amended to read as follows:

253.150 1. The board of county commissioners of each county shall establish the office of public guardian.

2. The board of county commissioners shall:

(a) Appoint a public guardian, who serves at the pleasure of the board, for a term of 4 years from the day of appointment;

(b) Designate an elected or appointed county officer as ex officio public guardian;

(c) Pursuant to the mechanism set forth in NRS 244.1507, designate another county officer to execute the powers and duties of the public guardian;

(d) Except in a county whose population is 100,000 or more, contract with a private professional guardian to act as public guardian; or

(e) Contract with the board of county commissioners of a neighboring county in the same judicial district to designate as public guardian the public guardian of the neighboring county.

3. The compensation of a public guardian appointed or designated pursuant to subsection 2 must be fixed by the board of county commissioners and paid out of the county general fund.

4. As used in this section, “private professional guardian” has the meaning ascribed to it in NRS 159.024, **and section 9 of this act**, except that the term does not include:

(a) A banking corporation, as defined in NRS 657.016, or an organization permitted to act as a fiduciary pursuant to NRS 662.245 if it is appointed as guardian of an estate only.

(b) A trust company, as defined in NRS 669.070.

(c) A court-appointed attorney licensed to practice law in this State.

(d) A trustee under a deed of trust.

(e) A fiduciary under a court trust.

Sec. 200. NRS 253.160 is hereby amended to read as follows:

253.160 1. Upon taking office, a public guardian shall file with the county clerk a general bond in an amount fixed by the board of county commissioners payable to the State of Nevada with sureties approved by the board of county commissioners. The premium for the bond shall be paid from the general funds of the county and be conditioned upon the public guardian’s faithful performance of his or her duties.

2. The general bond and oath of office of a public guardian are in lieu of the bonds and oaths required of private guardians.

3. The oath and bond of an elected or appointed public officer designated public guardian or designated to execute the powers and duties of the public guardian pursuant to paragraph (b) or (c) of subsection 2 of NRS 253.150 are in lieu of the bonds and oaths required of private guardians. The court may require such a designee to execute a separate bond for any guardianship in the manner prescribed in NRS 159.065 ~~+~~ **or section 50 of this act.**

Sec. 201. NRS 253.190 is hereby amended to read as follows:

253.190 A public guardian shall:

1. Keep financial and other appropriate records concerning all cases in which he or she is appointed as an individual guardian; and

2. Retain:

(a) All such financial records for each case for at least 7 years after the date of the transaction that is recorded in the record; and

(b) All other records for each case for at least 7 years after the termination of the guardianship pursuant to chapter 159 of NRS ~~§§~~ **and sections 2 to 157, inclusive, of this act.**

Sec. 202. NRS 253.200 is hereby amended to read as follows:

253.200 1. A resident of Nevada is eligible to have the public guardian of the county in which he or she resides appointed as his or her temporary individual guardian pursuant to NRS 159.0523 or 159.0525 ~~§§~~ **or to mitigate the risk of financial harm to a proposed protected minor pursuant to section 37 of this act.**

2. ~~§§~~ **An adult** resident of Nevada is eligible to have the public guardian of a county appointed as his or her permanent or general individual guardian if the proposed ward is a resident of that county and:

(a) The proposed ward has no nominated person, relative or friend suitable and willing to serve as his or her guardian; or

(b) The proposed ward has a guardian who the court determines must be removed pursuant to NRS 159.185 ~~§~~ **for section 133 of this act.**

3. A person qualified pursuant to subsection 1 or 2, or anyone on his or her behalf, may petition the district court of the county in which he or she resides to make the appointment.

4. Before a petition for the appointment of the public guardian as a guardian may be filed pursuant to subsection 3, a copy of the petition and copies of all accompanying documents to be filed must be delivered to the public guardian or a deputy public guardian.

5. Any petition for the appointment of the public guardian as a guardian filed pursuant to subsection 3 must include a statement signed by the public guardian or deputy public guardian and in substantially the following form:

The undersigned is the Public Guardian or a Deputy Public Guardian of County. The undersigned certifies that he or she has received a copy of this petition and all accompanying documents to be filed with the court.

6. A petition for the appointment of the public guardian as permanent or general guardian must be filed separately from a petition for the appointment of a temporary guardian.

7. If a person other than the public guardian served as temporary guardian before the appointment of the public guardian as permanent or general guardian, the temporary guardian must file an accounting and report with the court in which the petition for the appointment of a public guardian was filed within 30 days of the appointment of the public guardian as permanent or general guardian.

8. In addition to NRS 159.099, **and section 76 of this act**, a county is not liable on any written or oral contract entered into by the public guardian of the county for or on behalf of a ward.

9. For the purposes of this section:

(a) Except as otherwise provided in paragraph (b), the county of residence of a person is the county to which the person moved with the intent to reside for an indefinite period.

(b) The county of residence of a person placed in institutional care is the county that was the county of residence of the person before the person was placed in institutional care by a guardian or agency or under power of attorney.

10. As used in this section, "nominated person" has the meaning ascribed to it in NRS 159.0613.

Sec. 203. NRS 432.039 is hereby amended to read as follows:

432.039 1. When in the judgment of the court it is in the best interests of a child in the lawful custody of an agency which provides child welfare services, such an agency may petition for appointment as guardian of the person and estate of the child in the manner provided by chapter ~~159 or~~ 432B of NRS ~~159 or~~ **sections 2 to 157, inclusive, of this act.**

2. The clerk of the district court, county clerk, county recorder or other county officer shall not require the payment of any fees or charges by the agency which provides child welfare services for appointment as guardian pursuant to this section, and the district court shall waive the furnishing of a bond by the agency which provides child welfare services if it is appointed guardian.

3. Except as otherwise provided in this section, the agency which provides child welfare services shall comply with all applicable provisions of chapter ~~159 or~~ 432B of NRS ~~159 or~~ **sections 2 to 157, inclusive, of this act.**

Sec. 204. NRS 432B.290 is hereby amended to read as follows:

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

2. Except as otherwise provided in this section and NRS 432B.165, 432B.175 and 432B.513, information maintained by an agency which provides child welfare services may, at the discretion of the agency which provides child welfare services, be made available only to:

(a) A physician, if the physician has before him or her a child who the physician has reasonable cause to believe has been abused or neglected;

(b) A person authorized to place a child in protective custody, if the person has before him or her a child who the person has reasonable cause to believe has been abused or neglected and the person requires the information to determine whether to place the child in protective custody;

(c) An agency, including, without limitation, an agency in another jurisdiction, responsible for or authorized to undertake the care, treatment or supervision of:

(1) The child; or

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

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

(e) Except as otherwise provided in paragraph (f), a court other than a juvenile court, for in camera inspection only, unless the court determines that public disclosure of the information is necessary for the determination of an issue before it;

(f) A court, as defined in ~~NRS 159.015~~ **section 5 of this act**, to determine whether a guardian or successor guardian of a child should be appointed pursuant to ~~chapter 159 of NRS or~~ NRS 432B.466 to 432B.468, inclusive ~~}, or sections 2 to 157, inclusive, of this act;~~

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

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

(i) A person who files or intends to file a petition for the appointment of a guardian or successor guardian of a child pursuant to ~~chapter 159 of NRS or~~ NRS 432B.466 to 432B.468, inclusive, **or sections 2 to 157, inclusive, of this act**, if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the child;

(j) The proposed guardian or proposed successor guardian of a child over whom a guardianship is sought pursuant to ~~chapter 159 of NRS or~~ NRS 432B.466 to 432B.468, inclusive, **or sections 2 to 157, inclusive, of this act**, if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the child;

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

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

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

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

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

(p) A parent or legal guardian of the child and an attorney of a parent or guardian of the child, including, without limitation, the parent or guardian of

a child over whom a guardianship is sought pursuant to ~~chapter 159 of NRS or~~ NRS 432B.466 to 432B.468, inclusive, **or sections 2 to 157, inclusive, of this act**, if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the child and is limited to information concerning that parent or guardian;

(q) The child over whom a guardianship is sought pursuant to ~~chapter 159 of NRS or~~ NRS 432B.466 to 432B.468, inclusive, **or sections 2 to 157, inclusive, of this act**, if:

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

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

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

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

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

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

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

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

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

(w) A local advisory board to expedite proceedings for the placement of children created pursuant to NRS 432B.604;

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

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

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

(aa) The Committee to Review Suicide Fatalities created by NRS 439.5104.

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

(a) A copy of:

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

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

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

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

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

6. A person who is the subject of an unsubstantiated report of child abuse or neglect made pursuant to this chapter and who believes that the report was made in bad faith or with malicious intent may petition a district court to order the agency which provides child welfare services to release information maintained by the agency which provides child welfare services. The petition must specifically set forth the reasons supporting the belief that the report was made in bad faith or with malicious intent. The petitioner shall provide notice to the agency which provides child welfare services so that the agency may participate in the action through its counsel. The district court shall review the information which the petitioner requests to be released and the petitioner shall be allowed to present evidence in support of the petition. If

the court determines that there is a reasonable question of fact as to whether the report was made in bad faith or with malicious intent and that the disclosure of the identity of the person who made the report would not be likely to endanger the life or safety of the person who made the report, the court shall provide a copy of the information to the petitioner and the original information is subject to discovery in a subsequent civil action regarding the making of the report.

7. If an agency which provides child welfare services receives any information that is deemed confidential by law, the agency which provides child welfare services shall maintain the confidentiality of the information as prescribed by applicable law.

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

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

10. Except as otherwise provided in this subsection, any person who is provided with information maintained by an agency which provides child welfare services and who further disseminates the information or makes the information public is guilty of a gross misdemeanor. This subsection does not apply to:

(a) A district attorney or other law enforcement officer who uses the information solely for the purpose of initiating legal proceedings;

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

(c) An employee of a juvenile justice agency who provides the information to the juvenile court.

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

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

13. As used in this section, "juvenile justice agency" means the Youth Parole Bureau or a director of juvenile services.

Sec. 205. NRS 432B.466 is hereby amended to read as follows:

432B.466 1. If the plan adopted pursuant to NRS 432B.553 for the permanent placement of a child includes a request for the appointment of a guardian for the child pursuant to NRS 432B.4665 to 432B.468, inclusive, a governmental agency, a nonprofit corporation or any interested person, including, without limitation, the agency that adopted the plan may petition

the court for the appointment of a guardian. The guardian may be appointed at a hearing conducted pursuant to NRS 432B.590 or at a separate hearing.

2. A petition for the appointment of a guardian pursuant to this section:

(a) May not be filed before the court has determined that the child is in need of protection;

(b) Must include the information required pursuant to ~~[NRS 159.044;]~~ **section 25 of this act**; and

(c) Must include a statement explaining why the appointment of a guardian, rather than the adoption of the child or the return of the child to a parent, is in the best interests of the child.

3. In addition to the notice required pursuant to NRS 432B.590, a governmental agency, nonprofit corporation or interested person who files a petition for the appointment of a guardian must serve notice of the petition that includes a copy of the petition and the date, time and location of the hearing on the petition, by registered or certified mail or by personal service:

(a) To all the persons entitled to notice of the hearing pursuant to NRS 432B.590, the parents of the child, any person or governmental agency having care, custody or control over the child, and, if the child is 14 years of age or older, the child; and

(b) At least 20 days before the hearing on the petition.

Sec. 206. NRS 432B.4665 is hereby amended to read as follows:

432B.4665 1. The court may, upon the filing of a petition pursuant to NRS 432B.466, appoint a person as a guardian for a child if:

(a) The court finds:

(1) That the proposed guardian is suitable and is not disqualified from guardianship pursuant to ~~[NRS 159.061;]~~ **section 46 of this act**;

(2) That the child has been in the custody of the proposed guardian for 6 months or more pursuant to a determination by a court that the child was in need of protection, unless the court waives this requirement for good cause shown;

(3) That the proposed guardian has complied with the requirements of ~~[chapter 159 of NRS;]~~ **sections 2 to 157, inclusive, of this act**; and

(4) That the burden of proof set forth in ~~[chapter 159 of NRS]~~ **sections 2 to 157, inclusive, of this act** for the appointment of a guardian for a child has been satisfied;

(b) The child consents to the guardianship, if the child is 14 years of age or older; and

(c) The court determines that the requirements for filing a petition pursuant to NRS 432B.466 have been satisfied.

2. A guardianship established pursuant to this section:

(a) Provides the guardian with the powers and duties provided in ~~[NRS 159.079;]~~ **section 61 of this act**, and subjects the guardian to the limitations set forth in ~~[NRS 159.0805;]~~ **section 62 of this act**;

(b) Is subject to the provisions of ~~[NRS 159.065 to 159.076,]~~ **sections 50 to 58**, inclusive, and ~~[159.185 to 159.199,]~~ **133 to 150**, inclusive ~~[-]~~, **of this act**;

(c) Provides the guardian with sole legal and physical custody of the child;

(d) Does not result in the termination of parental rights of a parent of the child; and

(e) Does not affect any rights of the child to inheritance, a succession or any services or benefits provided by the Federal Government, this state or an agency or political subdivision of this state.

Sec. 207. NRS 432B.468 is hereby amended to read as follows:

432B.468 1. The court shall retain jurisdiction to enforce, modify or terminate a guardianship established pursuant to NRS 432B.4665 until the child reaches 18 years of age.

2. Any person having a direct interest in a guardianship established pursuant to NRS 432B.4665 may move to enforce, modify or terminate an order concerning the guardianship.

3. The court shall issue an order directing the appropriate agency which provides child welfare services to file a report and make a recommendation in response to any motion to enforce, modify or terminate an order concerning a guardianship established pursuant to NRS 432B.4665. The agency must submit the report to the court within 45 days after receiving the order of the court.

4. Any motion to enforce, modify or terminate an order concerning a guardianship established pursuant to NRS 432B.4665 must comply with the provisions set forth in ~~[chapter 159 of NRS]~~ **sections 2 to 157, inclusive, of this act** for motions to enforce, modify or terminate orders concerning guardianships.

5. A successor guardian may be appointed in accordance with the procedures set forth in ~~[chapter 159 of NRS.]~~ **sections 2 to 157, inclusive, of this act.**

Sec. 208. NRS 432B.550 is hereby amended to read as follows:

432B.550 1. If the court finds that a child is in need of protection, it may, by its order, after receipt and review of the report from the agency which provides child welfare services:

(a) Permit the child to remain in the temporary or permanent custody of the parents of the child or a guardian with or without supervision by the court or a person or agency designated by the court, and with or without retaining jurisdiction of the case, upon such conditions as the court may prescribe;

(b) Place the child in the temporary or permanent custody of a relative, a fictive kin or other person the court finds suitable to receive and care for the child with or without supervision, and with or without retaining jurisdiction of the case, upon such conditions as the court may prescribe; or

(c) Place the child in the temporary custody of a public agency or institution authorized to care for children, the local juvenile probation department, the local department of juvenile services or a private agency or

institution licensed by the Department of Health and Human Services or a county whose population is 100,000 or more to care for such a child.

↪ In carrying out this subsection, the court may, in its sole discretion and in compliance with the requirements of ~~[chapter 159 of NRS,]~~ **sections 2 to 157, inclusive, of this act**, consider an application for the guardianship of the child. If the court grants such an application, it may retain jurisdiction of the case or transfer the case to another court of competent jurisdiction.

2. If, pursuant to subsection 1, a child is placed other than with a parent:

(a) The parent retains the right to consent to adoption, to determine the child's religious affiliation and to reasonable visitation, unless restricted by the court. If the custodian of the child interferes with these rights, the parent may petition the court for enforcement of the rights of the parent.

(b) The court shall set forth good cause why the child was placed other than with a parent.

3. If, pursuant to subsection 1, the child is to be placed with a relative or fictive kin, the court may consider, among other factors, whether the child has resided with a particular relative or fictive kin for 3 years or more before the incident which brought the child to the court's attention.

4. Except as otherwise provided in this subsection, a copy of the report prepared for the court by the agency which provides child welfare services must be sent to the custodian and the parent or legal guardian. If the child was delivered to a provider of emergency services pursuant to NRS 432B.630 and the location of the parent is unknown, the report need not be sent to that parent.

5. In determining the placement of a child pursuant to this section, if the child is not permitted to remain in the custody of the parents of the child or guardian:

(a) It must be presumed to be in the best interests of the child to be placed together with the siblings of the child.

(b) Preference must be given to placing the child in the following order:

(1) With any person related within the fifth degree of consanguinity to the child or a fictive kin, and who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative or fictive kin resides within this State.

(2) In a foster home that is licensed pursuant to chapter 424 of NRS.

6. Any search for a relative with whom to place a child pursuant to this section must be completed within 1 year after the initial placement of the child outside of the home of the child. If a child is placed with any person who resides outside of this State, the placement must be in accordance with NRS 127.330.

7. Within 60 days after the removal of a child from the home of the child, the court shall:

(a) Determine whether:

(1) The agency which provides child welfare services has made the reasonable efforts required by paragraph (a) of subsection 1 of NRS 432B.393; or

(2) No such efforts are required in the particular case; and

(b) Prepare an explicit statement of the facts upon which its determination is based.

8. As used in this section, “fictive kin” means a person who is not related by blood to a child but who has a significant emotional and positive relationship with the child.

Sec. 209. NRS 432B.590 is hereby amended to read as follows:

432B.590 1. Except as otherwise provided in NRS 432B.513, the court shall hold a hearing concerning the permanent placement of a child:

(a) Not later than 12 months after the initial removal of the child from the home of the child and annually thereafter.

(b) Within 30 days after making any of the findings set forth in subsection 3 of NRS 432B.393.

➡ Notice of this hearing must be given by registered or certified mail to all the persons to whom notice must be given pursuant to subsection 6 of NRS 432B.580.

2. The court may require the presence of the child at the hearing and shall provide to each person to whom notice was given pursuant to subsection 1 a right to be heard at the hearing.

3. At the hearing, the court shall review any plan for the permanent placement of the child adopted pursuant to NRS 432B.553 and, if the goal of the plan is a permanent living arrangement other than reunification with his or her parents, placement for adoption, placement with a legal guardian or placement with a relative, ask the child about his or her desired permanent living arrangement. After doing so, the court must determine:

(a) Whether the agency with legal custody of the child has made the reasonable efforts required by subsection 1 of NRS 432B.553;

(b) Whether, and if applicable when:

(1) The child should be returned to the parents of the child or placed with other relatives;

(2) It is in the best interests of the child to:

(I) Initiate proceedings to terminate parental rights pursuant to chapter 128 of NRS so that the child can be placed for adoption;

(II) Initiate proceedings to establish a guardianship pursuant to ~~chapter 159 of NRS;~~ **sections 2 to 157, inclusive, of this act;** or

(III) Establish a guardianship in accordance with NRS 432B.466 to 432B.468, inclusive; or

(3) The agency with legal custody of the child has produced documentation of its conclusion that there is a compelling reason for the placement of a child who has attained the age of 16 years in another permanent living arrangement;

(c) If the child will not be returned to the parents of the child, whether the agency with legal custody of the child fully considered placement options both within and outside of this State;

(d) If the child has attained the age of 14 years, whether the child will receive the services needed to assist the child in transitioning to independent living; and

(e) If the child has been placed outside of this State, whether the placement outside of this State continues to be appropriate for and in the best interests of the child.

4. The court shall prepare an explicit statement of the facts upon which each of its determinations is based pursuant to subsection 3. If the court determines that it is not in the best interests of the child to be returned to his or her parents, or to be placed for adoption, with a legal guardian or with a relative, the court must include compelling reasons for this determination and an explanation of those reasons in its statement of the facts.

5. If the court determines that it is in the best interests of the child to terminate parental rights, the court shall use its best efforts to ensure that the procedures required by chapter 128 of NRS are completed within 6 months after the date the court makes that determination, including, without limitation, appointing a private attorney to expedite the completion of the procedures.

6. The provisions of this section do not limit the jurisdiction of the court to review any decisions of the agency with legal custody of the child regarding the permanent placement of the child.

7. If a child has been placed outside of the home and has resided outside of the home pursuant to that placement for 14 months of any 20 consecutive months, the best interests of the child must be presumed to be served by the termination of parental rights.

8. This hearing may take the place of the hearing for review required by NRS 432B.580.

9. The provision of notice and a right to be heard pursuant to this section does not cause any person planning to adopt the child, any sibling of the child or any other relative, any adoptive parent of a sibling of the child or a provider of foster care to become a party to the hearing.

Sec. 210. NRS 616C.505 is hereby amended to read as follows:

616C.505 If an injury by accident arising out of and in the course of employment causes the death of an employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, the compensation is known as a death benefit and is payable as follows:

1. In addition to any other compensation payable pursuant to chapters 616A to 616D, inclusive, of NRS, burial expenses are payable in an amount not to exceed \$10,000, plus the cost of transporting the remains of the deceased employee. When the remains of the deceased employee and the person accompanying the remains are to be transported to a mortuary or mortuaries, the charge of transportation must be borne by the insurer.

2. Except as otherwise provided in subsection 3, to the surviving spouse of the deceased employee, $66 \frac{2}{3}$ percent of the average monthly wage is payable until the death of the surviving spouse.

3. If there is a surviving spouse and any surviving children of the deceased employee who are not the children of the surviving spouse, the compensation otherwise payable pursuant to subsection 2 must be paid as follows until the entitlement of all children of the deceased employee to receive compensation pursuant to this subsection ceases:

(a) To the surviving spouse, 50 percent of the death benefit is payable until the death of the surviving spouse; and

(b) To each child of the deceased employee, regardless of whether the child is the child of the surviving spouse, the child's proportionate share of 50 percent of the death benefit and, except as otherwise provided in subsection 11, if the child has a guardian, the compensation the child is entitled to receive may be paid to the guardian.

4. In the event of the subsequent death of the surviving spouse:

(a) Each surviving child of the deceased employee, in addition to any amount the child may be entitled to pursuant to subsection 3, must share equally the compensation theretofore paid to the surviving spouse but not in excess thereof, and it is payable until the youngest child reaches the age of 18 years.

(b) Except as otherwise provided in subsection 11, if the children have a guardian, the compensation they are entitled to receive may be paid to the guardian.

5. If there are any surviving children of the deceased employee under the age of 18 years, but no surviving spouse, then each such child is entitled to his or her proportionate share of $66 \frac{2}{3}$ percent of the average monthly wage for the support of the child.

6. Except as otherwise provided in subsection 7, if there is no surviving spouse or child under the age of 18 years, there must be paid:

(a) To a parent, if wholly dependent for support upon the deceased employee at the time of the injury causing the death of the deceased employee, $33 \frac{1}{3}$ percent of the average monthly wage.

(b) To both parents, if wholly dependent for support upon the deceased employee at the time of the injury causing the death of the deceased employee, $66 \frac{2}{3}$ percent of the average monthly wage.

(c) To each brother or sister until he or she reaches the age of 18 years, if wholly dependent for support upon the deceased employee at the time of the injury causing the death of the deceased employee, his or her proportionate share of $66 \frac{2}{3}$ percent of the average monthly wage.

7. The aggregate compensation payable pursuant to subsection 6 must not exceed $66 \frac{2}{3}$ percent of the average monthly wage.

8. In all other cases involving a question of total or partial dependency:

(a) The extent of the dependency must be determined in accordance with the facts existing at the time of the injury.

(b) If the deceased employee leaves dependents only partially dependent upon the earnings of the deceased employee for support at the time of the injury causing his or her death, the monthly compensation to be paid must be equal to the same proportion of the monthly payments for the benefit of persons totally dependent as the amount contributed by the deceased employee to the partial dependents bears to the average monthly wage of the deceased employee at the time of the injury resulting in his or her death.

(c) The duration of compensation to partial dependents must be fixed in accordance with the facts shown, but may not exceed compensation for 100 months.

9. Compensation payable to a surviving spouse is for the use and benefit of the surviving spouse and the dependent children, and the insurer may, from time to time, apportion such compensation between them in such a way as it deems best for the interest of all dependents.

10. In the event of the death of any dependent specified in this section before the expiration of the time during which compensation is payable to the dependent, funeral expenses are payable in an amount not to exceed \$10,000.

11. If a dependent is entitled to receive a death benefit pursuant to this section and is less than 18 years of age or incompetent, the legal representative of the dependent shall petition for a guardian to be appointed for that dependent pursuant to NRS 159.044 ~~{} or section 25 of this act, as applicable~~. An insurer shall not pay any compensation in excess of \$3,000, other than burial expenses, to the dependent until a guardian is appointed and legally qualified. Upon receipt of a certified letter of guardianship, the insurer shall make all payments required by this section to the guardian of the dependent until the dependent is emancipated, the guardianship terminates or the dependent reaches the age of 18 years, whichever occurs first, unless paragraph (a) of subsection 12 is applicable. The fees and costs related to the guardianship must be paid from the estate of the dependent. A guardianship established pursuant to this subsection must be administered in accordance with chapter 159 of NRS ~~{} or sections 2 to 157, inclusive, of this act, as applicable~~, except that after the first annual review required pursuant to NRS 159.176 ~~{} or section 127 of this act, as applicable~~, a court may elect not to review the guardianship annually. The court shall review the guardianship at least once every 3 years. As used in this subsection, “incompetent” has the meaning ascribed to it in NRS 159.019.

12. Except as otherwise provided in paragraphs (a) and (b), the entitlement of any child to receive his or her proportionate share of compensation pursuant to this section ceases when the child dies, marries or reaches the age of 18 years. A child is entitled to continue to receive compensation pursuant to this section if the child is:

(a) Over 18 years of age and incapable of supporting himself or herself, until such time as the child becomes capable of supporting himself or herself; or

(b) Over 18 years of age and enrolled as a full-time student in an accredited vocational or educational institution, until the child reaches the age of 22 years.

13. As used in this section, “surviving spouse” means a surviving husband or wife who was married to the employee at the time of the employee’s death.

Sec. 211. NRS 628B.080 is hereby amended to read as follows:

628B.080 1. “Private professional guardian” has the meaning ascribed to it in NRS 159.024 ~~1~~ **and section 9 of this act.**

2. For the purposes of this chapter, the term does not include a person who serves as a private professional guardian but who is exempt pursuant to NRS 159.0595 or 628B.110 **or section 45 of this act** from the requirement to have a license issued pursuant to this chapter.

Sec. 212. NRS 628B.090 is hereby amended to read as follows:

628B.090 1. “Private professional guardian company” means a natural person or business entity, including, without limitation, a sole proprietorship, partnership, limited-liability company or corporation, that is licensed pursuant to the provisions of this chapter to engage in the business of a private professional guardian, whether appointed by a court or hired by a private party.

2. For the purposes of this chapter, the term does not include a natural person or business entity which engages in the business of a private professional guardian but which is exempt pursuant to NRS 159.0595 or 628B.110 **or section 45 of this act** from the requirement to have a license issued pursuant to this chapter.

Sec. 213. NRS 628B.100 is hereby amended to read as follows:

628B.100 “Ward” has the meaning ascribed to it in ~~NRS 159.027~~ **section 14 of this act.**

Sec. 214. NRS 628B.310 is hereby amended to read as follows:

628B.310 1. A person wishing to engage in the business of a private professional guardian in this State must file with the Commissioner an application on a form prescribed by the Commissioner, which must contain or be accompanied by such information as is required.

2. A nonrefundable fee of not more than \$750 must accompany the application. The applicant must also pay such reasonable additional expenses incurred in the process of investigation as the Commissioner deems necessary.

3. The application must contain:

(a) The name of the applicant and the name under which the applicant does business or expects to do business, if different.

(b) The complete business and residence addresses of the applicant.

(c) The character of the business sought to be carried on.

(d) The address of any location where business will be transacted.

(e) In the case of a firm or partnership, the full name and residence address of each member or partner and the manager.

(f) In the case of a corporation or voluntary association, the name and residence address of each director and officer and the manager.

(g) A statement by the applicant acknowledging that the applicant is required to comply with the provisions of NRS 159.0595 **and section 45 of this act** if issued a license.

(h) Any other information reasonably related to the applicant's qualifications for the license which the Commissioner determines to be necessary.

4. Each application for a license must have attached to it a financial statement showing the assets, liabilities and net worth of the applicant.

5. In addition to any other requirements, each applicant or member, partner, director, officer, manager or case manager of an applicant shall submit to the Commissioner a complete set of fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

6. If the applicant is a corporation or limited-liability company, the articles of incorporation or articles of organization must contain:

(a) The name adopted by the private professional guardian company, which must distinguish it from any other private professional guardian company formed or incorporated in this State or engaged in the business of a private professional guardian in this State; and

(b) The purpose for which it is formed.

7. The Commissioner shall deem an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is submitted to the Commissioner. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner may not issue a license to the applicant unless the applicant submits a new application and pays the required fees.

8. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section, subject to the following limitations:

(a) An initial fee of not more than \$1,500 for a license to transact the business of a private professional guardian; and

(b) A fee of not more than \$300 for each branch office that is authorized by the Commissioner.

9. All money received by the Commissioner pursuant to this section must be placed in the Investigative Account for Financial Institutions created by NRS 232.545.

Sec. 215. NRS 628B.330 is hereby amended to read as follows:

628B.330 1. Within 90 days after the application for a license is filed, the Commissioner shall investigate the facts of the application and the other requirements of this chapter to determine:

(a) That each person who will serve as a sole proprietor, partner of a partnership, member of a limited-liability company or director or officer of a

corporation, and any person acting in a managerial or case manager capacity, as applicable:

(1) Has a good reputation for honesty, trustworthiness and integrity and displays competence to engage in the business of a private professional guardian in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of those qualifications, including, without limitation, evidence that the applicant has passed an examination for private professional guardians specified by the Commissioner.

(2) Has not been convicted of, or entered a plea of guilty or nolo contendere to, a felony or any crime involving fraud, misrepresentation, material omission, misappropriation, conversion or moral turpitude.

(3) Has not made a false statement of material fact on the application.

(4) Has not been a sole proprietor or an officer or member of the board of directors for an entity whose license issued pursuant to the provisions of this chapter was suspended or revoked within the 10 years immediately preceding the date of the application if, in the reasonable judgment of the Commissioner, there is evidence that the sole proprietor, officer or member materially contributed to the actions resulting in the suspension or revocation of the license.

(5) Has not been a sole proprietor or an officer or member of the board of directors for an entity whose license as a private professional guardian company which was issued by any other state, district or territory of the United States or any foreign country was suspended or revoked within the 10 years immediately preceding the date of the application if, in the reasonable judgment of the Commissioner, there is evidence that the sole proprietor, officer or member materially contributed to the actions resulting in the suspension or revocation of the license.

(6) Has not violated any of the provisions of this chapter or any regulations adopted pursuant thereto.

(b) That the financial status of each sole proprietor, partner, member or director and officer of the corporation and person acting in a managerial or case manager capacity indicates fiscal responsibility consistent with his or her position.

(c) That the name of the proposed business complies with all applicable statutes.

(d) That, except as otherwise provided in NRS 628B.540, the initial surety bond is not less than the amount required by NRS 159.065 ~~4~~ **or section 50 of this act, as applicable.**

2. In rendering a decision on an application for a license, the Commissioner shall consider, without limitation:

(a) The proposed markets to be served and, if they extend outside this State, any exceptional risk, examination or supervision concerns associated with those markets;

(b) Whether the proposed organizational and equity structure and the amount of initial equity or fidelity and surety bonds of the applicant appear adequate in relation to the proposed business and markets, including, without limitation, the average level of assets under guardianship projected for each of the first 3 years of operation; and

(c) Whether the applicant has planned suitable annual audits conducted by qualified outside auditors of its books and records and its fiduciary activities under applicable accounting rules and standards as well as suitable internal audits.

Sec. 216. NRS 628B.540 is hereby amended to read as follows:

628B.540 1. The Commissioner may require a private professional guardian company to maintain equity, fidelity and surety bonds in amounts that are more than the minimum required initially or at any subsequent time based on the Commissioner's assessment of the risks associated with the business plan of the private professional guardian or other information contained in the application, the Commissioner's investigation of the application or any examination of or filing by the private professional guardian company thereafter, including, without limitation, any examination before the opening of the business. In making such a determination, the Commissioner may consider, without limitation:

(a) The nature and type of business to be conducted by the private professional guardian company;

(b) The nature and liquidity of assets proposed to be held in the account of the private professional guardian company;

(c) The amount of fiduciary assets projected to be under the management or administration of the private professional guardian company;

(d) The type of fiduciary assets proposed to be held and any proposed depository of such assets;

(e) The complexity of the fiduciary duties and degree of discretion proposed to be undertaken by the private professional guardian company;

(f) The competence and experience of the proposed management of the private professional guardian company;

(g) The extent and adequacy of proposed internal controls;

(h) The proposed presence of annual audits by an independent certified public accountant, and the scope and frequency of such audits, whether they result in an opinion of the accountant and any qualifications to the opinion;

(i) The reasonableness of business plans for retaining or acquiring additional equity capital;

(j) The adequacy of fidelity and surety bonds and any additional insurance proposed to be obtained by the private professional guardian company for the purpose of protecting its fiduciary assets;

(k) The success of the private professional guardian company in achieving the financial projections submitted with its application for a license; and

(1) The fulfillment by the private professional guardian company of its representations and its descriptions of its business structures and methods and management set forth in its application for a license.

2. The director or manager of a private professional guardian company shall require fidelity bonds in the amount of at least \$25,000 on the sole proprietor or each active officer, manager, member acting in a managerial or case manager capacity and employee, regardless of whether the person receives a salary or other compensation from the private professional guardian company, to indemnify the company against loss due to any dishonest, fraudulent or criminal act or omission by a person upon whom a bond is required pursuant to this section who acts alone or in combination with any other person. A bond required pursuant to this section may be in any form and may be paid for by the private professional guardian company.

3. A private professional guardian company shall obtain suitable insurance against burglary, robbery, theft and other hazards to which it may be exposed in the operation of its business.

4. A private professional guardian company shall obtain suitable surety bonds in accordance with NRS 159.065 ~~{} or~~ **section 50 of this act**, as applicable.

5. The surety bond obtained pursuant to subsection 4 must be in a form approved by a court of competent jurisdiction and the Division and conditioned that the applicant conduct his or her business in accordance with the requirements of this chapter. The bond must be made and executed by the principal and a surety company authorized to write bonds in this State.

6. A private professional guardian company shall at least annually prescribe the amount or penal sum of the bonds or policies of the company and designate the sureties and underwriters thereof, after considering all known elements and factors constituting a risk or hazard. The action must be recorded in the minutes kept by the private professional guardian company and reported to the Commissioner.

7. The bond must cover all matters placed with the private professional guardian company during the term of the license or a renewal thereof.

8. An action may not be brought upon any bond after 2 years from the revocation or expiration of the license.

9. After 2 years, all liability of the surety or sureties upon the bond ceases if no action is commenced upon the bond.

Sec. 217. NRS 628B.550 is hereby amended to read as follows:

628B.550 1. The fiduciary relationship which exists between a private professional guardian and the ward of the private professional guardian may not be used for the private gain of the guardian other than the remuneration for fees and expenses. A private professional guardian may not incur any obligation on behalf of the guardianship that conflicts with the discharge of the duties of the private professional guardian.

2. Unless prior approval is obtained from a court of competent jurisdiction, a private professional guardian shall not:

(a) Have any interest, financial or otherwise, direct or indirect, in any business transaction or activity with the guardianship.

(b) Acquire an ownership, possessory, security or other pecuniary interest adverse to the ward.

(c) Be knowingly designated as a beneficiary on any life insurance policy or pension or benefit plan of the ward unless such designation was validly made by the ward before the adjudication of the person's incapacity.

(d) Directly or indirectly purchase, rent, lease or sell any property or services from or to any business entity in which the private professional guardian, or the spouse or relative of the guardian, is an officer, partner, director, shareholder or proprietor or in which such a person has any financial interest.

3. Any action taken by a private professional guardian which is prohibited by this section may be voided during the term of the guardianship or by the personal representative of the ward's estate. The private professional guardian is subject to removal and to imposition of personal liability through a proceeding for discharge, in addition to any other remedies otherwise available.

4. A court shall not appoint a private professional guardian that is not licensed pursuant to this chapter as the guardian of a person or estate. The court must review each guardianship involving a private professional guardian on the anniversary date of the appointment of the private professional guardian. If a private professional guardian does not hold a current license, the court must replace the guardian until such time as the private professional guardian obtains the necessary license.

5. The provisions of NRS 159.076 **and section 58 of this act** regarding summary administration do not apply to a private professional guardian.

6. A licensee shall file any report required by the court in a timely manner.

Sec. 218. NRS 628B.560 is hereby amended to read as follows:

628B.560 1. Except as otherwise provided in NRS 159.076 ~~§~~ **and section 58 of this act**, a licensee shall maintain a separate guardianship account for each ward into which all money received for the benefit of the ward must be deposited. Each guardianship account must be maintained in an insured bank or credit union located in this State, be held in a name which is sufficient to distinguish it from the personal or general checking account of the licensee and be designated as a guardianship account. Each guardianship account must at all times account for all money received for the benefit of the ward and account for all money dispersed for the benefit of the ward, and no disbursement may be made from the account except as authorized under chapter 159 of NRS **or sections 2 to 157, inclusive, of this act** or as authorized by court order.

2. Each licensee shall keep a record of all money deposited in each guardianship account maintained for a ward, which must clearly indicate the date and from whom the money was received, the date the money was

deposited, the dates of withdrawals of money and other pertinent information concerning the transactions. Records kept pursuant to this subsection must be maintained for at least 6 years after the completion of the last transaction concerning the account. The records must be maintained at the premises in this State at which the licensee is authorized to conduct business.

3. The Commissioner or his or her designee may conduct an examination of the guardianship accounts and records relating to wards of each private professional guardian company licensed pursuant to this chapter at any time to ensure compliance with the provisions of this chapter.

4. During the first year a private professional guardian is licensed in this State, the Commissioner or his or her designee may conduct any examinations deemed necessary to ensure compliance with the provisions of this chapter.

5. If there is evidence that a private professional guardian company has violated a provision of this chapter, the Commissioner or his or her designee may conduct additional examinations to determine whether a violation has occurred.

6. Each licensee shall authorize the Commissioner or his or her designee to examine all books, records, papers and effects of the private professional guardian company.

7. If the Commissioner determines that the records of a licensee are not maintained in accordance with subsections 1 and 2, the Commissioner may require the licensee to submit, within 60 days, an audited financial statement prepared from the records of the licensee by a certified public accountant who holds a certificate to engage in the practice of public accounting in this State. The Commissioner may grant a reasonable extension of time for the submission of the financial statement if an extension is requested before the statement is due.

8. Upon the request of the Division, a licensee must provide to the Division copies of any documents reviewed during an examination conducted by the Commissioner or his or her designee pursuant to subsection 4, 5 or 6. If the copies are not provided, the Commissioner may subpoena the documents.

9. For each examination of the books, papers, records and effects of a private professional guardian company that is required or authorized pursuant to this chapter, the Commissioner shall charge and collect from the private professional guardian company a fee for conducting the examination and preparing a report of the examination based upon the rate established by regulation pursuant to NRS 658.101. Failure to pay the fee within 30 days after receipt of the bill is grounds for revoking the license of the private professional guardian company.

10. All money collected under this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 219. The amendatory provisions of this act apply to any proceeding or matter commenced or undertaken on or after July 1, 2017.

Sec. 220. NRS 159.0483, 159.049, 159.052, 159.061, 159.186, 159.205 and 159.215 are hereby repealed.

Sec. 221. This act becomes effective on July 1, 2017.

LEADLINES OF REPEALED SECTIONS

159.0483 Attorney for minor ward or proposed minor ward.

159.049 Appointment without issuance of citation.

159.052 Temporary guardian for minor ward who is unable to respond to substantial and immediate risk of physical harm or to need for immediate medical attention: Petition for appointment; conditions; required notice; extension; limited powers.

159.061 Minor wards: Preference for appointment of parent; other considerations in determining qualifications and suitability of guardian.

159.186 Additional limitation governing removal of guardian of minor; considerations for court in determining best interests of minor; removal of guardian of minor.

159.205 Appointment of short-term guardianship for minor child by parent: When authorized; content of written instrument; term; termination.

159.215 Guardian of person of minor child of member of Armed Forces.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 320.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 474.

AN ACT relating to education; revising provisions relating to pupil achievement data as a component of the statewide performance evaluation system for employees; revising provisions relating to the number of evaluations that certain employees are required to receive; **revising provisions relating to the Teachers and Leaders Council;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Education to adopt regulations establishing a statewide performance evaluation system for evaluating the performance of certain employees. Existing law **requires this system to: (1) require that an employee's overall performance be determined to be highly effective, effective, minimally effective or ineffective; and (2) include a process for peer evaluation of teachers. (NRS 391.465) Section 2 of this bill: (1) removes the term "minimally effective" and replaces it with the term "developing"; and (2) changes the term "peer evaluation"**

to “peer observation.” Sections 1, 1.5 and 3.5-5.7 of this bill make conforming changes. Section 2 also provides that an administrator at the district level who provides direct supervision of the principal of a school and who also serves as the superintendent of schools of a school district must not be evaluated using the statewide performance evaluation system.

Existing law generally requires ~~[this]~~ **the statewide performance evaluation system** to include a requirement that pupil achievement data account for at least 40 percent of an evaluation and that such data be derived both from statewide examinations and assessments and certain assessments approved by the board of trustees of a school district. (NRS 391.465) **Section 2** ~~[of this bill removes the requirement that pupil achievement data be included in an evaluation, and]~~ instead ~~[provides that]~~ **requires** pupil achievement data ~~[may]~~ **to** account for ~~[not more than]~~ 20 percent of an evaluation. **Section 2** also ~~[provides that if pupil achievement data is included as a part of the evaluation system, the]~~ **requires this** data ~~[must]~~ **to** be generated from the relevant school or school district. ~~[Section 1 of this bill makes conforming changes.]~~

Existing law establishes the Teachers and Leaders Council of Nevada and prescribes the membership of the Council. (NRS 391.455) Section 1.3 of this bill adds an additional member to the Council, who must be a school counselor, psychologist, speech-language pathologist, audiologist or social worker.

Existing law requires each postprobationary teacher or administrator who receives an evaluation designating his or her overall performance as effective or highly effective to receive one evaluation in the next school year. (NRS 391.690, 391.710) **Sections 4 and 5** of this bill instead require a postprobationary teacher or administrator who receives an evaluation designating his or her overall performance as ~~[(1) effective to receive one evaluation in the next 3 school years; or (2)]~~ highly effective **for 2 consecutive school years** to receive one evaluation in the next ~~[5]~~ **2** school years.

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

Section 1. NRS 391.102 is hereby amended to read as follows:

391.102 1. Notwithstanding the provisions of any collective bargaining agreement or contract of employment to the contrary, before the board of trustees of a school district may transfer a teacher or administrator who has received an evaluation designating his or her overall performance as ~~[minimally effective]~~ **developing** or ineffective to another school as a result of decreased enrollment, administrative transfer or a reduction in workforce at a public school, the board of trustees of the school district must obtain the consent of the principal of the school to which the teacher or administrator is

proposed to be transferred. If such consent is not obtained, the superintendent of schools of the school district:

(a) May assign the teacher or administrator to a school within the district other than the school from which the teacher or administrator was transferred; and

(b) May assign the teacher or administrator to the school at which the principal did not consent to the transfer of the teacher or administrator.

2. The superintendent of schools of a school district shall develop a plan to address the assignment of teachers or administrators who have received evaluations designating their overall performance as ~~minimally effective~~ **developing** or ineffective when the consent of a principal to a transfer pursuant to subsection 1 is not obtained. Such a plan must include, without limitation, a plan for any such teacher or administrator to receive assistance to help the teacher or administrator, as applicable, meet the standards for effective teaching, which may include, without limitation, peer assistance and review, participation in programs of professional development and other appropriate training.

Sec. 1.3. NRS 391.455 is hereby amended to read as follows:

391.455 1. There is hereby created the Teachers and Leaders Council of Nevada consisting of the following ~~15~~ **16** members:

(a) The Superintendent of Public Instruction, or his or her designee, who serves as an ex officio member of the Council.

(b) The Chancellor of the Nevada System of Higher Education, or his or her designee, who serves as an ex officio member of the Council.

(c) Four teachers in public schools appointed by the Governor from a list of nominees submitted by the Nevada State Education Association. The members appointed pursuant to this paragraph must represent the geographical diversity of the school districts in this State.

(d) **One school counselor, psychologist, speech-language pathologist, audiologist or social worker who is licensed pursuant to chapter 391 of NRS appointed by the Governor from a list of nominees submitted by the Nevada State Education Association. The persons nominated pursuant to this paragraph must represent the geographical diversity of school districts in this State.**

~~(e)~~ **(f)** Two administrators in public schools appointed by the Governor from a list of nominees submitted by the Nevada Association of School Administrators and one superintendent of schools of a school district appointed by the Governor from a list of nominees submitted by the Nevada Association of School Superintendents. The members appointed pursuant to this paragraph must represent the geographical diversity of the school districts in this State.

~~(e)~~ **(f)** Two persons who are members of boards of trustees of school districts and who are appointed by the Governor from a list of nominees submitted by the Nevada Association of School Boards.

~~[(f)]~~ **(g)** One representative of the regional training programs for the professional development of teachers and administrators created by NRS 391A.120 appointed by the Governor from a list of nominees submitted by the Nevada Association of School Superintendents.

~~[(g)]~~ **(h)** One parent or legal guardian of a pupil enrolled in public school appointed by the Governor from a list of nominees submitted by the Nevada Parent Teacher Association.

~~[(h)]~~ **(i)** Two persons with expertise in the development of public policy relating to education appointed by the Superintendent of Public Instruction. The members appointed pursuant to this paragraph must not otherwise be eligible for appointment pursuant to paragraphs (a) to ~~[(g)]~~ **(h)**, inclusive.

2. After the initial terms, each appointed member of the Council serves a term of 3 years commencing on July 1 and may be reappointed to one additional 3-year term following his or her initial term. If any appointed member of the Council ceases to be qualified for the position to which he or she was appointed, the position shall be deemed vacant and the appointing authority shall appoint a replacement for the remainder of the unexpired term. A vacancy must be filled in the same manner as the original appointment.

3. The Council shall, at its first meeting and annually thereafter, elect a Chair from among its members.

4. The Council shall meet at least semiannually and may meet at other times upon the call of the Chair or a majority of the members of the Council. Nine members of the Council constitute a quorum, and a quorum may exercise all the power and authority conferred on the Council.

5. Members of the Council serve without compensation, except that for each day or portion of a day during which a member of the Council attends a meeting of the Council or is otherwise engaged in the business of the Council, the member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. A member of the Council who is a public employee must be granted administrative leave from the member's duties to engage in the business of the Council without loss of his or her regular compensation. Such leave does not reduce the amount of the member's other accrued leave.

7. The Department shall provide administrative support to the Council.

8. The Council may apply for and accept gifts, grants, donations and contributions from any source for the purpose of carrying out its duties pursuant to NRS 391.460.

~~[Section 1.]~~ **Sec. 1.5.** NRS 391.460 is hereby amended to read as follows:

391.460 1. The Council shall:

(a) Make recommendations to the State Board concerning the adoption of regulations for establishing a statewide performance evaluation system to ensure that teachers, administrators who provide primarily administrative services at the school level and administrators at the district level who

provide direct supervision of the principal of a school, and who do not provide primarily direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal are:

(1) Evaluated using multiple, fair, timely, rigorous and valid methods ~~that~~ which includes evaluations based upon pupil achievement data as required by NRS 391.465;

(2) Afforded a meaningful opportunity to improve their effectiveness through professional development that is linked to their evaluations; and

(3) Provided with the means to share effective educational methods with other teachers and administrators throughout this State.

(b) Develop and recommend to the State Board a plan, including duties and associated costs, for the development and implementation of the performance evaluation system by the Department and school districts.

(c) Consider the role of professional standards for teachers and administrators to which paragraph (a) applies and, as it determines appropriate, develop a plan for recommending the adoption of such standards by the State Board.

(d) Develop and recommend to the State Board a process for peer ~~evaluations~~ observations of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching.

2. The performance evaluation system recommended by the Council must ensure that:

(a) Data derived from the evaluations is used to create professional development programs that enhance the effectiveness of teachers and administrators; and

(b) A timeline is included for monitoring the performance evaluation system at least annually for quality, reliability, validity, fairness, consistency and objectivity.

3. The Council may establish such working groups, task forces and similar entities from within or outside its membership as necessary to address specific issues or otherwise to assist in its work.

4. The State Board shall consider the recommendations made by the Council pursuant to this section and shall adopt regulations establishing a statewide performance evaluation system as required by NRS 391.465.

Sec. 2. NRS 391.465 is hereby amended to read as follows:

391.465 1. The State Board shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to NRS 391.460, adopt regulations establishing a statewide performance evaluation system which incorporates multiple measures of an employee's performance.

Except as otherwise provided in subsection 4, the State Board shall prescribe the tools to be used by a school district for obtaining such measures.

2. The statewide performance evaluation system must:

(a) Require that an employee's overall performance is determined to be:

- (1) Highly effective;
- (2) Effective;
- (3) ~~Minimally effective;~~ **Developing;** or
- (4) Ineffective.

(b) Include the criteria for making each designation identified in paragraph (a).

(c) Except as otherwise provided in subsections 2 and 3 of NRS 391.695 and subsections 2 and 3 of NRS 391.715, require ~~provide~~ that pupil achievement data ~~may~~ account for ~~at least 40 not more than~~ 20 percent of the evaluation.

~~(d) Except as otherwise provided in subsection 3, prescribe the pupil achievement data that must be used as part of the evaluation system pursuant to paragraph (c) which must require that:~~

~~—(1) Pupil achievement data derived from statewide examinations and assessments must account for at least 20 percent of the evaluation of a teacher or administrator, as applicable; and~~

~~—(2) Pupil achievement data derived from assessments approved by the board of trustees of a school district that employs the teacher or administrator, as applicable, must account for at least 20 percent of the evaluation.~~

~~—(e)~~ Include an evaluation of whether the teacher, or administrator who provides primarily administrative services at the school level or administrator at the district level who provides direct supervision of the principal of a school, and who does not provide primarily direct instructional services to pupils, regardless of whether the probationary administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, employs practices and strategies to involve and engage the parents and families of pupils.

~~[(f)]~~ **(e)** Include a process for peer ~~evaluations~~ **observations** of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching. The regulations must include the criteria for school districts to determine which educational personnel are qualified to conduct peer reviews pursuant to the process.

3. ~~The State Board shall, by regulation, designate the assessments that may be used by a school district to determine~~ ~~[(f)]~~ **The pupil achievement data is required to be included as a part of the evaluation system** pursuant to ~~subparagraph (2) of~~ paragraph ~~[(d)]~~ **(c)** of subsection 2 ~~The board of trustees of a school district may select one or more of the assessments~~

designated by the State Board to determine pupil achievement, or the board of trustees may apply to the Superintendent of Public Instruction for approval to use a different assessment to determine pupil achievement. ~~the pupil achievement data must~~ :

~~(a) Must be generated~~ :

~~(1) Generated from a school or school district in which the teacher or administrator was employed during the period covered by the evaluation~~ ~~and~~ ; and

~~(2) Used by the school or school district in which the teacher or administrator was employed to measure the progress of a pupil toward meeting the student learning objectives prescribed by the school district.~~

~~(b) May not be derived from statewide examinations and assessments.~~

4. A school district may apply to the State Board to use a performance evaluation system and tools that are different than the evaluation system and tools prescribed pursuant to subsection 1. The application must be in the form prescribed by the State Board and must include, without limitation, a description of the evaluation system and tools proposed to be used by the school district. The State Board may approve the use of the proposed evaluation system and tools if it determines that the proposed evaluation system and tools apply standards and indicators that are equivalent to those prescribed by the State Board.

5. An administrator at the district level who provides direct supervision of the principal of a school and who also serves as the superintendent of schools of a school district must not be evaluated using the statewide performance evaluation system.

Sec. 3. NRS 391.470 is hereby amended to read as follows:

391.470 On or before August 1 of each year, the board of trustees of each school district shall submit a report to the State Board and the Teachers and Leaders Council of Nevada created by NRS 391.455 concerning the implementation and effectiveness of the process for peer evaluations of teachers set forth in the regulations adopted by the State Board pursuant to paragraph ~~((f))~~ **(e)** of subsection 2 of NRS 391.465, including, without limitation, any recommendations for revisions to the process of peer ~~evaluations.~~ **observations.**

Sec. 3.5. NRS 391.685 is hereby amended to read as follows:

391.685 1. A probationary teacher must receive one evaluation during each school year of his or her probationary employment. The evaluation must be based in part upon at least three scheduled observations of the teacher during the first school year of his or her probationary period as follows:

(a) The first scheduled observation must occur within 40 days after the first day of instruction of the school year;

(b) The second scheduled observation must occur after 40 days but within 80 days after the first day of instruction of the school year; and

(c) The third scheduled observation must occur after 80 days but within 120 days after the first day of instruction of the school year.

2. If a probationary teacher receives an evaluation designating his or her overall performance as effective or highly effective:

(a) During the first school year of his or her probationary period, the evaluation during the second school year of the probationary period must be based in part upon at least two scheduled observations of the teacher which must occur within the times specified in paragraphs (b) and (c) of subsection 1.

(b) During the first and second school years of his or her probationary period, the evaluation during the third school year of the probationary period must be based in part upon at least one scheduled observation of the teacher which must occur within 120 days after the first day of instruction of the school year.

3. If a probationary teacher receives an evaluation designating his or her overall performance as ~~minimally effective~~ **developing** or ineffective during the first or second school year of the probationary period, the probationary teacher must receive one evaluation during the immediately succeeding school year which is based in part upon three observations which must occur in accordance with the observation schedule set forth in subsection 1.

Sec. 4. NRS 391.690 is hereby amended to read as follows:

391.690 1. If a postprobationary teacher receives an evaluation designating his or her overall performance as ~~minimally effective~~ **developing** or ineffective, the postprobationary teacher must receive one evaluation in the immediately succeeding school year which is based in part upon three observations which must occur in accordance with the observation schedule set forth in subsection 1 of NRS 391.685. If a postprobationary teacher receives evidence from the first two observations during the school year indicating that, unless his or her performance improves, his or her overall performance may be rated as ~~minimally effective~~ **developing** or ineffective on the evaluation, the postprobationary teacher may request that the third observation be conducted by another administrator. If a postprobationary teacher requests that his or her third observation be conducted by another administrator, that administrator must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the postprobationary teacher from a list of three candidates submitted by the superintendent.

2. If a postprobationary teacher receives an evaluation designating his or her overall performance as effective, ~~for the postprobationary teacher must receive one evaluation in the next 2 years.~~ **for the postprobationary teacher must receive one evaluation in the next 2 immediately succeeding school years.** ~~The evaluation must be based in part upon at least one scheduled observation, which must occur within 120 days after the first day of instruction of the school year, in which the evaluation occurs.~~

3. ~~If a postprobationary teacher receives an evaluation designating his or her overall performance as highly effective,~~ **for 2 consecutive school years,** the postprobationary teacher must receive one evaluation in the

~~immediately succeeding~~ **next** ~~5~~ **2** school ~~year~~ **years**. The evaluation must be based in part upon at least one scheduled observation, which must occur within 120 days after the first day of instruction of the school year ~~in which the evaluation occurs~~.

Sec. 4.5. NRS 391.705 is hereby amended to read as follows:

391.705 1. A probationary administrator must receive one evaluation during each school year of his or her probationary employment. The evaluation must be based in part upon at least three scheduled observations of the probationary administrator during the first school year of his or her probationary period which must occur as follows:

(a) The first scheduled observation must occur within 40 days after the first day of instruction of the school year;

(b) The second scheduled observation must occur after 40 days but within 80 days after the first day of instruction of the school year; and

(c) The third scheduled observation must occur after 80 days but within 120 days after the first day of instruction of the school year.

2. If a probationary administrator receives an evaluation designating his or her overall performance as effective or highly effective:

(a) During the first school year of his or her probationary period, the evaluation during the second school year of the probationary period must be based in part upon at least two scheduled observations of the administrator which must occur within the times specified in paragraphs (b) and (c) of subsection 1.

(b) During the first and second school year of his or her probationary period, the evaluation during the third school year of the probationary period must be based in part upon at least one scheduled observation of the administrator which must occur within 120 days after the first day of instruction of the school year.

3. If a probationary administrator receives an evaluation designating his or her overall performance as ~~minimally effective~~ **developing** or ineffective during the first or second school year of the probationary period, the probationary administrator must receive one evaluation during the immediately succeeding school year which is based in part upon three observations which must occur in accordance with the observation schedule set forth in subsection 1.

4. Each probationary administrator is subject to the provisions of NRS 391.725 and 391.820.

Sec. 5. NRS 391.710 is hereby amended to read as follows:

391.710 1. If a postprobationary administrator receives an evaluation designating his or her overall performance as ~~minimally effective~~ **developing** or ineffective, the postprobationary administrator must receive one evaluation in the immediately succeeding school year which is based in part upon three observations which must occur in accordance with the observation schedule set forth in subsection 1 of NRS 391.705. If a postprobationary administrator receives evidence from the first two

observations indicating that, unless his or her performance improves, his or her overall performance may be rated as ~~minimally effective~~ **developing** or ineffective on the evaluation, the postprobationary administrator may request that the third observation be conducted by another administrator. If a postprobationary administrator requests that his or her third observation be conducted by another administrator, that administrator must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the postprobationary administrator from a list of three candidates submitted by the superintendent.

2. If a postprobationary administrator receives an evaluation designating his or her overall performance as effective ~~for~~, **the postprobationary administrator must receive one evaluation in the ~~next 3~~ immediately succeeding school ~~years~~ year. The evaluation must be based in part upon at least one scheduled observation, which must occur within 120 days after the first day of instruction of the school year, in which the evaluation occurs.**

3. **If a postprobationary administrator receives an evaluation designating his or her overall performance as highly effective, for 2 consecutive school years,** the postprobationary administrator must receive one evaluation in the ~~immediately succeeding~~ **next ~~5~~ 2 school ~~year~~ years.** The evaluation must be based in part upon at least one scheduled observation, which must occur within 120 days after the first day of instruction of the school year ~~in which the evaluation occurs.~~

Sec. 5.3. NRS 391.725 is hereby amended to read as follows:

391.725 1. If a written evaluation of a probationary teacher, or a probationary administrator who provides primarily administrative services at the school level and who does not provide primarily direct instructional services to pupils, regardless of whether the probationary administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, designates the overall performance of the teacher or administrator as ~~“minimally effective”~~ **“developing”** or “ineffective”:

(a) The written evaluation must include the following statement: “Please be advised that, pursuant to Nevada law, your contract may not be renewed for the next school year. If you receive a ~~“minimally effective”~~ **“developing”** or ‘ineffective’ evaluation on the first or second evaluation, or both evaluations for this school year, you may request that the third evaluation be conducted by another administrator. You may also request, to the administrator who conducted the evaluation, reasonable assistance in improving your performance based upon the recommendations reported in the evaluation for which you request assistance, and upon such request, a reasonable effort will be made to assist you in improving your performance.”

(b) The probationary teacher or probationary administrator, as applicable, must acknowledge in writing that he or she has received and understands the statement described in paragraph (a).

2. If a probationary teacher or probationary administrator to which subsection 1 applies requests that his or her next evaluation be conducted by another administrator in accordance with the notice required by subsection 1, the administrator conducting the evaluation must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the probationary teacher or probationary administrator, as applicable, from a list of three candidates submitted by the superintendent.

3. If a probationary teacher or probationary administrator to which subsection 1 applies requests assistance in improving performance reported in his or her evaluation, the administrator who conducted the evaluation shall ensure that a reasonable effort is made to assist the probationary teacher or probationary administrator in improving his or her performance.

Sec. 5.5. NRS 391.730 is hereby amended to read as follows:

391.730 Except as otherwise provided in NRS 391.825, a postprobationary employee who receives an evaluation designating his or her overall performance as:

1. ~~Minimally effective;~~ **Developing;**

2. Ineffective; or

3. ~~Minimally effective;~~ **Developing** during 1 year of the 2-year consecutive period and ineffective during the other year of the period,

↪ for 2 consecutive school years shall be deemed to be a probationary employee for the purposes of NRS 391.650 to 391.830, inclusive, and must serve an additional probationary period in accordance with the provisions of NRS 391.820.

Sec. 5.7. NRS 288.151 is hereby amended to read as follows:

288.151 Notwithstanding the provisions of any collective bargaining agreement or contract of employment to the contrary:

1. Except as otherwise provided in subsections 2 to 6, inclusive, if the board of trustees of a school district determines that a reduction in the existing workforce of the licensed educational personnel in the school district is necessary, the decision to lay off a teacher or an administrator must be based solely on the overall performance of the teacher or administrator under the statewide performance evaluation system adopted by the State Board pursuant to NRS 391.465. When determining the manner in which to reduce the existing workforce, the board of trustees of a school district must lay off a teacher or administrator whose overall performance has been determined to be:

(a) Ineffective, before laying off a teacher or administrator whose overall performance has been determined to be ~~minimally effective;~~ **developing,** effective or highly effective;

(b) ~~Minimally effective,~~ **Developing,** before laying off a teacher or administrator whose overall performance has been determined to be effective or highly effective; and

(c) Effective, before laying off a teacher or administrator whose overall performance has been determined to be highly effective.

2. Except as otherwise provided in subsection 6, if the board of trustees of a school district determines that a further reduction in the existing workforce of the licensed educational personnel in a school district beyond that made pursuant to subsection 1 is necessary, the board of trustees must lay off a teacher or administrator whose employment record includes:

(a) A criminal record that resulted in the suspension of the teacher or administrator; or

(b) Disciplinary action that resulted in the suspension of the teacher or administrator and that was uncontested or has been finally adjudicated;

➡ before laying off a teacher or administrator whose employment record does not include such a record or disciplinary action.

3. The board of trustees shall lay off teachers or administrators whose employment records include disciplinary actions that resulted in the suspension of the teacher or administrator pursuant to subsection 2 in the order of severity of the disciplinary action, with those employees whose employment record includes more severe disciplinary action being laid off first.

4. Except as otherwise provided in subsection 6, if the board of trustees of a school district determines that a further reduction in the existing workforce of licensed educational personnel beyond that made pursuant to subsection 2 is necessary, the decision to lay off a teacher or administrator must be based on the following factors:

(a) Whether the teacher or administrator is employed in a position which is hard to fill;

(b) Whether the teacher or administrator has received a national board certification;

(c) The type of licensure held by the teacher or administrator; and

(d) The type of degree attained by the teacher or administrator and whether the degree is in a subject area that is related to his or her position.

5. If, after consideration of the factors described in subsections 1 to 4, inclusive, two or more teachers or administrators are similarly situated, the board of trustees of the school district may give preference to the more senior teacher or administrator.

6. The board of trustees of a school district is not required to take the actions described in subsections 1 to 4, inclusive, with regard to a teacher who teaches in a school in the district in a subject area for which there is a shortage of teachers, which may include, without limitation, science, technology, engineering, mathematics, special education and English as a second language.

Sec. 6. This act becomes effective on July 1, 2017.

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 339.

Bill read second time.

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

Amendment No. 539.

AN ACT relating to health care; authorizing the Board of Medical Examiners to take possession of the health care records of a licensee's patients under certain circumstances; ~~authorizing the Executive Director of~~ **requiring** the Board to ~~post information~~ **adopt policies and procedures for placing information** on the Internet website of the Board; ~~without obtaining prior approval by the Board; revising the information required to be posted on the Internet website of the Board;~~ revising provisions relating to the requirement for certain persons to maintain a permanent mailing address with the Board; ~~revising the information required to be included with an application for the issuance of a license to practice medicine and the biennial registration of a physician; repealing~~ **revising** provisions requiring certain information be reported to the Board; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain providers of health care to retain the health care records of patients for 5 years after their receipt or production. (NRS 629.051) **Section 1** of this bill authorizes the Board of Medical Examiners to take possession of the health care records of a licensee's patients in the event of the licensee's death, disability, incarceration or other incapacitation that would render the licensee unable to continue his or her practice. **Section 1** further authorizes the Board to provide such records to the patient or to the patient's subsequent provider of health care. **Section 1** also requires that certain disclosures regarding such records be provided to patients.

Existing law provides for the maintenance of an Internet website by the Board of Medical Examiners. (NRS 630.144) **Section 3** of this bill ~~authorizes the Executive Director of the Board to post information on the Internet website of the Board without obtaining prior approval from the Board. Section 3 also~~ requires ~~certain information relating to physicians that is included on the Internet website also be included for other licensees of~~ the Board ~~to~~ **to adopt policies and procedures for placing information on its Internet website.**

Existing law imposes a fine on a person who is licensed under chapter 630 of NRS and fails to maintain a permanent mailing address with the Board of Medical Examiners. (NRS 630.254) Existing law similarly imposes a fine on an inactive registrant for such a failure. (NRS 630.255) **Sections 5 and 6** of this bill authorize, rather than require, the Board to impose such fines.

~~[Existing law requires an applicant for a license to practice medicine to submit to the Board of Medical Examiners a description of any complaints filed against the applicant with a licensing board of another state and any disciplinary action taken against the applicant by the licensing board of another state. (NRS 630.173) Section 4 of this bill provides that an applicant for such a license is not required to report with his or her application: (1) an anonymous complaint submitted to the licensing board of another state if such a board refused to consider or investigate the anonymous complaint; or (2) a complaint filed against the applicant that did not result in any disciplinary action taken against the applicant by the licensing board of another state.]~~

~~Existing law also requires each holder of a license to practice medicine to register with the Board on or before June 30 of each odd numbered year, and provides that each license issued will expire if not renewed. Existing law further requires each holder of a license to practice medicine, when registering with the Board, to submit a list of all actions filed or claims submitted for malpractice against him or her during the previous 2 years. (NRS 630.267) Section 8 of this bill provides that the holder of such a license does not need to report with his or her biennial registration: (1) an anonymous complaint submitted to the Board if the Board refused to consider the anonymous complaint; or (2) a complaint filed against the holder of such a license that did not result in any disciplinary action taken against the holder by the Board.]~~

Existing law requires persons who are licensed to practice medicine by the Board of Medical Examiners to make certain reports to the Board concerning surgeries requiring conscious sedation, deep sedation or general anesthesia which were performed by the holder of the license and the occurrence of any sentinel events arising from those surgeries. The Board is required to submit the reports to the Division of Public and Behavioral Health of the Department of Health and Human Services. (NRS 449.447, 630.30665) **Sections 8.5 and 10 [and 12] of this bill [repeal] revise these [provisions.] reporting requirements.**

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

Section 1. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a licensee becomes incapable of keeping his or her office open because of death, disability, incarceration or any other incapacitation, the Board may take possession of the health care records kept by the licensee of his or her patients pursuant to NRS 629.051 to:

(a) Make a patient's health care records available to the patient either directly or through a third-party vendor; or

(b) Forward a patient's health care records to the patient's subsequent provider of health care.

2. A licensee shall post, in a conspicuous place in each location at which the licensee provides health care services, a sign which discloses to patients that their health care records may be accessed by the Board pursuant to subsection 1.

3. When a licensee provides health care services for a patient for the first time, the licensee shall deliver to the patient a written statement which discloses to the patient that the health care records of the patient may be accessed by the Board pursuant to subsection 1.

4. The Board shall adopt:

(a) Regulations prescribing the form, size, contents and placement of the sign and written statement required pursuant to this section; and

(b) Any other regulations necessary to carry out the provisions of this section.

5. As used in this section, "health care records" has the meaning ascribed to it in NRS 629.021.

Sec. 2. ~~[NRS 630.130 is hereby amended to read as follows:~~

~~630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:~~

~~(a) Enforce the provisions of this chapter;~~

~~(b) Establish by regulation standards for licensure under this chapter;~~

~~(c) Conduct examinations for licensure and establish a system of scoring for those examinations;~~

~~(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and~~

~~(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.~~

~~2. On or before February 15 of each odd numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:~~

~~(a) Disciplinary action taken by the Board during the previous biennium against any licensee for malpractice or negligence; and~~

~~(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections 3 and 6 of NRS 630.307 and NRS 690B.250 and 690B.260 .]; and~~

~~(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.];~~

~~→ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.~~

~~3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.] (Deleted by amendment.)~~

Sec. 3. NRS 630.144 is hereby amended to read as follows:

630.144 1. The Board shall maintain a website on the Internet or its successor.

2. ~~[Except as otherwise provided in this section, a member or employee of the Board shall not place any information on the Internet website maintained by the Board without the approval of the Executive Director, and the Board. A member or employee of the Board shall submit any information proposed to be placed on the Internet website to the Executive Director for approval. Upon approving the proposal, the Executive Director shall present the proposal to the Board for approval at its next regularly scheduled meeting.]~~ **The Board shall adopt policies and procedures for placing information on its Internet website.**

3. The Board shall place on its Internet website : ~~[, without having to approve the placement at a meeting.]~~

(a) Each application form for the issuance or renewal of a license issued by the Board pursuant to this chapter.

(b) A list of questions that are frequently asked concerning the processes of the Board and the answers to those questions.

(c) An alphabetical list, by last name, of each ~~[physician]~~ **licensee** and a brief description of each disciplinary action, if any, taken against the ~~[physician,]~~ **licensee**, in this State and elsewhere, which relates to ~~[the]~~ **his or her** practice ~~[of medicine]~~ and which is noted in the records of the Board. The Board shall include, as part of the list on the Internet website, the name of each ~~[physician]~~ **licensee** whose license has been revoked by the Board. The Board shall make the list on the Internet website easily accessible and user friendly for the public.

(d) All financial reports received by the Board.

(e) All financial reports prepared by the Board.

(f) Any other information that the Board is required to place on its Internet website pursuant to any other provision of law.

Sec. 3.5. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine, **including, without limitation, an expedited license pursuant to NRS 630.1606 or 630.1607 or chapter 629A of NRS, and each applicant for a license** to practice as a perfusionist, to practice as a physician assistant or to practice respiratory care shall submit to the Board a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.

Sec. 4. ~~[NRS 630.173 is hereby amended to read as follows:~~

~~630.173 1. In addition to the other requirements for licensure, an applicant for a license to practice medicine shall submit to the Board information describing:~~

~~— (a) Any claims made against the applicant for malpractice, whether or not a civil action was filed concerning the claim;~~

~~— (b) [Any] Except as otherwise provided in subsection 4, any complaints filed against the applicant with a licensing board of another state [and] that resulted in any disciplinary action taken against the applicant by a licensing board of another state; and~~

~~— (c) Any complaints filed against the applicant with a hospital, clinic or medical facility or any disciplinary action taken against the applicant by a hospital, clinic or medical facility.~~

~~— 2. The Board may consider any information specified in subsection 1 that is more than 10 years old if the Board receives the information from the applicant or any other source from which the Board is verifying the information provided by the applicant.~~

~~— 3. The Board may refuse to consider any information specified in subsection 1 that is more than 10 years old if the Board determines that the claim or complaint is remote or isolated and that obtaining or attempting to obtain a record relating to the information will unreasonably delay the consideration of the application.~~

~~— 4. An applicant for a license to practice medicine is not required to submit:~~

~~— (a) An anonymous complaint that the licensing board of another state refused to consider or investigate; or~~

~~— (b) A complaint filed against the applicant that did not result in any disciplinary action taken against the applicant by the licensing board of another state.~~

~~— 5. The Board shall not issue a license to the applicant until it has received all the information required by this section. } (Deleted by amendment.)~~

Sec. 5. NRS 630.254 is hereby amended to read as follows:

630.254 1. Each licensee shall maintain a permanent mailing address with the Board to which all communications from the Board to the licensee must be sent. A licensee who changes his or her permanent mailing address shall notify the Board in writing of the new permanent mailing address within 30 days after the change. If a licensee fails to notify the Board in writing of a change in his or her permanent mailing address within 30 days after the change, the Board:

(a) ~~{Shall}~~ **May** impose upon the licensee a fine not to exceed \$250; and

(b) May initiate disciplinary action against the licensee as provided pursuant to paragraph (j) of subsection 1 of NRS 630.306.

2. Any licensee who changes the location of his or her office in this State shall notify the Board in writing of the change before practicing at the new location.

3. Any licensee who closes his or her office in this State shall:

(a) Notify the Board in writing of this occurrence within 14 days after the closure; and

(b) For a period of 5 years thereafter, unless a longer period of retention is provided by federal law, keep the Board apprised in writing of the location of the medical records of the licensee's patients.

4. In addition to the requirements of subsection 1, any licensee who performs any of the acts described in subsection 3 of NRS 630.020 from outside this State or the United States shall maintain an electronic mail address with the Board to which all communications from the Board to the licensee may be sent.

Sec. 6. NRS 630.255 is hereby amended to read as follows:

630.255 1. Any licensee who changes the location of his or her practice of medicine from this State to another state or country, has never engaged in the practice of medicine in this State after licensure or has ceased to engage in the practice of medicine in this State for 12 consecutive months may be placed on inactive status by order of the Board.

2. Each inactive ~~registrant~~ **licensee** shall maintain a permanent mailing address with the Board to which all communications from the Board to the ~~registrant~~ **licensee** must be sent. An inactive ~~registrant~~ **licensee** who changes his or her permanent mailing address shall notify the Board in writing of the new permanent mailing address within 30 days after the change. If an inactive ~~registrant~~ **licensee** fails to notify the Board in writing of a change in his or her permanent mailing address within 30 days after the change, the Board ~~shall~~ **may** impose upon the ~~registrant~~ **licensee** a fine not to exceed \$250.

3. In addition to the requirements of subsection 2, any licensee who changes the location of his or her practice of medicine from this State to another state or country ~~and any inactive registrant~~ shall maintain an electronic mail address with the Board to which all communications from the Board to him or her may be sent.

4. Before resuming the practice of medicine in this State, the inactive ~~registrant~~ **licensee** must:

(a) Notify the Board in writing of his or her intent to resume the practice of medicine in this State;

(b) File an affidavit with the Board describing the activities of the ~~registrant~~ **licensee** during the period of inactive status;

(c) Complete the form for registration for active status;

(d) Pay the applicable fee for biennial registration; and

(e) Satisfy the Board of his or her competence to practice medicine.

5. If the Board determines that the conduct or competence of the ~~registrant~~ **licensee** during the period of inactive status would have warranted denial of an application for a license to practice medicine in this State, the Board may refuse to place the ~~registrant~~ **licensee** on active status.

Sec. 7. NRS 630.258 is hereby amended to read as follows:

630.258 1. A physician who is retired from active practice and who:

(a) Wishes to donate his or her expertise for the medical care and treatment of persons in this State who are indigent, uninsured or unable to afford health care; or

(b) Wishes to provide services for any disaster relief operations conducted by a governmental entity or nonprofit organization,

➡ may obtain a special volunteer medical license by submitting an application to the Board pursuant to this section.

2. An application for a special volunteer medical license must be on a form provided by the Board and must include:

(a) Documentation of the history of medical practice of the physician;

(b) Proof that the physician previously has been issued an unrestricted license to practice medicine in any state of the United States and that the physician has never been the subject of disciplinary action by a medical board in any jurisdiction;

(c) Proof that the physician satisfies the requirements for licensure set forth in NRS 630.160 or the requirements for licensure by endorsement set forth in NRS 630.1605, 630.1606 or 630.1607;

(d) Acknowledgment that the practice of the physician under the special volunteer medical license will be exclusively devoted to providing medical care:

(1) To persons in this State who are indigent, uninsured or unable to afford health care; or

(2) As part of any disaster relief operations conducted by a governmental entity or nonprofit organization; and

(e) Acknowledgment that the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for providing medical care under the special volunteer medical license, except for payment by a medical facility at which the physician provides volunteer medical services of the expenses of the physician for necessary travel, continuing education, malpractice insurance or fees of the State Board of Pharmacy.

3. If the Board finds that the application of a physician satisfies the requirements of subsection 2 and that the retired physician is competent to practice medicine, the Board must issue a special volunteer medical license to the physician.

4. The initial special volunteer medical license issued pursuant to this section expires 1 year after the date of issuance. The license may be renewed pursuant to this section, and any license that is renewed expires 2 years after the date of issuance ~~+~~ **of the renewed license.**

5. The Board shall not charge a fee for:

(a) The review of an application for a special volunteer medical license; or

(b) The issuance or renewal of a special volunteer medical license pursuant to this section.

6. A physician who is issued a special volunteer medical license pursuant to this section and who accepts the privilege of practicing medicine in this

State pursuant to the provisions of the special volunteer medical license is subject to all the provisions governing disciplinary action set forth in this chapter.

7. A physician who is issued a special volunteer medical license pursuant to this section shall comply with the requirements for continuing education adopted by the Board.

Sec. 8. ~~NRS 630.267 is hereby amended to read as follows:~~

~~630.267 1. Each holder of a license to practice medicine must, on or before June 30, or if June 30 is a Saturday, Sunday or legal holiday, on the next business day after June 30, of each odd-numbered year:~~

~~(a) [Submit] **Except as otherwise provided in subsection 2, submit** a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against him or her during the previous 2 years.~~

~~(b) Pay to the Secretary-Treasurer of the Board the applicable fee for biennial registration. This fee must be collected for the period for which a physician is licensed.~~

~~(c) Submit all information required to complete the biennial registration.~~

~~2. **A holder of a license to practice medicine is not required to submit with his or her biennial registration:**~~

~~(a) **An anonymous complaint that the Board refused to consider pursuant to subsection 1 of NRS 630.307; or**~~

~~(b) **A complaint filed against the holder of the license that did not result in any disciplinary action taken against the holder of the license by the Board.**~~

~~3. When a holder of a license fails to pay the fee for biennial registration and submit all information required to complete the biennial registration after they become due, his or her license to practice medicine in this State expires. The holder may, within 2 years after the date the license expires, upon payment of twice the amount of the current fee for biennial registration to the Secretary-Treasurer and submission of all information required to complete the biennial registration and after he or she is found to be in good standing and qualified under the provisions of this chapter, be reinstated to practice.~~

~~[3.] 4. The Board shall make such reasonable attempts as are practicable to notify a licensee:~~

~~(a) At least once that the fee for biennial registration and all information required to complete the biennial registration are due; and~~

~~(b) That his or her license has expired.~~

~~→ A copy of this notice must be sent to the Drug Enforcement Administration of the United States Department of Justice or its successor agency.] **(Deleted by amendment.)**~~

Sec. 8.5. NRS 630.30665 is hereby amended to read as follows:

630.30665 1. The Board shall require each holder of a license to practice medicine to submit to the Board, on a form provided by the Board, a report stating the number and type of surgeries requiring conscious sedation,

deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed:

- (a) At a medical facility as that term is defined in NRS 449.0151; or
- (b) Outside of this State.

~~2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.~~

~~3. Each holder of a license to practice medicine shall submit the reports required pursuant to subsections 1 and 2:~~

- ~~(a) At the time the holder of a license renews his or her license; and~~
- ~~(b) Whether or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly or willfully filing false information in a report constitutes grounds for initiating disciplinary action pursuant to paragraph (i) of subsection 1 of NRS 630.306.~~

~~4. In addition to the reports required pursuant to subsections 1 and 2, the~~
The Board shall require each holder of a license to practice medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1 within 14 days after the occurrence of the sentinel event. The report must be submitted in the manner prescribed by the Board.

~~5. 3.~~ The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1 ~~1~~ and
 2 ~~and 4~~ ; and

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access. ~~1~~ and

~~(c) Submit to the Division of Public and Behavioral Health a copy of the report submitted pursuant to subsection 1. The Division shall maintain the confidentiality of such reports in accordance with subsection 6.~~

~~6. 4.~~ Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 ~~1~~ or 2 ~~for 4~~ is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

~~7. 5.~~ The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

~~8. 6.~~ In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly or willfully files false information in a report submitted pursuant to this section, the Board

may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

~~19.~~ 7. As used in this section:

- (a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.
- (b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.
- (c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.
- (d) "Sentinel event" has the meaning ascribed to it in NRS 439.830.

Sec. 9. ~~NRS 239.010 is hereby amended to read as follows:~~

~~239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.323, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, [630.30665,] 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 683A.0873, 685A.077, 686A.280, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.~~

~~2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.~~

~~3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to~~

~~inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.~~

~~4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:~~

~~(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.~~

~~(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself. (Deleted by amendment.)~~

Sec. 10. NRS 449.447 is hereby amended to read as follows:

449.447 1. If an office of a physician or a facility that provides health care, other than a medical facility, violates the provisions of NRS 449.435 to 449.448, inclusive, or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to NRS 449.446, the Division, in accordance with the regulations adopted pursuant to NRS 449.448, may take any of the following actions:

(a) Decline to issue or renew a permit;

(b) Suspend or revoke a permit; or

(c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum.

2. The Division may review a report submitted pursuant to NRS ~~[630.30665 or]~~ 633.524 to determine whether an office of a physician or a facility is in violation of the provisions of NRS 449.435 to 449.448, inclusive, or the regulations adopted pursuant thereto. If the Division determines that such a violation has occurred, the Division shall immediately notify the ~~[appropriate professional licensing board of the physician.]~~ **State Board of Osteopathic Medicine.**

3. If a surgical center for ambulatory patients violates the provisions of NRS 449.435 to 449.448, inclusive, or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to NRS 449.446, the Division may impose administrative sanctions pursuant to NRS 449.163.

Sec. 11. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 12. ~~[NRS 630.30665 is hereby repealed.] (Deleted by amendment.)~~

Sec. 13. This act becomes effective on July 1, 2017.

f

~~TEXT OF REPEALED SECTION~~

~~630.30665 Physician required to report certain information concerning surgeries and sentinel events; disciplinary action or fine for failure to report or false report; duties of Board; confidentiality of report; applicability; regulations.~~

~~1. The Board shall require each holder of a license to practice medicine to submit to the Board, on a form provided by the Board, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed:~~

~~(a) At a medical facility as that term is defined in NRS 449.0151; or~~

~~(b) Outside of this State.~~

~~2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.~~

~~3. Each holder of a license to practice medicine shall submit the reports required pursuant to subsections 1 and 2:~~

~~(a) At the time the holder of a license renews his or her license; and~~

~~(b) Whether or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly or willfully filing false information in a report constitutes grounds for initiating disciplinary action pursuant to paragraph (i) of subsection 1 of NRS 630.306.~~

~~4. In addition to the reports required pursuant to subsections 1 and 2, the Board shall require each holder of a license to practice medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1 within 14 days after the occurrence of the sentinel event. The report must be submitted in the manner prescribed by the Board.~~

~~5. The Board shall:~~

~~(a) Collect and maintain reports received pursuant to subsections 1, 2 and 4;~~

~~(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and~~

~~(c) Submit to the Division of Public and Behavioral Health a copy of the report submitted pursuant to subsection 1. The Division shall maintain the confidentiality of such reports in accordance with subsection 6.~~

~~6. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1, 2 or 4 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.~~

~~7. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.~~

~~8. In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly or willfully files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.~~

~~9. As used in this section:~~

~~(a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.~~

~~(b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.~~

~~(c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.~~

~~(d) "Sentinel event" has the meaning ascribed to it in NRS 439.830.]~~

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 348.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 473.

AN ACT relating to education; requiring the board of trustees of each school district to establish an evidence-based, age-appropriate and medically accurate course of instruction in sex education; **requiring each board of trustees to submit an annual report concerning such a course of instruction to the Legislature;** requiring the Council to Establish Academic Standards for Public Schools to establish standards of content and performance for a course of instruction in sex education as part of a course of study in health; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the board of trustees of a school district to establish a course or unit of a course of instruction concerning acquired immune

deficiency syndrome, the human reproductive system, related communicable diseases and sexual responsibility which must be taught by a teacher ~~for~~, **other professional educator** or school nurse whose qualifications have been approved by the board of trustees. **(NRS 389.036) Section 1.5 of this bill authorizes the board of trustees of a school district to approve a person other than a teacher, professional educator or school nurse to teach a course of instruction in sex education in certain circumstances.**

Existing law requires notice to be given to a parent or guardian of a pupil to whom a course of instruction in sex education will be offered and requires the school district to provide a form for the parent or guardian of a pupil to provide written permission for the pupil to participate in the course of instruction. (NRS 389.036) Section 1.5 of this bill authorizes a school district to make this form available on a secure Internet website and requires the form to include an option for a parent or guardian of a pupil to provide permission for the pupil to participate in a course of sex education: (1) for that school year only; or (2) for as long as the pupil is enrolled in the school district. Section 1.5 also requires a school district to follow up with a parent or guardian and provide certain information to the parent or guardian if the form is not returned to the school district within 2 weeks.

Existing law further requires the board of trustees **of a school district** to appoint an advisory committee to advise the district concerning the content ~~for~~ and materials to be used in ~~such~~ a course of instruction ~~and requires the parent or legal guardian of a pupil to consent in writing before the pupil may participate in the course.~~ **relating to sex education.** (NRS 389.036) **Section ~~1.5~~ 1.5** of this bill instead requires the board of trustees of each school district to establish a course of instruction in sex education which is factual and prescribes the topics which must be included in the course of instruction. **Section ~~1.5~~ 1.5** also requires that the course of instruction in sex education be age-appropriate for the pupils who receive the instruction, evidence-based and, as applicable, medically accurate. ~~and allows a person approved by the board of trustees to be an instructor of such a course if the person demonstrates a certain level of competency. Section 1 additionally revises the composition of the membership of the advisory committee and revises the qualifications which authorize a person to teach a course of instruction in sex education. Section 1 requires the notice given to a parent or guardian of a pupil to whom a course of instruction in sex education will be offered to include a form that allows the parent or guardian to opt the pupil out of the course of instruction.~~

Existing law requires the Council to Establish Academic Standards for Public Schools to establish standards of content and performance for certain courses of study, including, without limitation, health. (NRS 389.520) **Section 2** of this bill requires the Council to establish standards of content and performance for the course of instruction in sex education required by **section ~~1.5~~ 1.5** as part of such a course of study in health.

Section 1 of this bill requires the board of trustees of each school district to submit an annual report on the status of the establishment of a course of instruction in sex education in the district to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Education.

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

Section 1. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 4, on or before July 1 of each year, the board of trustees of a school district shall prepare and submit a report on the status of the establishment of a course of instruction in sex education pursuant to NRS 389.036 to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Education.

2. The report submitted pursuant to subsection 1 must include, without limitation, the following information relating to sex education, categorized by school and grade level:

(a) The number of pupils who participated in a course of instruction in sex education;

(b) The number of pupils who did not participate in a course of instruction in sex education based on the choice of the parent or guardian of the pupil; and

(c) The number of pupils who did not participate in a course of instruction in sex education based on the failure of the parent or guardian of the pupil to provide the consent required pursuant to NRS 389.036.

3. The report must also include the total number of hours of instruction and the content of the curriculum for a course of instruction in sex education which was taught in each grade level in the school district, if the curriculum of the school district relating to sex education was taught in one grade level, the report may indicate that the curriculum was taught at that grade level only.

4. If only a portion of the curriculum of the school district relating to sex education was taught, the report must indicate which portion of the curriculum was not taught and the reason for its exclusion.

5. If an alternative curriculum relating to sex education was used by the school district, the report must include a copy of the alternative curriculum or a link to the Internet website which includes such curriculum and an explanation of the reason for using the alternative curriculum.

~~{Section 1.}~~ Sec. 1.5. NRS 389.036 is hereby amended to read as follows:

389.036 1. The board of trustees of ~~{a}~~ **each** school district shall establish ~~{a course or unit of}~~ a course of ~~{~~

~~—(a) Factual~~ instruction ~~{concerning acquired}~~ *in sex education which is factual. The course of instruction must comply with the standards of content and performance for a course of study in health established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520 and must be age-appropriate for the pupils who receive the instruction. Based upon the grade level of pupils designated by the board of trustees, the course of instruction must include evidence-based and, as applicable, medically accurate information regarding:*

(a) Acquired immune deficiency syndrome ~~}; and~~, including the human immunodeficiency virus;

(b) ~~Instruction on the~~ The human reproductive system, ~~{related communicable}~~ including, without limitation, anatomy and physiology, puberty, pregnancy, parenting, body image, gender stereotypes and the biological, psychosocial and emotional changes that accompany maturation;

(c) Communicable diseases ~~{and sexual responsibility.}~~ that are known to be sexually transmitted, including, without limitation, the proper use and effectiveness of methods to avoid such diseases, and the availability, effectiveness and safety of any vaccinations, tests and treatments for such diseases;

(d) Forms of domestic violence, sexual abuse, sexual assault, exploitation and human trafficking, including, without limitation, information relating to the prevention of these forms of violence and local resources and crisis centers which are available to victims;

(e) The development of skills necessary to promote sexual responsibility, including, without limitation, the skills to:

(1) Assist pupils in setting and meeting goals;

(2) Identify the characteristics of a healthy relationship;

(3) Negotiate;

(4) Communicate with parents and family;

(5) Refuse unwanted sexual advances or activity; and

(6) Obtain and provide affirmative consent before engaging in sexual activity.

(f) Methods of contraception which may be used to prevent pregnancy, including, without limitation, the proper use, effectiveness, safety, health benefits and side effects of each method of contraception;

(g) All options authorized by law for family planning in the event of a pregnancy;

(h) The importance of abstinence as the most effective method of preventing an unwanted pregnancy and sexually transmitted diseases;

(i) The identification and explanation of available counseling and legal and medical information concerning health services, including, without limitation, resources to assist pupils with addressing and escaping a violent or exploitative relationship, effective and safe methods of contraception

and contraceptive devices, and screening and treatment for sexually transmitted diseases and other related communicable diseases;

(j) The effects of alcohol and drug use on responsible decision making;

(k) Data to counter misinformation about and the effects of peer pressure and of social and other media on the thoughts, feelings and behaviors of a pupil that are related to sexuality and sexual behavior; and

(l) The state and federal laws relating to consent, the age of consent, statutory rape, the electronic transmission of sexual images prohibited by NRS 200.737 and any other legal issues relevant to sex education.

2. The board of trustees shall periodically revise the content of the course of instruction established pursuant to subsection 1 as necessary to ensure that the content is current, age-appropriate and, as applicable, medically accurate.

3. The course of instruction established pursuant to subsection 1 must:

(a) Use methods of teaching and include materials which are appropriate for a pupil of any race, sex, gender identity or expression, sexual orientation or ethnic or cultural background or a pupil who is an English learner or who is a pupil with a physical or mental disability;

(b) Appropriately prepare pupils who have or are currently engaged in sexual activity and pupils who may engage in sexual activity in the future; and

(c) Recognize the different sexual orientations and be inclusive of persons of all sexual orientations in any examples which may be provided to pupils.

4. Each board of trustees shall appoint an advisory committee consisting of:

(a) Five parents of children who attend schools ~~for a school~~ in the district; and

(b) ~~Two pupils who attend school in the district;~~

~~—(c)—~~ Four representatives, one from each of four of the following professions ~~or~~ or occupations ~~for backgrounds;~~

(1) Medicine or nursing;

(2) Counseling;

(3) Religion ~~for spirituality; and~~

(4) Pupils who attend schools in the district; or

(5) Teaching ;

~~—(d) Not more than three members who are representatives of the community, if the board of trustees so chooses.~~

5. The advisory committee appointed pursuant to subsection 4 shall advise the ~~district~~ board of trustees concerning all aspects of the course of instruction established pursuant to this section, including, without limitation:

(a) *Instructors who have demonstrated an appropriate level of competency to teach an evidence-based, age-appropriate and medically accurate course of instruction in sex education;*

(b) *The content of and materials to be used in ~~the~~ the course of instruction ; ~~established pursuant to this section,~~ and ~~the recommended~~*

(c) *The ages of the pupils to whom **each subject of** the course ~~is~~ of instruction may be offered.*

6. The final decision on ~~these matters~~ *the course of instruction established pursuant to subsection 1* must be that of the board of trustees.

~~3.~~ 7. ~~The~~ *Except as otherwise provided in this subsection, the subjects of the ~~courses~~ course of instruction established pursuant to subsection 1 may be taught only by a teacher ~~or~~ , other professional educator ~~or~~ or school nurse . ~~whose qualifications have been previously approved by the board of trustees.~~*

~~4. or other instructor approved by the board of trustees who demonstrates the same level of competency to teach an evidence-based, age-appropriate and medically accurate course of instruction in sex education.~~ *If a school does not have a sufficient number of teachers, other professional educators or school nurses to teach the course of instruction established pursuant to subsection 1 or does not have adequate funds to hire such a person to teach the course of instruction, the board of trustees of the school district may approve another person whom it determines to have an appropriate level of competency to teach the course of instruction.*

8. The parent or guardian of each pupil to whom a course ~~of instruction~~ is offered ~~pursuant to this section~~ must first be furnished written notice that the course *of instruction* will be offered. ~~The~~ *Except as otherwise provided in subsection 9, the* notice must be given in the usual manner used by the local district to transmit written material to parents, and must contain ~~include~~ a form *for the signature of ~~to allow~~ the parent or guardian of the pupil consenting to ~~opt~~ the pupil's attendance. Upon receipt of the written consent of the parent or guardian, the pupil may attend ~~out of~~ the course ~~of instruction~~ during the school year in which consent was provided by the parent or guardian of the pupil or during any school year in which the pupil is enrolled in the school district, depending on the permission granted by the parent or guardian on the form.* If the *written consent of the parent or guardian is not received, ~~opts the pupil out of the course of instruction,~~ the pupil must be excused from such attendance ~~attending the course of instruction~~ without any penalty as to credits or academic standing. Any course ~~of instruction~~ offered pursuant to this section is not a requirement for graduation.*

~~5.~~ 9. *The form required to be provided to a parent or guardian of a pupil pursuant to subsection 8:*

(a) May be made available on the secure Internet website of the school district for the electronic signature of the parent or guardian and may be included with any on-line registration to register a child with a school.

(b) Must allow the parent or guardian of a pupil to consent to the pupil attending a course of instruction pursuant to this section during:

(1) The school year in which the consent is provided; or

(2) Any school year in which the pupil is enrolled in the school district.

(c) Must include a notification that consent may be revoked at any time and regardless of how consent is provided, the parent or guardian will receive written notice pursuant to subsection 8 when a course of instruction established pursuant to subsection 1 will be offered.

10. If the form provided to a parent or guardian of a pupil pursuant to subsection 8 is not returned within 2 weeks, the school district must contact the parent or guardian to inform the parent or guardian that:

(a) The form was provided for the parent or guardian of a pupil to consent to the pupil attending a course of instruction in sex education; and

(b) The parent or guardian may complete the form at the school of the pupil or electronically, if available.

11. All instructional materials to be used in a course of instruction established pursuant to this section must be available for inspection by parents or guardians of pupils at reasonable times and locations before the course is taught, and appropriate written notice of the availability of the material must be furnished to all parents and guardians.

~~10.~~ 12. As used in this section:

(a) “Age-appropriate” means designed to teach concepts, information and skills based on the social, cognitive, emotional and experience level of most pupils of a particular age.

(b) “Evidence-based” means ~~programs or information that have been proven in at least one evaluation to have a positive outcome on behavior,~~ that a program has been proven effective on the basis of rigorous scientific research and evaluation and has been identified through a systematic independent review.

(c) “Gender identity or expression” means a gender-related identity, appearance, expression or behavior of a person, regardless of the person’s assigned sex at birth.

(d) “Medically accurate” means:

(1) Verified or supported by current or prevailing scientific evidence;

(2) Published by peer-reviewed scientific or medical journals; or

(3) Recognized as accurate and objective by a professional organization or agency, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the American Academy of Pediatrics, the American Public Health Association or the American Congress of Obstetricians and Gynecologists.

(e) “Sex education” means a sexuality education program that builds a foundation of knowledge and skills relating to human development,

relationships, decision making, abstinence, contraception, family planning and disease prevention.

(f) “Sexual orientation” means having or being perceived as having a particular orientation within the continuum of sexual orientation, including, without limitation, heterosexuality, homosexuality and bisexuality.

Sec. 2. NRS 389.520 is hereby amended to read as follows:

389.520 1. The Council shall:

(a) Establish standards of content and performance, including, without limitation, a prescription of the resulting level of achievement, for the grade levels set forth in subsection 4, based upon the content of each course, that is expected of pupils for the following courses of study:

(1) English language arts;

(2) Mathematics;

(3) Science;

(4) Social studies, which includes only the subjects of history, geography, economics and government;

(5) The arts;

(6) Computer education and technology;

(7) Health ~~§~~, ***including, without limitation, the course of instruction in sex education required by NRS 389.065;***

(8) Physical education; and

(9) A foreign or world language.

(b) Establish a schedule for the periodic review and, if necessary, revision of the standards of content and performance. The review must include, without limitation, the review required pursuant to NRS 390.115 of the results of pupils on the examinations administered pursuant to NRS 390.105.

(c) Assign priorities to the standards of content and performance relative to importance and degree of emphasis and revise the standards, if necessary, based upon the priorities.

2. The standards for computer education and technology must include a policy for the ethical, safe and secure use of computers and other electronic devices. The policy must include, without limitation:

(a) The ethical use of computers and other electronic devices, including, without limitation:

(1) Rules of conduct for the acceptable use of the Internet and other electronic devices; and

(2) Methods to ensure the prevention of:

(I) Cyber-bullying;

(II) Plagiarism; and

(III) The theft of information or data in an electronic form;

(b) The safe use of computers and other electronic devices, including, without limitation, methods to:

(1) Avoid cyber-bullying and other unwanted electronic communication, including, without limitation, communication with on-line predators;

(2) Recognize when an on-line electronic communication is dangerous or potentially dangerous; and

(3) Report a dangerous or potentially dangerous on-line electronic communication to the appropriate school personnel;

(c) The secure use of computers and other electronic devices, including, without limitation:

(1) Methods to maintain the security of personal identifying information and financial information, including, without limitation, identifying unsolicited electronic communication which is sent for the purpose of obtaining such personal and financial information for an unlawful purpose;

(2) The necessity for secure passwords or other unique identifiers;

(3) The effects of a computer contaminant;

(4) Methods to identify unsolicited commercial material; and

(5) The dangers associated with social networking Internet sites; and

(d) A designation of the level of detail of instruction as appropriate for the grade level of pupils who receive the instruction.

3. The standards for social studies must include multicultural education, including, without limitation, information relating to contributions made by men and women from various racial and ethnic backgrounds. The Council shall consult with members of the community who represent the racial and ethnic diversity of this State in developing such standards.

4. The Council shall establish standards of content and performance for each grade level in kindergarten and grades 1 to 8, inclusive, for English language arts and mathematics. The Council shall establish standards of content and performance for the grade levels selected by the Council for the other courses of study prescribed in subsection 1.

5. The Council shall forward to the State Board the standards of content and performance established by the Council for each course of study. The State Board shall:

(a) Adopt the standards for each course of study, as submitted by the Council; or

(b) If the State Board objects to the standards for a course of study or a particular grade level for a course of study, return those standards to the Council with a written explanation setting forth the reason for the objection.

6. If the State Board returns to the Council the standards of content and performance for a course of study or a grade level, the Council shall:

(a) Consider the objection provided by the State Board and determine whether to revise the standards based upon the objection; and

(b) Return the standards or the revised standards, as applicable, to the State Board.

➡ The State Board shall adopt the standards of content and performance or the revised standards, as applicable.

7. The Council shall work in cooperation with the State Board to prescribe the examinations required by NRS 390.105.

8. As used in this section:

(a) “Computer contaminant” has the meaning ascribed to it in NRS 205.4737.

(b) “Cyber-bullying” has the meaning ascribed to it in NRS 388.123.

(c) “Electronic communication” has the meaning ascribed to it in NRS 388.124.

Sec. 2.3. The report of the board of trustees of a school district required pursuant to section 1 of this act for the 2016-2017 school year must be submitted to the Director of the Legislative Counsel Bureau on or before October 1, 2017.

Sec. 2.7. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 3. This act becomes effective on July 1, 2017.

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 354.

Bill read second time.

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

Amendment No. 547.

SUMMARY—Revises provisions relating to employment practices. (BDR ~~{53-275}~~) **18-275**)

AN ACT relating to employment; ~~requiring the Employment Security Division of the Department of Employment, Training and Rehabilitation to request a person filing for unemployment compensation to provide certain demographic information to the Division; requiring the Administrator of the Division to gather and report certain data to the Office of Economic Development and to the Director of the Legislative Counsel Bureau; requiring the Administrator to make such data available to persons who provide certain workforce recruitment, assessment and training programs;~~ **requiring the Director of the Department of Employment, Training and Rehabilitation to provide certain reports on the rate of unemployment of residents in this State to the Director of the Legislative Counsel Bureau; requiring the Governor’s Workforce Investment Board to conduct certain activities to reduce the rate of unemployment for certain groups; requiring the Executive Director of the Office of Workforce Innovation to submit each year a report containing certain information;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law prescribes the procedure for a person to file a claim for benefits with respect to his or her unemployment. (NRS 612.450-612.533) Section 2 of this bill requires the Employment Security Division of the Department of Employment, Training and Rehabilitation to request a person who files such a claim to indicate his or her race, gender and any other demographic information required by the Division. Section 3 of this bill requires the Administrator of the Division to gather aggregate unemployment data concerning the demographic groups identified by the form provided pursuant to section 2 and report such data to the Office of Economic Development and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature. Section 2 of this bill also requires the Administrator to provide such data to a person who wishes to provide workforce recruitment, assessment and training programs in this State.]~~

Existing law requires the Director of the Department of Employment, Training and Rehabilitation to: (1) organize the Department of Employment, Training and Rehabilitation into divisions; (2) provide the Director of the Department of Administration with a list of organizations and agencies in this State whose primary purpose is the training and employment of persons with disabilities; (3) direct the divisions of the Department to share information in their records with certain local governments; and (4) provide certain employment and wage information to the Board of Regents of the University of Nevada. (NRS 232.920) Section 5 of this bill requires the Director to provide the Director of the Legislative Counsel Bureau a written report each quarter containing the rate of unemployment of residents of this State by county. Section 5 additionally requires such a report to disaggregate the rate of unemployment by demographic information, which includes age, race and gender, for each county.

Existing law creates the Governor's Workforce Investment Board and requires the Board to conduct certain duties. (NRS 232.935) Section 6 of this bill requires the Board to: (1) receive reports created pursuant to section 5; (2) require all applicable agencies which provide workforce development services to coordinate efforts and resources to reduce, in certain situations, the rate of unemployment for certain groups; and (3) provide a written report each year to the Director and the Director of the Legislative Counsel Bureau describing the efforts to reduce the rate of unemployment for certain groups.

Existing law requires the P-20W Advisory Council to develop and oversee a statewide longitudinal data system that links data relating to early childhood education programs and K-12 public education with data relating to postsecondary education and the workforce in this State. (NRS 400.040) Section 20 of Senate Bill No. 516 of this session moves the responsibility for the oversight of the State's statewide longitudinal data system from the P-20W Advisory Council to the Executive Director of

the Office of Workforce Innovation. Section 6.5 of this bill requires the Executive Director of the Office of Workforce Innovation, on or before January 1 of each year, to submit to the Director of the Legislative Counsel Bureau a written report that includes the most current data and reports produced by the statewide longitudinal data system.

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

Section 1. ~~{Chapter 612 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.}~~ **(Deleted by amendment.)**

Sec. 2. ~~{1. The Division shall request from a person filing a claim for benefits information concerning the person's race, gender and any other demographic information required to be provided by the Division.~~

~~2. Any person filing a claim for benefits may, at the time the person files his or her claim, indicate his or her race, gender and any other demographic information required by the Division.}~~ **(Deleted by amendment.)**

Sec. 3. ~~{1. The Administrator shall, for each calendar quarter, gather aggregate unemployment data concerning women, racial minorities and any other demographic groups for which the Division obtains information pursuant to section 2 of this act, including, without limitation, data concerning benefits paid to such groups, and report such data to the Office of Economic Development and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.~~

~~2. The Administrator shall make any data reported pursuant to subsection 1 available to a person who wishes to provide a program of workforce recruitment, assessment and training pursuant to NRS 231.1467.}~~ **(Deleted by amendment.)**

Sec. 4. ~~{NRS 612.450 is hereby amended to read as follows:
[612.450 Claims for benefits shall be made in the manner prescribed by or authorized by NRS 612.455 to 612.530, inclusive, and section 2 of this act and in no other way.}~~ **(Deleted by amendment.)**

Sec. 5. **NRS 232.920 is hereby amended to read as follows:**

232.920 The Director:

1. Shall:

(a) Organize the Department into divisions and other operating units as needed to achieve the purposes of the Department;

(b) Upon request, provide the Director of the Department of Administration with a list of organizations and agencies in this State whose primary purpose is the training and employment of persons with disabilities;

(c) Except as otherwise provided by a specific statute, direct the divisions to share information in their records with agencies of local governments which are responsible for the collection of debts or obligations if the

confidentiality of the information is otherwise maintained under the terms and conditions required by law; ~~and~~

(d) Provide the employment and wage information to the Board of Regents of the University of Nevada for purposes of the reporting required of the Board of Regents by subsection 4 of NRS 396.531 ~~1-1~~; and

(e) Provide to the Director of the Legislative Counsel Bureau a written report each quarter containing the rate of unemployment of residents of this State by county and, for each county, the rate of unemployment disaggregated by demographic information, including, without limitation, age, race and gender. The Director of the department shall:

(1) Post on the Internet website of the Department the report required by this paragraph;

(2) Provide the report to the Governor's Workforce Investment Board and all applicable agencies for the purposes of subsection 5 of NRS 232.935; and

(3) Post on the Internet website of the Department the written report provided by the Governor's Workforce Investment Board pursuant to subsection 5 of NRS 232.935.

2. Is responsible for the administration, through the divisions of the Department, of the provisions of NRS 426.010 to 426.720, inclusive, 426.740, 426.790 and 426.800, and chapters 612 and 615 of NRS, and all other provisions of law relating to the functions of the Department and its divisions, but is not responsible for the professional line activities of the divisions or other operating units except as otherwise provided by specific statute.

3. May employ, within the limits of legislative appropriations, such staff as is necessary for the performance of the duties of the Department.

Sec. 6. NRS 232.935 is hereby amended to read as follows:

232.935 1. In appointing members of the Governor's Workforce Investment Board, the Governor shall ensure that the membership as a whole represents:

(a) Industry sectors which are essential to this State and which are driven primarily by demand;

(b) Communities and areas of economic development which are essential to this State; and

(c) The diversity of the workforce of this State, including, without limitation, geographic diversity and the diversity within regions of this State.

2. The Governor's Workforce Investment Board shall:

(a) Identify:

(1) Industry sectors which are essential to this State; and

(2) The region or regions of this State where the majority of the operations of each of those industry sectors is conducted.

(b) Establish:

(1) Regional goals for economic development for each of the industry sectors identified pursuant to paragraph (a); and

(2) A council for each industry sector.

(c) Consider and develop programs to promote:

(1) Strategies to improve labor markets for industries and regions of this State, including, without limitation, improving the availability of relevant information;

(2) Coordination of the efforts of relevant public and private agencies and organizations;

(3) Strategies for providing funding as needed by various industry sectors;

(4) Increased production capacities for various industry sectors;

(5) The development of useful measurements of performance and outcomes in various industry sectors;

(6) Participation by and assistance from state and local government agencies;

(7) Expanded market penetration, including, without limitation, by providing assistance to employers with small numbers of employees;

(8) Partnerships between labor and management;

(9) Business associations;

(10) The development of improved instructional and educational resources for employers and employees; and

(11) The development of improved economies of scale, as applicable, in industry sectors.

3. Each industry sector council established pursuant to subparagraph (2) of paragraph (b) of subsection 2:

(a) Must be composed of representatives from:

(1) Employers within that industry;

(2) Organized labor within that industry;

(3) Universities and community colleges; and

(4) Any other relevant group of persons deemed to be appropriate by the Board.

(b) Shall, within the parameters set forth in the American Recovery and Reinvestment Act of 2009 or the parameters of any other program for which the federal funding is available, identify job training and education programs which the industry sector council determines to have the greatest likelihood of meeting the regional goals for economic development established for that industry sector pursuant to subparagraph (1) of paragraph (b) of subsection 2.

4. The Board shall:

(a) Identify and apply for federal funding available for the job training and education programs identified pursuant to paragraph (b) of subsection 3;

(b) Consider and approve or disapprove applications for money;

(c) Provide and administer grants of money to industry sector councils for the purpose of establishing job training and education programs in industry sectors for which regional goals for economic development have been established pursuant to subparagraph (1) of paragraph (b) of subsection 2; and

(d) Adopt regulations establishing:

(1) Guidelines for the submission and review of applications to receive grants of money from the Department; and

(2) Criteria and standards for the eligibility for and use of any grants made pursuant to paragraph (c).

➔ Except as otherwise required as a condition for federal funding, the regulations required by this subsection must give priority to job training and education programs that are consistent with the State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053.

5. **The Board shall:**

(a) Receive reports from the Director pursuant to paragraph (e) of subsection 1 of NRS 232.920;

(b) Require all applicable agencies which provide workforce development services to coordinate efforts and resources to reduce the rate of unemployment for a demographic group contained in the report provided pursuant to paragraph (e) of subsection 1 of NRS 232.920 if, for that demographic group, the rate of unemployment for the group:

(1) Is 200 percent or more of the rate of unemployment for the applicable county as a whole;

(2) Is 4 or more percentage points higher than the rate of unemployment for the applicable county as a whole; or

(3) Has been higher than the rate of unemployment for the applicable county as a whole for 3 or more consecutive years; and

(c) Provide a written report each year to the Director of the Department and the Director of the Legislative Counsel Bureau describing the efforts made by the Board and all applicable agencies to comply with paragraph (b).

6. In carrying out its powers and duties pursuant to this section, the Board shall consult with the Executive Director of the Office of Economic Development and shall cooperate with the Executive Director in implementing the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053.

~~{6.}~~ 7. As used in this section, “industry sector” means a group of employers closely linked by common products or services, workforce needs, similar technologies, supply chains or other economic links.

Sec. 6.5. Section 20 of Senate Bill No. 516 of this session is hereby amended to read as follows:

Sec. 20. The Executive Director of the Office of Workforce Innovation shall:

1. Provide support to the Office of the Governor, the Governor’s Workforce Development Board created by NRS 232.935 and the industry sector councils established by the Governor’s Workforce Development Board on matters relating to workforce development.

2. Work in coordination with the Office of Economic Development to establish criteria and goals for workforce development and diversification in this State.

3. Collect and systematize and present in biennial reports to the Governor and the Legislature such statistical details relating to workforce development in the State as the Executive Director of the Office may deem essential to further the objectives of the Office of Workforce Innovation.

4. At the direction of the Governor:

(a) Identify, recommend and implement policies related to workforce development.

(b) Define career pathways and identify priority career pathways for secondary and postsecondary education.

(c) Discontinue career pathways offered by the State which fail to meet minimum standards of quality, rigor and cross-education alignment, or that do not demonstrate a connection to priority industry needs.

(d) In consultation with the Governor's Workforce Development Board, identify industry-recognized credentials, workforce development programs and education.

(e) Maintain and oversee the statewide longitudinal data system that links data relating to early childhood education programs and K-12 public education with data relating to postsecondary education and the workforce in this State.

(f) Collect accurate educational data in the statewide longitudinal data system for the purpose of analyzing student performance through employment to assist in improving the educational system and workforce training program in this State.

(g) **On or before January 1 of each year, submit to the Director of the Legislative Counsel Bureau a written report that includes, without limitation, the most current data and reports produced by the statewide longitudinal data system.**

(h) Apply for and administer grants, including, without limitation, those that may be available from funding reserved for statewide workforce investment activities.

~~##~~ **(i)** Review the status and structure of local workforce investment areas in the State, in coordination with the Governor and the Governor's Workforce Development Board.

~~##~~ **(j)** Report periodically to the Governor's Workforce Development Board concerning the administration of the policies and programs of the Office of Workforce Innovation.

~~##~~ **(k)** On or before March 31 of each year, submit to the Governor a complete report of the activities, discussions, findings and recommendations of the Office of Workforce Innovation.

~~[(4)]~~ (l) Oversee the State Apprenticeship Council and the State Apprenticeship Director pursuant to NRS 610.110 to 610.185, inclusive, and perform such other functions as may be necessary for the fulfillment of the intent and purposes of chapter 610 of NRS.

~~[(4)]~~ (m) Suggest improvements regarding the allocation of federal and state money to align workforce training and related education programs in the State, including, but not limited to, career and technical education.

Sec. 7. 1. For the purposes of paragraph (e) of subsection 1 of NRS 232.920, as amended by section 5 of this act, and paragraph (b) of subsection 5 of NRS 232.935, as amended by section 6 of this act, the Director of the Department of Employment, Training and Rehabilitation shall, as soon as practicable after July 1, 2017, provide to the Governor's Workforce Investment Board the information described in paragraph (e) of subsection 1 of NRS 232.920, as amended by section 5 of this act, for the 3 years preceding July 1, 2017.

2. As soon as practicable after receipt of the information required by subsection 1, the Governor's Workforce Investment Board shall begin complying with the provisions of paragraph (b) of subsection 5 of NRS 232.935, as amended by section 6 of this act, for any demographic group described by subparagraph (3) of paragraph (b) of subsection 5 of NRS 232.935, as amended by section 6 of this act.

~~{Sec. 5.}~~ **Sec. 8.** The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

~~{Sec. 6.}~~ **Sec. 9. 1. This [act becomes] section and sections 1 to 6, inclusive, 7 and 8 of this act become effective [on] :**

(a) Upon passage and approval for the purpose of adopting any regulations or performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On July 1, 2017, for all other purposes.

2. Section 6.5 of this act becomes effective on July 1, 2017, if and only if Senate Bill No. 516 of this session is enacted by the Legislature and approved by the Governor.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 359.

Bill read second time.

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

Amendment No. 531.

SUMMARY—Exempts certain ~~persons who~~ **entities that** enter into contracts or agreements with the State of Nevada or a political corporation or subdivision of the State from certain provisions relating to contractors. (BDR 54-643)

AN ACT relating to contractors; exempting certain ~~persons who~~ **entities that** enter into contracts or agreements with the State or a political corporation or subdivision of this State from certain provisions relating to contractors; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that chapter 624 of NRS, which provides for the licensing and regulation of contractors, does not apply to work performed by an authorized representative of the State of Nevada or an incorporated city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this State. (NRS 624.031) This bill expands this exemption to include a ~~person who~~ **nonprofit entity which: (1) enters into a contract with the State of Nevada, or any such political corporation or subdivision of this State, to ~~perform work to maintain or~~ facilitate the repair ~~property and who directs~~ or maintenance of properties; (2) facilitates work to be performed on such a property by a licensed contractor ~~;~~ and (3) is a party with the owner of such a property and a licensed contractor to a contract or agreement for the work on the property.**

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

Section 1. NRS 624.031 is hereby amended to read as follows:

624.031 The provisions of this chapter do not apply to:

1. Work performed exclusively by an authorized representative of the United States Government, the State of Nevada, or an incorporated city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this State.

2. ~~Any person who enters~~ **entity that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), which:**

(a) Enters into a contract or other agreement with the State of Nevada, or an incorporated city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this State, to ~~perform work to~~ facilitate the repair or ~~maintain property,~~ maintenance of properties, including, without limitation, weatherization and energy efficiency services ~~and who directs~~;

(b) Facilitates work to be performed on such a property by a person licensed pursuant to this chapter ~~;~~ and

(c) Is a party with the owner of such a property and a person licensed pursuant to this chapter to a contract or agreement for the work on the property.

3. An officer of a court when acting within the scope of his or her office.

~~{3-}~~ 4. Work performed exclusively by a public utility operating pursuant to the regulations of the Public Utilities Commission of Nevada on construction, maintenance and development work incidental to its business.

~~{4-}~~ 5. An owner of property who is building or improving a residential structure on the property for his or her own occupancy and not intended for sale or lease. The sale or lease, or the offering for sale or lease, of the newly built structure within 1 year after its completion creates a rebuttable presumption for the purposes of this section that the building of the structure was performed with the intent to sell or lease that structure. An owner of property who requests an exemption pursuant to this subsection must apply to the Board for the exemption. The Board shall adopt regulations setting forth the requirements for granting the exemption.

~~{5-}~~ 6. Any work to repair or maintain property the value of which is less than \$1,000, including labor and materials, unless:

(a) A building permit is required to perform the work;

(b) The work is of a type performed by a plumbing, electrical, refrigeration, heating or air-conditioning contractor;

(c) The work is of a type performed by a contractor licensed in a classification prescribed by the Board that significantly affects the health, safety and welfare of members of the general public;

(d) The work is performed as a part of a larger project:

(1) The value of which is \$500 or more; or

(2) For which contracts of less than \$500 have been awarded to evade the provisions of this chapter; or

(e) The work is performed by a person who is licensed pursuant to this chapter or by an employee of that person.

~~{6-}~~ 7. The sale or installation of any finished product, material or article of merchandise which is not fabricated into and does not become a permanent fixed part of the structure.

~~{7-}~~ 8. The construction, alteration, improvement or repair of personal property.

~~{8-}~~ 9. The construction, alteration, improvement or repair financed in whole or in part by the Federal Government and conducted within the limits and boundaries of a site or reservation, the title of which rests in the Federal Government.

~~{9-}~~ 10. An owner of property, the primary use of which is as an agricultural or farming enterprise, building or improving a structure on the property for his or her use or occupancy and not intended for sale or lease.

~~{10-}~~ 11. Construction oversight services provided to a long-term recovery group by a qualified person within a particular geographic area that is described in a proclamation of a state of emergency or declaration of

disaster by the State or Federal Government, including, without limitation, pursuant to NRS 414.070. A long-term recovery group may reimburse such reasonable expenses as the qualified person incurs in providing construction oversight services to that group. Except as otherwise provided in this subsection, nothing in this subsection authorizes a person who is not a licensed contractor to perform the acts described in paragraphs (a) and (b) of subsection 1 of NRS 624.700. As used in this subsection:

(a) “Construction oversight services” means the coordination and oversight of labor by volunteers.

(b) “Long-term recovery group” means a formal group of volunteers coordinating response and recovery efforts related to a state of emergency or disaster that is proclaimed or declared by the State or Federal Government.

(c) “Qualified person” means a person who possesses the abilities, education, experience, knowledge, skills and training that a long-term recovery group has identified as being necessary to provide construction oversight services for a project to be performed by that group.

~~11.1~~ **12.** A person licensed as a real estate broker, real estate broker-salesperson or real estate salesperson pursuant to chapter 645 of NRS who, acting within the scope of the license or a permit to engage in property management issued pursuant to NRS 645.6052, assists a client in scheduling work to repair or maintain residential property pursuant to a written brokerage agreement or a property management agreement. Such assistance includes, without limitation, assisting a client in the hiring of any number of licensed contractors to perform the work. Nothing in this subsection authorizes the performance of any work for which a license is required pursuant to this chapter by a person who is not licensed pursuant to this chapter or the payment of any additional compensation to a person licensed as a real estate broker, real estate broker-salesperson or real estate salesperson for assisting a client in scheduling the work. The provisions of this subsection apply only if a building permit is not required to perform the work and if the value of the work does not exceed \$10,000 per residential property during the fixed term of the written brokerage agreement, if the assistance is provided pursuant to such an agreement, or during a period not to exceed 6 months if the assistance is provided pursuant to a property management agreement. As used in this subsection:

(a) “Brokerage agreement” has the meaning ascribed to it in NRS 645.005.

(b) “Property management agreement” has the meaning ascribed to it in NRS 645.0192.

(c) “Real estate broker” has the meaning ascribed to it in NRS 645.030.

(d) “Real estate broker-salesperson” has the meaning ascribed to it in NRS 645.035.

(e) “Real estate salesperson” has the meaning ascribed to it in NRS 645.040.

(f) “Residential property” means:

(1) Improved real estate that consists of not more than four residential units; or

(2) A single-family residential unit, including a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.

Sec. 2. NRS 645.6051 is hereby amended to read as follows:

645.6051 1. A person licensed pursuant to this chapter as a real estate broker, real estate broker-salesperson or real estate salesperson shall maintain a record of all work performed on a residential property that the person assists a client in scheduling pursuant to subsection ~~111~~ 12 of NRS 624.031.

2. The record required by subsection 1 must include, without limitation:

(a) The name of any person licensed pursuant to chapter 624 of NRS who performs such work;

(b) The date on which the work was performed;

(c) A copy of any written contract to perform the work; and

(d) A copy of any invoice prepared in connection with the work.

3. As used in this section, "residential property" has the meaning ascribed to it in NRS 624.031.

Sec. 3. This act becomes effective on July 1, 2017.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assemblywoman Benitez-Thompson moved that the Assembly recess until 7:30 p.m.

Motion carried.

Assembly in recess at 5:16 p.m.

ASSEMBLY IN SESSION

At 8:23 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 194, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Commerce and Labor, to which was referred Assembly Bill No. 211, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

IRENE BUSTAMANTE ADAMS, *Chair*

Mr. Speaker:

Your Committee on Corrections, Parole, and Probation, to which was referred Assembly 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.

JAMES OHRENSCHALL, *Chair*

Mr. Speaker:

Your Committee on Education, to which was referred Assembly Bill No. 7, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TYRONE THOMPSON, *Chair*

Mr. Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 5, 80, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was referred Assembly Bill No. 379, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which were referred Assembly Bills Nos. 384, 390, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was referred Assembly Bill No. 399, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

EDGAR FLORES, *Chair*

Mr. Speaker:

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bills Nos. 21, 104, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 45, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

OLIVIA DIAZ, *Chair*

Mr. Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 34, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

HEIDI SWANK, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

April 24, 2017

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 362.

CINDY JONES
Fiscal Analysis Division

April 24, 2017

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bills Nos. 341 and 467.

MARK KRMPOTIC
Fiscal Analysis Division

WAIVER OF JOINT STANDING RULES

A Waiver requested by Speaker Frierson.

For: Assembly Bill No. 52, 181, and 276.

To Waive:

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

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

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

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

Has been granted effective: April 24, 2017.

SENATOR AARON D. FORD

Senate Majority Leader

ASSEMBLYMAN JASON FRIERSON

Speaker of the Assembly

A Waiver requested by Senator Ford.

For: Senate Bill No. 394.

To Waive:

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

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

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

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

Has been granted effective: April 24, 2017.

SENATOR AARON D. FORD

Senate Majority Leader

ASSEMBLYMAN JASON FRIERSON

Speaker of the Assembly

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 360 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bills Nos. 5, 7, 21, 34, 45, 80, 104, 194, 211, 379, 384, 390, 399, and 421 just reported out of committee, be placed on the Second Reading File.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 328 be taken from its position on the Second Reading File and placed at the top of the Second Reading File.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 372 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 328.

Bill read second time.

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

Amendment No. 536.

AN ACT relating to professions; establishing limitations on the employment or retention of attorneys by certain regulatory bodies; requiring attorneys who contract with certain regulatory bodies to act as legal counsel for the regulatory body to carry professional liability insurance that satisfies certain criteria; requiring the Department of Administration to adopt regulations relating to the financial operation and administration of certain regulatory bodies; revising the qualifications for the executive director or executive secretary of certain regulatory bodies; revising the disciplinary process for certain regulatory bodies which administer occupational licensing; providing certain immunity for independent contractors who act as legal counsel for certain regulatory bodies; revising requirements for certain regulatory bodies of this State to prepare a balance sheet or hire a public accountant or accounting firm to conduct an audit of the body for a fiscal year; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally imposes certain requirements on regulatory bodies that regulate professions in this State. (Chapter 622 of NRS) **Section 2** of this bill prohibits an attorney from being employed as legal counsel by more than one regulatory body. **Section 2** further requires an attorney who contracts with a regulatory body to act as legal counsel as an independent contractor to carry a policy of professional liability insurance that names the State as an additional insured in the insurance policy. **Section 30** of this bill extends the sovereign immunity of the State to an attorney who contracts with a regulatory body to act as legal counsel. **Section 4** of this bill prohibits a person from being employed as an executive director or executive secretary by more than one regulatory body and requires a person employed by a regulatory body as an executive director or executive secretary to be a resident of this State. **Section 3** of this bill requires the Department of Administration to adopt regulations that establish standards for the financial operation and administration of regulatory bodies. ~~[The regulations adopted pursuant to section 3 must require each regulatory body to provide for an annual audit of the accounts and records of the regulatory body.]~~

Existing law requires regulatory bodies to comply with certain administrative procedures governing the disciplinary process for licensees. (Chapter 622A of NRS) Existing law also provides an exemption for certain regulatory bodies from having to comply with the uniform disciplinary process. (NRS 622A.120) **Section 8** of this bill removes the exemption for regulatory bodies that issue professional licenses and are not under the direct supervision of a department of the Executive Branch of State Government. **Section 6** of this bill ~~[requires the Attorney General or]~~ **prohibits** a deputy attorney general ~~[to prosecute any]~~ **from acting as legal counsel for a regulatory body in a contested case if he or she prosecuted the contested case** before ~~[a] the regulatory body~~ **before** ~~[, unless the Attorney General and the deputies of the Attorney General are either disqualified from serving as~~

~~prosecutor or lack the necessary expertise to prosecute a specific contested case.] Section 7 of this bill prohibits an attorney who is employed or retained as legal counsel to a regulatory body from prosecuting a contested case before the regulatory body at any time while employed or retained by the regulatory body. ~~[Section 7 further provides that this prohibition is in effect until all contested cases that were before the regulatory body while the attorney was employed by the regulatory body have reached a final disposition.]~~ Section 10 of this bill provides immunity from civil liability for persons who contract with regulatory bodies as independent contractors to act as legal counsel for a regulatory body and who participate in the disciplinary process of a regulatory body.~~

Existing law, with certain exceptions, requires certain regulatory bodies of this State which: (1) receive less than \$75,000 in revenue during a fiscal year to prepare a balance sheet for that fiscal year; or (2) receive \$75,000 or more in revenue during any fiscal year to hire a public accountant or accounting firm to conduct an audit of the regulatory body's fiscal records for that fiscal year. Upon completion of the balance sheet or audit, existing law requires the regulatory body to file the balance sheet or a report of the audit with the Legislative Auditor and the Chief of the Budget Division of the Office of Finance on or before December 1 following the end of that fiscal year. (NRS 218G.400) Section 30.5 of this bill increases from \$75,000 to \$200,000 the amount of revenue received in any fiscal year for the purpose of determining whether a regulatory body is required to prepare a balance sheet or hire a public accountant or accounting firm to conduct the audit and subsequently file a report of the audit with the Legislative Auditor and the Chief of the Budget Division.

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

Section 1. Chapter 622 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *Each regulatory body shall contribute to the Fund for Insurance Premiums as required by NRS 331.187.*

2. *If a regulatory body employs an attorney as legal counsel, the attorney may not be employed as legal counsel of another regulatory body.*

3. *If a regulatory body retains an attorney to act as legal counsel for the regulatory body as an independent contractor, the attorney:*

(a) May contract with more than one regulatory body to act as legal counsel as an independent contractor.

(b) Shall obtain or otherwise carry, before acting as legal counsel for a regulatory body, a policy of professional liability insurance which:

(1) Insures the attorney against any liability arising from acting as legal counsel for the regulatory body; and

(2) Names this State as an additional insured in the insurance policy.

Sec. 3. ~~{1.}~~ *The Department of Administration shall adopt regulations establishing standards for the financial operation and administration of regulatory bodies. The regulations must include, without limitation, provisions which ~~fr~~*

~~— (a) Require each regulatory body to provide for an annual audit of the accounts and records of the regulatory body conducted by an independent certified public accountant; and~~

~~— (b) Establish~~ *establish* the minimum level of professional liability insurance that an attorney who contracts with a regulatory body to act as legal counsel must carry pursuant to subsection ~~{2.}~~ 3 of section 2 of this act.

~~{ 2. A regulatory body which is subject to the requirement to provide for an annual audit pursuant to paragraph (b) of subsection 1 and which has annual total expenditures of \$200,000 or less in a fiscal year may petition the Department of Administration to pay for the costs of such audit. }~~

Sec. 4. NRS 622.220 is hereby amended to read as follows:

622.220 If a regulatory body employs a person as an executive director or executive secretary or in a position with powers and duties similar to those of an executive director or executive secretary, the person:

1. Must possess a level of education or experience, or a combination of both, to qualify the person to perform the administrative and managerial tasks required of the position;

2. *Must be a resident of this State;*

3. *Must not be employed by another regulatory body as an executive director or executive secretary or in a position with powers and duties similar to those of an executive director or executive secretary; and*

~~{2.}~~ 4. Must not be the immediate relative of:

(a) A member or employee of the regulatory body; or

(b) A licensee of the regulatory body.

Sec. 5. Chapter 622A of NRS is hereby amended by adding thereto the provisions set forth as sections 6 and 7 of this act.

Sec. 6. ~~{1. Except as otherwise provided in subsection 2, the Attorney General or a deputy attorney general shall prosecute for a regulatory body a contested case that is brought pursuant to this chapter.~~

~~— 2. If the Attorney General and the deputies of the Attorney General are disqualified to serve as prosecutor, or the Attorney General determines that he or she and the deputies of the Attorney General do not have the necessary expertise to prosecute a contested case for the regulatory body, the regulatory body may employ or retain an attorney to prosecute the contested case pursuant to this chapter.~~

~~— 3. If [the Attorney General or] a deputy attorney general prosecutes a contested case for a regulatory body, [the Attorney General or the deputy attorney general who prosecuted the contested case] he or she may not also act as legal counsel for the regulatory body when the regulatory body considers or makes decisions concerning the contested case.~~

Sec. 7. ~~1.1~~ *If a regulatory body employs or retains an attorney to serve as legal counsel for and advise the regulatory body on any and all matters, and the attorney prosecutes a contested case for the regulatory body, the attorney ~~(shall)~~ may not ~~prosecute a contested case pursuant to this chapter before~~ also act as legal counsel for the regulatory body ~~at any time while employed or retained by~~ when the regulatory body ~~f-~~*

~~2. The prohibition set forth in subsection 1 remains in effect until the attorney is no longer employed or retained as legal counsel for the regulatory body and all~~ *considers or makes a decision regarding the contested ~~cases prosecuted pursuant to this chapter while the attorney served as legal counsel to the regulatory body have reached a final disposition.~~ case.*

Sec. 8. NRS 622A.120 is hereby amended to read as follows:

622A.120 1. The following regulatory bodies are exempted from the provisions of this chapter:

- ~~(a) State Contractors' Board.~~
- ~~(b) State Board of Professional Engineers and Land Surveyors.~~
- ~~(c) Nevada State Board of Accountancy.~~
- ~~(d) Board of Medical Examiners.~~
- ~~(e) Board of Dental Examiners of Nevada.~~
- ~~(f) State Board of Nursing.~~
- ~~(g) Chiropractic Physicians' Board of Nevada.~~
- ~~(h) Nevada State Board of Optometry.~~
- ~~(i) State Board of Pharmacy.~~
- ~~(j) Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors.~~
- ~~(k) Real Estate Commission, Real Estate Administrator and Real Estate Division of the Department of Business and Industry.~~
- ~~(l)~~ *(b) Commission of Appraisers of Real Estate.*
- ~~(m)~~ *(c) Commissioner of Mortgage Lending and Division of Mortgage Lending of the Department of Business and Industry.*
- ~~(n)~~ *(d) Commissioner of Financial Institutions and Division of Financial Institutions of the Department of Business and Industry.*
- ~~(o) Private Investigator's Licensing Board.~~
- ~~(p)~~ *(e) State Board of Health and Division of Public and Behavioral Health of the Department of Health and Human Services.*

2. Any regulatory body which is exempted from the provisions of this chapter pursuant to subsection 1 may elect by regulation to follow the provisions of this chapter or any portion thereof.

Sec. 9. NRS 622A.130 is hereby amended to read as follows:

622A.130 1. The provisions of this chapter must be interpreted so as to effectuate their general purpose to make uniform among the regulatory bodies that are subject to the provisions of this chapter the procedures used to prosecute contested cases and take administrative action against a person who violates any law or regulation governing occupational licensing.

2. To the extent possible, the provisions of this chapter are intended to supplement other statutory provisions governing administrative procedure, occupational licensing and regulatory bodies, and such other provisions must be given effect to the extent that those provisions do not conflict with the provisions of this chapter. If there is a conflict between such other provisions and the provisions of this chapter, the provisions of this chapter control.

3. ***The provisions of this chapter do not prohibit a regulatory body from adopting procedures used to prosecute contested cases that:***

(a) ***Impose stricter requirements on the regulatory body relating to such prosecution; or***

(b) ***Provide greater due process protections for licensees , ~~for~~***

~~***(c) Provide greater protections for the public.***~~

↪ so long as such procedures do not hinder the duty of the regulatory body to protect the public.

Sec. 10. NRS 622A.150 is hereby amended to read as follows:

622A.150 1. A person who provides a governmental entity, officer or employee with any information relating to a contested case is immune from any civil liability for providing that information if the person acted in good faith and without malicious intent.

2. A governmental entity, officer , ~~for~~ employee ***or independent contractor who contracts to act as legal counsel to a regulatory body in accordance with the provisions of subsection 3 of section 2 of this act*** is immune from any civil liability for:

(a) Any decision or action taken in good faith and without malicious intent in carrying out the provisions of this chapter or any law or regulation governing occupational licensing; or

(b) Communicating or cooperating with or providing any documents or other information to any other governmental entity, officer or employee conducting an investigation, disciplinary proceeding or civil or criminal prosecution.

Sec. 11. NRS 623.133 is hereby amended to read as follows:

623.133 1. The Attorney General is hereby designated as the legal adviser of the Board.

2. ~~Nothing~~ ***Subject to the provisions of sections 6 and 7 of this act, nothing*** in this section shall be construed so as to prevent the Board from employing legal counsel as provided elsewhere in this chapter.

Sec. 12. NRS 623A.160 is hereby amended to read as follows:

623A.160 The Attorney General is the legal adviser of the Board, but the Board may employ legal counsel ~~that~~ ***subject to the provisions of sections 6 and 7 of this act.***

Sec. 13. NRS 628.410 is hereby amended to read as follows:

628.410 1. The Board may initiate proceedings under this chapter:

(a) On its own motion;

(b) On the complaint of any person; or

(c) On a complaint made by a board of accountancy of another state.

2. A written notice of the hearing must be served on the respondent not less than 30 days before the date of the hearing, either personally or by mailing a copy thereof by registered or certified mail to the address of the respondent last known to the Board.

3. If, after having been served with the notice of hearing, the respondent fails to appear at the hearing and defend, the Board may proceed to hear evidence against the respondent and may enter such order as is justified by the evidence. The order is final unless the respondent petitions for a review thereof. Within 30 days after the date of any order, upon a showing of good cause for failing to appear and defend, the Board may reopen the proceedings and may permit the respondent to submit evidence in his or her behalf.

4. At any hearing, a respondent may be represented before the Board by counsel or by a certified public accountant or registered public accountant of this State in good standing. The respondent is entitled, on application to the Board, to the issuance of subpoenas to compel the attendance of witnesses on his or her behalf.

5. The Board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents. In case of disobedience to a subpoena, the Board may invoke the aid of any court of this State in requiring the attendance and testimony of witnesses and the production of documentary evidence.

6. A hearing may be conducted by:

(a) The Board, less any member or members who have been disqualified, without the appointment of persons to hear the case in place of the disqualified members; or

(b) A member of the Board appointed by the Board as a hearing officer, with the remaining members of the Board, less any member or members who have been disqualified, to review the record, make a final decision and issue the order,

➡ unless the Board, after disqualifications, consists of less than three members to hear or review the case, in which circumstance the Governor must appoint one or more qualified persons so that the panel which hears or reviews the case consists of at least three persons.

7. A stenographic record of the hearing must be kept and a transcript thereof filed with the Board.

8. At all hearings, the Attorney General or a deputy designated by the Attorney General or such other legal counsel as may be employed shall appear and represent the Board ~~and~~ **subject to the provisions of sections 6 and 7 of this act.**

9. The decision of the Board must be by majority vote thereof.

Sec. 14. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence , **except that evidence must be taken and considered in the hearing pursuant to NRS 233B.123,** and a

witness must not be barred from testifying solely because the witness was or is incompetent.

2. A finding of the Board must be supported by a preponderance of the evidence.

3. Proof of actual injury need not be established.

4. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine, perfusion or respiratory care is conclusive evidence of its occurrence.

Sec. 15. NRS 630.352 is hereby amended to read as follows:

630.352 1. Any member of the Board, other than a member of an investigative committee of the Board who participated in any determination regarding a formal complaint in the matter or any member serving on a panel of the Board at the hearing of the matter, may participate in an adjudication to obtain the final order of the Board. At the adjudication, the Board shall consider any findings of fact and conclusions of law submitted after the hearing and shall allow:

(a) Counsel for the Board to present a disciplinary recommendation and argument in support of the disciplinary recommendation ~~that~~ **subject to the provisions of sections 6 and 7 of this act;**

(b) The respondent or counsel of the respondent to present a disciplinary recommendation and argument in support of the disciplinary recommendation; and

(c) The complainant in the matter to make a statement to the Board regarding the disciplinary recommendations by the parties and to address the effect of the respondent's conduct upon the complainant or the patient involved, if other than the complainant.

↪ The Board may limit the time within which the parties and the complainant may make their arguments and statements.

2. At the conclusion of the presentations of the parties and the complainant, the Board shall deliberate and may by a majority vote impose discipline based upon the findings of fact and conclusions of law and the presentations of the parties and the complainant.

3. If, in the findings of fact and conclusions of law, the Board, hearing officer or panel of the Board determines that no violation has occurred, the Board shall dismiss the charges, in writing, and notify the respondent that the charges have been dismissed.

4. Except as otherwise provided in subsection 5, if the Board finds that a violation has occurred, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period on any of the conditions specified in the order;

(b) Administer a written public reprimand to the person;

(c) Limit the person's practice or exclude one or more specified branches of medicine from his or her practice;

(d) Suspend the person's license for a specified period or until further order of the Board;

(e) Revoke the person's license;

(f) Require the person to participate in a program to correct alcohol or drug dependence or any other impairment;

(g) Require supervision of the person's practice;

(h) Impose a fine not to exceed \$5,000 for each violation;

(i) Require the person to perform community service without compensation;

(j) Require the person to take a physical or mental examination or an examination testing his or her competence; and

(k) Require the person to fulfill certain training or educational requirements.

5. If the Board finds that the respondent has violated the provisions of NRS 439B.425, the Board shall suspend the respondent's license for a specified period or until further order of the Board.

6. The Board shall not administer a private reprimand if the Board finds that a violation has occurred.

7. Within 30 days after the hearing before the Board, the Board shall issue a final order, certified by the Secretary-Treasurer of the Board, that imposes discipline and incorporates the findings of fact and conclusions of law obtained from the hearing. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 16. NRS 631.190 is hereby amended to read as follows:

631.190 In addition to the powers and duties provided in this chapter, the Board shall:

1. Adopt rules and regulations necessary to carry out the provisions of this chapter.

2. Appoint such committees, examiners, officers, employees, agents, attorneys, investigators and other professional consultants and define their duties and incur such expense as it may deem proper or necessary to carry out the provisions of this chapter, the expense to be paid as provided in this chapter. ~~[Notwithstanding the provisions of this subsection, the Attorney General in his or her sole discretion may, but is not required to, serve as legal counsel for the Board at any time and in any and all matters.]~~

3. Fix the time and place for and conduct examinations for the granting of licenses to practice dentistry and dental hygiene.

4. Examine applicants for licenses to practice dentistry and dental hygiene.

5. Collect and apply fees as provided in this chapter.

6. Keep a register of all dentists and dental hygienists licensed in this State, together with their addresses, license numbers and renewal certificate numbers.

7. Have and use a common seal.

8. Keep such records as may be necessary to report the acts and proceedings of the Board. Except as otherwise provided in NRS 631.368, the records must be open to public inspection.

9. Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

10. Have discretion to examine work authorizations in dental offices or dental laboratories.

Sec. 17. NRS 636.090 is hereby amended to read as follows:

636.090 1. The Board may employ:

(a) Agents and inspectors to secure evidence of, and report on, violations of this chapter.

(b) Attorneys, investigators and other professional consultants and clerical personnel necessary to administer this chapter.

2. The Attorney General may act as counsel for the Board ~~and~~ **subject to the provisions of section 6 of this act.**

Sec. 18. NRS 636.330 is hereby amended to read as follows:

636.330 If the Board makes a decision which is adverse to the licensee, the licensee may apply for a rehearing within ~~140~~ **15** days after the Board announces its decision. The Board shall grant or deny the application within a reasonable time thereafter.

Sec. 19. NRS 636.340 is hereby amended to read as follows:

636.340 Unless a license is suspended pursuant to NRS 425.540, on or after the expiration of ~~16 months~~ **1 year** following the revocation or suspension of a license, an application may be made for the restoration of the license and the Board may, in the exercise of reasonable discretion, restore the license absolutely or upon specified conditions.

Sec. 19.5. NRS 639.070 is hereby amended to read as follows:

639.070 1. The Board may:

(a) Adopt such regulations, not inconsistent with the laws of this State, as are necessary for the protection of the public, appertaining to the practice of pharmacy and the lawful performance of its duties.

(b) Adopt regulations requiring that prices charged by retail pharmacies for drugs and medicines which are obtained by prescription be posted in the pharmacies and be given on the telephone to persons requesting such information.

(c) Adopt regulations, not inconsistent with the laws of this State, authorizing the Executive Secretary of the Board to issue certificates, licenses and permits required by this chapter and chapters 453 and 454 of NRS.

(d) Adopt regulations governing the dispensing of poisons, drugs, chemicals and medicines.

(e) Regulate the practice of pharmacy.

(f) Regulate the sale and dispensing of poisons, drugs, chemicals and medicines.

(g) Regulate the means of recordkeeping and storage, handling, sanitation and security of drugs, poisons, medicines, chemicals and devices, including, but not limited to, requirements relating to:

(1) Pharmacies, institutional pharmacies and pharmacies in correctional institutions;

(2) Drugs stored in hospitals; and

(3) Drugs stored for the purpose of wholesale distribution.

(h) Examine and register, upon application, pharmacists and other persons who dispense or distribute medications whom it deems qualified.

(i) Charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides, other than those specifically set forth in this chapter.

(j) Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

(k) Employ ~~an attorney,~~ attorneys, inspectors, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.

(l) Enforce the provisions of NRS 453.011 to 453.552, inclusive, and enforce the provisions of this chapter and chapter 454 of NRS.

(m) Adopt regulations concerning the information required to be submitted in connection with an application for any license, certificate or permit required by this chapter or chapter 453 or 454 of NRS.

(n) Adopt regulations concerning the education, experience and background of a person who is employed by the holder of a license or permit issued pursuant to this chapter and who has access to drugs and devices.

(o) Adopt regulations concerning the use of computerized mechanical equipment for the filling of prescriptions.

(p) Participate in and expend money for programs that enhance the practice of pharmacy.

2. The Board shall, to the extent feasible, communicate or cooperate with or provide any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

3. This section does not authorize the Board to prohibit open-market competition in the advertising and sale of prescription drugs and pharmaceutical services.

Sec. 20. NRS 639.252 is hereby amended to read as follows:

639.252 1. If the respondent wishes to contest or appeal the decision of the Board, the order or any part thereof, the respondent may, not later than ~~10~~ **15** days after the time the order becomes effective, apply in writing to the Board for a rehearing. The application must set forth with particularity the part or parts of the decision or order to which the respondent objects and the basis of the objection.

2. The Executive Secretary of the Board shall, within 10 days after receipt of a written application for rehearing, notify the respondent and the

respondent's attorney of record in writing, by registered or certified mail, of his or her action, either granting or denying the application. If the application is granted, the notice must contain the date, time and place of the rehearing. The rehearing must be held at the next regularly scheduled meeting of the Board. Granting of the application by the Executive Secretary does not serve as an automatic stay of execution of the order pending conclusion of the rehearing.

Sec. 21. NRS 640C.190 is hereby amended to read as follows:

640C.190 ***Subject to the provisions of sections 6 and 7 of this act:***

1. The Attorney General and his or her deputies are hereby designated as the attorneys for the Board.

2. The provisions of this section do not prevent the Board from employing or retaining other attorneys as it may deem necessary to carry out the provisions of this chapter.

Sec. 22. NRS 641A.370 is hereby amended to read as follows:

641A.370 If the Board revokes or suspends a license for a fixed time, the licensee may apply for a rehearing within ~~140~~ 15 days after the date of the suspension or revocation and the Board may grant the application upon the terms and conditions it deems appropriate within 30 days after the application.

Sec. 23. NRS 645A.193 is hereby amended to read as follows:

645A.193 1. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to any of the provisions of this chapter.

2. ***Notwithstanding the provision of paragraph (c) of subsection 1 of NRS 622A.120, representation of the Division pursuant to subsection 1 shall be conducted in a manner consistent with the provisions of sections 6 and 7 of this act.***

Sec. 24. NRS 645A.235 is hereby amended to read as follows:

645A.235 1. A person who engages in an activity for which a license as an escrow agent or escrow agency is required pursuant to this chapter, without regard to whether such a person is licensed pursuant to this chapter, may be required by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of this chapter or any regulation adopted pursuant thereto.

2. Notwithstanding the provision of paragraph ~~(m)~~ (c) of subsection 1 of NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a manner consistent with the provisions of chapter 622A of NRS.

Sec. 25. NRS 645B.955 is hereby amended to read as follows:

645B.955 1. A person who engages in an activity for which a license as a mortgage broker or mortgage agent is required pursuant to this chapter, without regard to whether such a person is licensed pursuant to this chapter, may be required by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of this chapter or any regulation adopted pursuant thereto.

2. Notwithstanding the provision of paragraph ~~[(m)]~~ (c) of subsection 1 of NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a manner consistent with the provisions of chapter 622A of NRS.

Sec. 26. NRS 645C.250 is hereby amended to read as follows:

645C.250 1. The Attorney General shall render to the Division opinions upon questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, submitted to the Attorney General by the Division or the Commission.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to any of the provisions of this chapter ~~[-]~~ **subject to the provisions of sections 6 and 7 of this act.**

Sec. 27. NRS 645D.150 is hereby amended to read as follows:

645D.150 1. The Attorney General shall render to the Division opinions upon questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, submitted to the Attorney General by the Division.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to any of the provisions of this chapter ~~[-]~~ **subject to the provisions of sections 6 and 7 of this act.**

Sec. 28. NRS 645E.955 is hereby amended to read as follows:

645E.955 1. A person who engages in an activity for which a license as a mortgage banker is required pursuant to this chapter, without regard to whether such a person is licensed pursuant to this chapter, may be required by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of this chapter or any regulation adopted pursuant thereto.

2. Notwithstanding the provision of paragraph ~~[(m)]~~ (c) of subsection 1 of NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a manner consistent with the provisions of chapter 622A of NRS.

Sec. 29. NRS 645H.370 is hereby amended to read as follows:

645H.370 1. The Attorney General shall render to the Division opinions upon questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, submitted to the Attorney General by the Division.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to any of the provisions of this chapter ~~[-]~~ **subject to the provisions of sections 6 and 7 of this act.**

Sec. 30. NRS 41.0307 is hereby amended to read as follows:

41.0307 As used in NRS 41.0305 to 41.039, inclusive:

1. "Employee" includes an employee of a:

(a) Part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) Charter school.

(c) University school for profoundly gifted pupils described in chapter 388C of NRS.

2. “Employment” includes any services performed by an immune contractor.

3. “Immune contractor” means any natural person, professional corporation or professional association which:

(a) Is an independent contractor with the State pursuant to NRS 333.700; and

(b) Contracts to provide medical services for the Department of Corrections ~~†~~ **or contracts to act as legal counsel to a regulatory body in accordance with the provisions of subsection ~~†2~~ 3 of section 2 of this act.**

↪ As used in this subsection, “professional corporation” and “professional association” have the meanings ascribed to them in NRS 89.020.

4. “Public officer” or “officer” includes:

(a) A member of a part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) A public defender and any deputy or assistant attorney of a public defender or an attorney appointed to defend a person for a limited duration with limited jurisdiction.

(c) A district attorney and any deputy or assistant district attorney or an attorney appointed to prosecute a person for a limited duration with limited jurisdiction.

Sec. 30.5. NRS 218G.400 is hereby amended to read as follows:

218G.400 1. Except as otherwise provided in subsection 2, each board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS shall:

(a) If the revenue of the board from all sources is less than ~~[\$75,000]~~ **\$200,000** for any fiscal year and, if the board is a regulatory body pursuant to NRS 622.060, the board has submitted to the Director of the Legislative Counsel Bureau for each quarter of that fiscal year the information required by NRS 622.100, prepare a balance sheet for that fiscal year on the form provided by the Legislative Auditor and file the balance sheet with the Legislative Auditor and the Chief of the Budget Division of the Office of Finance on or before December 1 following the end of that fiscal year. The Legislative Auditor shall prepare and make available a form that must be used by a board to prepare such a balance sheet.

(b) If the revenue of the board from all sources is ~~[\$75,000]~~ **\$200,000** or more for any fiscal year, or if the board is a regulatory body pursuant to NRS 622.060 and has failed to submit to the Director of the Legislative Counsel Bureau for each quarter of that fiscal year the information required by NRS 622.100, engage the services of a certified public accountant or public accountant, or firm of either of such accountants, to audit all its fiscal records for that fiscal year and file a report of the audit with the Legislative Auditor

and the Chief of the Budget Division of the Office of Finance on or before December 1 following the end of that fiscal year.

2. In lieu of preparing a balance sheet or having an audit conducted for a single fiscal year, a board may engage the services of a certified public accountant or public accountant, or firm of either of such accountants, to audit all its fiscal records for a period covering two successive fiscal years. If such an audit is conducted, the board shall file the report of the audit with the Legislative Auditor and the Chief of the Budget Division of the Office of Finance on or before December 1 following the end of the second fiscal year.

3. The cost of each audit conducted pursuant to subsection 1 or 2 must be paid by the board that is audited. Each such audit must be conducted in accordance with generally accepted auditing standards, and all financial statements must be prepared in accordance with generally accepted principles of accounting for special revenue funds.

4. Whether or not a board is required to have its fiscal records audited pursuant to subsection 1 or 2, the Legislative Auditor shall audit the fiscal records of any such board whenever directed to do so by the Legislative Commission. When the Legislative Commission directs such an audit, the Legislative Commission shall also determine who is to pay the cost of the audit.

5. A person who is a state officer or employee of a board is guilty of nonfeasance if the person:

(a) Is responsible for preparing a balance sheet or having an audit conducted pursuant to this section or is responsible for preparing or maintaining the fiscal records that are necessary to prepare a balance sheet or have an audit conducted pursuant to this section; and

(b) Knowingly fails to prepare the balance sheet or have the audit conducted pursuant to this section or knowingly fails to prepare or maintain the fiscal records that are necessary to prepare a balance sheet or have an audit conducted pursuant to this section.

6. In addition to any other remedy or penalty, a person who is guilty of nonfeasance pursuant to this section forfeits the person's state office or employment and may not be appointed to a state office or position of state employment for a period of 2 years following the forfeiture. The provisions of this subsection do not apply to a state officer who may be removed from office only by impeachment pursuant to Article 7 of the Nevada Constitution.

Sec. 31. This act becomes effective on July 1, 2017.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 361.

Bill read second time.

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

Amendment No. 543.

AN ACT relating to business practices; making the charging of certain fees a deceptive trade practice; revising provisions governing deceptive trade practices relating to gift certificates ~~or~~ **or gift cards**; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines various activities involving businesses and occupations that constitute deceptive trade practices. (NRS 598.0915-598.0925) If a person engages in a deceptive trade practice, the person may be subject to restraint by injunction and the imposition of civil and criminal penalties. (NRS 598.0979, 598.0985, 598.0999)

Section ~~1.7~~ 1.7 of this bill makes it a deceptive trade practice for a person, in the course of his or her business or occupation, to charge a fee to ~~[-(4)]~~ update or change records relating to a person, including billing or credit information ~~[-(2) speak]~~, **including, in circumstances in which the person requesting the update or change chooses to communicate about the update or change by speaking** with a natural person by telephone in lieu of using an automated or computerized telephone system.

Existing law makes it a deceptive trade practice for a person, in the course of his or her business or occupation, to issue a gift certificate that expires on a certain date unless the expiration date of the gift certificate or a telephone number for obtaining balance or expiration information is printed on the front or back of the gift certificate in at least 10-point font. (NRS 598.0921) ~~[Section 2 of this bill changes the font size and style for the required information to 12 point bold font and requires its placement only on the front of the gift certificate and on any leaflet, packaging or other written material concerning the gift certificate which is provided to the buyer of the gift certificate.]~~ **Section 1 of this bill makes it a deceptive trade practice to offer a free gift certificate or gift card as part of a promotion or incentive to potential customers if: (1) the offer expires less than 90 days after the date on which the offer is made; or (2) the person does not print the expiration date of the offer plainly and conspicuously on the front of any written materials concerning the offer provided to the recipient of the offer.**

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

Section 1. Chapter 598 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not, in the course of the person's business or occupation, offer to provide, free of charge, a gift certificate or gift card as part of a promotion or incentive to potential customers if the offer expires less than 90 days after the date on which the offer is made.

2. If a person, in the course of the person's business or occupation, offers to provide, free of charge, a gift certificate or gift card as part of a promotion or incentive to potential customers, the person shall ensure that the expiration date of the offer is printed:

(a) Plainly and conspicuously in at least 12-point bold font on the front of any brochure, leaflet, pamphlet, packaging, advertisement or other written material provided to the recipient of the offer which contains information concerning the offer; and

(b) In such a manner that the print is readily visible to the recipient of the offer before the recipient becomes a customer.

3. A person engages in a "deceptive trade practice" if the person violates subsection 1 or 2.

Sec. 1.3. NRS 598.0903 is hereby amended to read as follows:

598.0903 As used in NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act**, unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947, inclusive, **and section 1 of this act** have the meanings ascribed to them in those sections.

~~[Section 1.]~~ **Sec. 1.7.** NRS 598.092 is hereby amended to read as follows:

598.092 A person engages in a "deceptive trade practice" when in the course of his or her business or occupation he or she:

1. Knowingly fails to identify goods for sale or lease as being damaged by water.

2. Solicits by telephone or door to door as a lessor or seller, unless the lessor or seller identifies himself or herself, whom he or she represents and the purpose of his or her call within 30 seconds after beginning the conversation.

3. Knowingly states that services, replacement parts or repairs are needed when no such services, replacement parts or repairs are actually needed.

4. Fails to make delivery of goods or services for sale or lease within a reasonable time or to make a refund for the goods or services, if he or she allows refunds.

5. Advertises or offers an opportunity for investment and:

(a) Represents that the investment is guaranteed, secured or protected in a manner which he or she knows or has reason to know is false or misleading;

(b) Represents that the investment will earn a rate of return which he or she knows or has reason to know is false or misleading;

(c) Makes any untrue statement of a material fact or omits to state a material fact which is necessary to make another statement, considering the circumstances under which it is made, not misleading;

(d) Fails to maintain adequate records so that an investor may determine how his or her money is invested;

(e) Fails to provide information to an investor after a reasonable request for information concerning his or her investment;

(f) Fails to comply with any law or regulation for the marketing of securities or other investments; or

(g) Represents that he or she is licensed by an agency of the State to sell or offer for sale investments or services for investments if he or she is not so licensed.

6. Charges a fee for advice with respect to investment of money and fails to disclose:

(a) That he or she is selling or offering to lease goods or services and, if he or she is, their identity; or

(b) That he or she is licensed by an agency of any state or of the United States to sell or to offer for sale investments or services for investments or holds any other license related to the service he or she is providing.

7. Notifies any person, by any means, as a part of an advertising plan or scheme, that he or she has won a prize and that as a condition of receiving the prize he or she must purchase or lease goods or services.

8. Knowingly misrepresents the legal rights, obligations or remedies of a party to a transaction.

9. Fails, in a consumer transaction that is rescinded, cancelled or otherwise terminated in accordance with the terms of an agreement, advertisement, representation or provision of law, to promptly restore to a person entitled to it a deposit, down payment or other payment or, in the case of property traded in but not available, the agreed value of the property or fails to cancel within a specified time or an otherwise reasonable time an acquired security interest. This subsection does not apply to a person who is holding a deposit, down payment or other payment on behalf of another if all parties to the transaction have not agreed to the release of the deposit, down payment or other payment.

10. Fails to inform customers, if he or she does not allow refunds or exchanges, that he or she does not allow refunds or exchanges by:

(a) Printing a statement on the face of the lease or sales receipt;

(b) Printing a statement on the face of the price tag; or

(c) Posting in an open and conspicuous place a sign at least 8 by 10 inches in size with boldface letters,

↪ specifying that no refunds or exchanges are allowed.

11. Knowingly and willfully violates NRS 597.7118 or 597.7125.

12. Knowingly takes advantage of another person's inability reasonably to protect his or her own rights or interests in a consumer transaction when such an inability is due to illiteracy, or to a mental or physical infirmity or another similar condition which manifests itself as an incapability to understand the language or terms of any agreement.

13. *Charges a fee to a person to* ~~for~~

~~(a) Change, change or update any record, which relates to that person, including, without limitation, billing or credit information for~~

~~(b) Speak to, which relates to the person requesting the change or update, including, without limitation, in circumstances in which that~~

person chooses to communicate regarding the change or update by speaking to a natural person by telephone in lieu of using an automated or computerized telephone system.

Sec. 2. ~~NRS 598.0921 is hereby amended to read as follows:~~

~~598.0921 1. A person engages in a "deceptive trade practice" if, in the course of his or her business or occupation:~~

~~(a) He or she issues a gift certificate that expires on a certain date, unless either of the following is printed plainly and conspicuously on the front [or back] of the gift certificate **and on any brochure, leaflet, pamphlet, packaging or other written material provided to the buyer of the gift certificate which contains information concerning the gift certificate** in at least 10 point **12 point bold** font and in such a manner that the print is readily visible to the buyer of the gift certificate before the buyer purchases the gift certificate;~~

~~(1) The expiration date of the gift certificate; or~~

~~(2) A toll free telephone number accompanied by a statement setting forth that the buyer or holder of the gift certificate may call the telephone number to obtain the balance of the gift certificate and the expiration date of the gift certificate;~~

~~(b) He or she imposes upon the buyer or holder of a gift certificate a service fee, unless each of the following is printed plainly and conspicuously on the front or back of the gift certificate in at least 10 point font and in such a manner that the print is readily visible to the buyer of the gift certificate before the buyer purchases the gift certificate:~~

~~(1) The amount of the service fee;~~

~~(2) The event or events that will cause the service fee to be imposed;~~

~~(3) The frequency with which the service fee will be imposed; and~~

~~(4) If the service fee will be imposed on the basis of inactivity, the duration of inactivity, which must not be less than 3 continuous years of nonuse, that will cause the service fee to be imposed; or~~

~~(c) Regardless of the notice provided, he or she imposes upon the buyer or holder of a gift certificate:~~

~~(1) A service fee or a combination of service fees that exceed a total of \$1 per month; or~~

~~(2) A service fee that commences or is imposed within the first 12 months after the issuance of the gift certificate.~~

~~2. The provisions of this section do not apply to:~~

~~(a) A gift certificate that is issued as part of an award, loyalty, promotional, rebate, incentive or reward program and for which issuance the issuer does not receive money or any other thing of value;~~

~~(b) A gift certificate that is sold at a reduced price to an employer or nonprofit or charitable organization, if the expiration date of the gift certificate is not more than 30 days after the date of sale; and~~

~~(c) A gift certificate that is issued by an establishment licensed pursuant to the provisions of chapter 463 of NRS.~~

~~2. As used in this section:~~

~~(a) "Gift certificate" means an instrument or a record evidencing a promise by the seller or issuer of the instrument or record to provide goods or services to the holder of the gift certificate for the value shown in, upon or ascribed to the instrument or record and for which the value shown in, upon or ascribed to the instrument or record is decreased in an amount equal to the value of goods or services provided by the issuer or seller to the holder. The term includes, without limitation, a gift card, certificate or similar instrument. The term does not include:~~

~~(1) An instrument or record for prepaid telecommunications or technology services, including, without limitation, a card for prepaid telephone services, a card for prepaid technical support services and an instrument for prepaid Internet service purchased or otherwise distributed to a consumer of such services, including, without limitation, as part of an award, loyalty, promotional or reward program; or~~

~~(2) An instrument or record, by whatever name called, that may be used to obtain goods or services from more than one person or business entity, if the expiration date is printed plainly and conspicuously on the front [or back] of the instrument or record.~~

~~(b) "Issue" means to sell or otherwise provide a gift certificate to any person and includes, without limitation, adding value to an existing gift certificate.~~

~~(c) "Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium, including, without limitation, information stored on a microprocessor chip or magnetic strip, and is retrievable in perceivable form.~~

~~(d) "Service fee" means any charge or fee other than the charge or fee imposed for the issuance of the gift certificate, including, without limitation, a service fee imposed on the basis of inactivity or any other type of charge or fee imposed after the sale of the gift certificate. (Deleted by amendment.)~~

Sec. 2.1. NRS 598.0953 is hereby amended to read as follows:

598.0953 1. Evidence that a person has engaged in a deceptive trade practice is prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.

2. The deceptive trade practices listed in NRS 598.0915 to 598.0925, inclusive, **and section 1 of this act** are in addition to and do not limit the types of unfair trade practices actionable at common law or defined as such in other statutes of this State.

Sec. 2.2. NRS 598.0955 is hereby amended to read as follows:

598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act** do not apply to:

(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency.

(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters or printers engaged in the dissemination of information or

reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character.

(c) Actions or appeals pending on July 1, 1973.

2. The provisions of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act** do not apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name or other trade identification which was used and not abandoned prior to July 1, 1973, if the use was in good faith and is otherwise lawful except for the provisions of NRS 598.0903 to 598.0999, inclusive, ~~and section 1 of this act~~, **and section 1 of this act**.

Sec. 2.3. NRS 598.0963 is hereby amended to read as follows:

598.0963 1. Whenever the Attorney General is requested in writing by the Commissioner or the Director to represent him or her in instituting a legal proceeding against a person who has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person on behalf of the Commissioner or Director.

2. The Attorney General may institute criminal proceedings to enforce the provisions of NRS 598.0903 to 598.0999, inclusive, ~~and section 1 of this act~~. The Attorney General is not required to obtain leave of the court before instituting criminal proceedings pursuant to this subsection.

3. If the Attorney General has reason to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person to obtain a temporary restraining order, a preliminary or permanent injunction, or other appropriate relief.

4. If the Attorney General has cause to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may issue a subpoena to require the testimony of any person or the production of any documents, and may administer an oath or affirmation to any person providing such testimony. The subpoena must be served upon the person in the manner required for service of process in this State or by certified mail with return receipt requested. An employee of the Attorney General may personally serve the subpoena.

Sec. 2.4. NRS 598.0967 is hereby amended to read as follows:

598.0967 1. The Commissioner and the Director, in addition to other powers conferred upon them by NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act**, may issue subpoenas to require the attendance of witnesses or the production of documents, conduct hearings in aid of any investigation or inquiry and prescribe such forms and adopt such regulations as may be necessary to administer the provisions of NRS 598.0903 to 598.0999, inclusive, ~~and section 1 of this act~~. Such regulations may include, without limitation, provisions concerning the applicability of the provisions of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act** to particular persons or circumstances.

2. Except as otherwise provided in this subsection, service of any notice or subpoena must be made by certified mail with return receipt or as otherwise allowed by law. An employee of the Consumer Affairs Division of the Department of Business and Industry may personally serve a subpoena issued pursuant to this section.

Sec. 2.5. NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act**, the Commissioner may issue an order directed to the person to show cause why the Director should not order the person to cease and desist from engaging in the practice and to pay an administrative fine. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.

2. An administrative hearing on any action brought by the Commissioner must be conducted before the Director or his or her designee.

3. If, after conducting a hearing pursuant to the provisions of subsection 2, the Director or his or her designee determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act**, or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing, the Director or his or her designee shall issue an order setting forth his or her findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervenor at the hearing. If the Director or his or her designee determines in the report that such a violation has occurred, he or she may order the violator to:

(a) Cease and desist from engaging in the practice or other activity constituting the violation;

(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the Director or his or her designee free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive ~~to~~, **and section 1 of this act**;

(c) Provide restitution for any money or property improperly received or obtained as a result of the violation; and

(d) Impose an administrative fine of \$1,000 or treble the amount of restitution ordered, whichever is greater.

➡ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.

4. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 3 or who is aggrieved by

the order may petition for judicial review in the manner provided in chapter 233B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.

5. If a person fails to comply with any provision of an order issued pursuant to subsection 3, the Commissioner or the Director may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his or her principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

6. If the court finds that:

- (a) The violation complained of is a deceptive trade practice;
 - (b) The proceedings by the Director or his or her designee concerning the written report and any order issued pursuant to subsection 3 are in the interest of the public; and
 - (c) The findings of the Director or his or her designee are supported by the weight of the evidence,
- the court shall issue an order enforcing the provisions of the order of the Director or his or her designee.

7. An order issued pursuant to subsection 6 may include:

- (a) A provision requiring the payment to the Consumer Affairs Division of the Department of Business and Industry of a penalty of not more than \$5,000 for each act amounting to a failure to comply with the Director's or designee's order;
- (b) An order that the person cease doing business within this State; and
- (c) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.

8. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.

9. Upon the violation of any judgment, order or decree issued pursuant to subsection 6 or 7, the Commissioner, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999.

Sec. 2.6. NRS 598.0985 is hereby amended to read as follows:

598.0985 Notwithstanding the requirement of knowledge as an element of a deceptive trade practice, and notwithstanding the enforcement powers granted to the Commissioner or Director pursuant to NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act**, whenever the district attorney of any county has reason to believe that any person is using, has used or is about to use any deceptive trade practice, knowingly or otherwise, he or she may bring an action in the name of the State of Nevada against that person to obtain a temporary or permanent injunction against the deceptive trade practice.

Sec. 2.7. NRS 598.0993 is hereby amended to read as follows:

598.0993 The court in which an action is brought pursuant to NRS 598.0979 and 598.0985 to 598.099, inclusive, may make such additional

orders or judgments as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any deceptive trade practice which violates any of the provisions of NRS 598.0903 to 598.0999, inclusive, and section 1 of this act, but such additional orders or judgments may be entered only after a final determination has been made that a deceptive trade practice has occurred.

Sec. 2.8. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, and section 1 of this act, upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than \$10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive, and section 1 of this act.

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, and section 1 of this act, if the court finds that a person has willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed \$5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

➤ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.

4. Any offense which occurred within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, and section 1 of this act, 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787,

inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

↪ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

↪ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 2.9. NRS 41.600 is hereby amended to read as follows:

41.600 1. An action may be brought by any person who is a victim of consumer fraud.

2. As used in this section, "consumer fraud" means:

(a) An unlawful act as defined in NRS 119.330;

(b) An unlawful act as defined in NRS 205.2747;

(c) An act prohibited by NRS 482.36655 to 482.36667, inclusive;

(d) An act prohibited by NRS 482.351; or

(e) A deceptive trade practice as defined in NRS 598.0915 to 598.0925, inclusive ~~to~~, **and section 1 of this act.**

3. If the claimant is the prevailing party, the court shall award the claimant:

(a) Any damages that the claimant has sustained;

(b) Any equitable relief that the court deems appropriate; and

(c) The claimant's costs in the action and reasonable attorney's fees.

4. Any action brought pursuant to this section is not an action upon any contract underlying the original transaction.

Sec. 3. The provisions of ~~NRS 598.0921, as amended by~~ section ~~12~~ 1 of this act ~~to~~ apply only to gift ~~certificates issued~~ certificate and gift card offers made on or after July 1, 2017.

Sec. 4. This act becomes effective on July 1, 2017.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 362.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 603.

ASSEMBLYMEN TOLLES, ~~[AND]~~ WATKINS; BENITEZ- THOMPSON, KRASNER, OSCARSON, PICKARD, WHEELER, WOODBURY AND YEAGER

AN ACT relating to education; prohibiting certain persons from assisting certain employees, contractors or agents who work at a public school to obtain new employment; prohibiting a local educational agency or public school from entering into certain agreements; requiring an applicant for employment who may have direct contact with pupils to provide certain information and written authorizations; requiring the board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils and certain independent contractors to take certain action regarding persons who may have direct contact with children; requiring certain employers to provide certain information regarding an applicant for employment who may have direct contact with children; ~~authorizing the Department of Education to impose an administrative penalty;~~ **providing that an employer who fails to provide certain information regarding an applicant for employment who may have direct contact with children is subject to certain disciplinary action;** providing that a teacher or administrator may be subject to disciplinary action for certain violations; requiring the Superintendent of Public Instruction to provide certain notice when an application for a license is denied; **requiring the Department of Education to maintain a list of the names of persons whose application for a license has been denied for certain purposes;** providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 6, 7 and 22 of this bill incorporate in state law certain provisions of federal law designed to prevent persons who have engaged in sexual misconduct with a minor from obtaining new employment.

Section 8 of this bill requires an applicant for employment with a school district, charter school, university school for profoundly gifted pupils and certain independent contractors who may have direct contact with pupils to provide to the prospective employer: (1) information relating to his or her employment history; and (2) written authorization for a current or previous employer to release information relating to his or her employment. **Section 8** also **provides that any action brought by such an applicant for employment based upon information obtained about the applicant to**

determine his or her fitness for employment must be brought in a court in this State and governed by the laws of this State. Finally, section 8

provides that an applicant for employment who knowingly provides false information or willfully fails to disclose information is subject to discipline and is guilty of a misdemeanor.

Section 9 of this bill requires the governing body of a public school, including the board of trustees of a school district, governing body of a charter school and governing body of a university school for profoundly gifted pupils, or an independent contractor who receives the information described in **section 8** to: (1) verify the information received; (2) ensure that the applicant has a license authorizing him or her to teach or perform other educational functions if a license is required; and (3) verify that the Department of Education has not received notice that the applicant is a defendant in a criminal case.

Section 10 of this bill requires the governing body of a public school and an independent contractor to take certain action to obtain additional information if a current or previous employer of an applicant indicates that the applicant is or was the subject of an investigation concerning an alleged sexual offense.

Sections 9 and 10 also provide that any person who is contacted by the governing body of a public school or an independent contractor and asked to provide information, but willfully fails to disclose information is subject to discipline, including a civil penalty. **Sections 9 and 10 further provide that, in addition to being subject to discipline, including a civil penalty, a private school that willfully fails to disclose any such information is subject to discipline, which may include being placed on a corrective action plan. Sections 9 and 10 provide immunity from liability for providing the information and makes the information privileged.**

Section 11 of this bill authorizes the governing body of a public school and an independent contractor to: (1) consider the information received pursuant to **sections 8-10** when making an employment decision; and (2) report the information received to certain entities. **Section 11 also provides that the board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor: (1) shall not be held liable for any damages resulting from failure of an entity not subject to the jurisdiction of this State to respond to certain requests for information or any inaccuracy or omission in the information submitted; and (2) is immune from civil or criminal liability for considering the information received pursuant to sections 8-10 when making employment decisions.**

Section 12 of this bill requires an independent contractor who employs a person who may have direct contact with pupils to maintain a record for each such employee and, upon request, provide this record to the governing body of the public school at which an employee has been assigned to perform work. **Section 12** also: (1) requires an independent contractor to provide

certain information to the governing body of a public school before assigning an employee to perform work at a location; and (2) prohibits an independent contractor from assigning an employee to perform work at a school if the governing body of the school objects to the assignment.

Section 13 of this bill authorizes the governing body of a public school to allow provisional employment of a person pending review of the information received pursuant to **sections 8-10** in certain circumstances.

Section 14 of this bill provides that nothing in **sections 2-17** of this bill shall be construed to: (1) prevent a prospective employer from conducting further investigations of a prospective employee; (2) prohibit a person from disclosing more information than is required by this bill; or (3) relieve a person of a duty to report prescribed by state or federal law.

Section 15 prohibits the governing body of a public school or an independent contractor from entering into any agreement that: (1) has the effect of suppressing information relating to an investigation concerning a report of suspected abuse or sexual misconduct by a current or former employee; (2) affects the ability of the governing body or independent contractor to report suspected abuse or sexual misconduct; or (3) requires the governing body or independent contractor to expunge certain information from any documents maintained by the governing body or independent contractor. **Section 15 also requires an employer to maintain certain documents if the agreement requires the removal of the document from an employee's personnel file.**

Sections 16 and 21 provide that any information collected from an applicant for employment or an employer pursuant to **sections 8-10** is confidential and is not a public book or record.

Section 17 ~~authorizes the Department of Education to impose an administrative penalty on any person found, after notice and a hearing, to have willfully violated the provisions~~ **provides that any person who willfully violates any provision of sections 2-17 is subject to a civil penalty, which must be recovered in a civil action.** **Section 17** also prohibits the governing body of a public school from contracting with an independent contractor who has been found to have willfully violated the provisions of **sections 2-17**. **Section 19** provides that a teacher or administrator may be subject to disciplinary action for willfully violating the provisions of **sections 2-17**.

Existing law requires the Superintendent of Public Instruction to grant all licenses for teachers and other educational personnel. (NRS 391.033) **Section 18** requires the Superintendent to provide notice to a school district or charter school that employs an applicant whenever an application for a license is denied. **Section 18 also requires the Department of Education to: (1) maintain a list of the names of persons whose application for a license is denied due to conviction of a sexual offense involving a minor; and (2) provide such a list to certain persons upon request.**

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. *As used in sections 2 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Local educational agency” has the meaning ascribed to it in 20 U.S.C. § 7801(30)(A).*

Sec. 4. *“Sexual misconduct” means any act, including, without limitation, any verbal, nonverbal, written or electronic communication or physical activity, directed toward or with a child, regardless of the age of the child, that is designed to establish a romantic or sexual relationship with the child.*

Sec. 5. *“Sexual offense” has the meaning ascribed to it in NRS 179D.097.*

Sec. 6. 1. *Except as otherwise provided in subsection 2, the Department, a local educational agency or an employee, contractor or agent thereof who works at a public school shall not assist an employee, contractor or agent who works at a school to obtain new employment, apart from the routine transmission of administrative and personnel files, if the person or entity ~~knows or~~ has ~~probable cause to believe~~ actual or constructive knowledge that such an employee, contractor or agent has engaged in sexual misconduct regarding a minor or pupil.*

2. *The provisions of subsection 1 do not apply if:*

(a) The information giving rise to ~~probable cause~~ actual or constructive knowledge has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct and any other authorities required by federal, state or local law, including, without limitation, Title IX of the Education Amendments Act of 1972, 20 U.S.C. §§ 1681 et seq., and any regulations adopted pursuant thereto, and the matter has been officially closed, or the District Attorney or law enforcement agency with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish ~~probable cause~~ that the employee, contractor or agent engaged in sexual misconduct regarding a minor or pupil;

(b) The employee, contractor or agent has been charged with and acquitted or otherwise exonerated of the alleged misconduct; or

(c) The case or investigation remains open and there have been no charges filed against, or indictment of, the employee, contractor or agent within 4 years after the date on which the information was reported to a law enforcement agency.

3. *The State Board may adopt regulations to enforce the provisions of this section.*

Sec. 7. *A local educational agency or a public school shall not enter into any agreement with a person convicted of a sexual offense involving a minor to keep the conviction or the circumstances surrounding the offense confidential.*

Sec. 8. 1. *In addition to fulfilling the requirements for employment prescribed by NRS 388A.323, 388A.515, 388C.200, 391.104 or 391.281, as applicable, or fulfilling the requirements for the issuance of a license prescribed by NRS 391.033, any applicant for employment with a school district, charter school or university school for profoundly gifted pupils who may have direct contact with pupils must, as a condition to employment, submit to the board of trustees of the school district, governing body of the charter school or governing body of the university school for profoundly gifted pupils with which the applicant seeks to obtain employment, on a form prescribed by the Department:*

(a) The name, address and telephone number for the applicant's current employer, any former employer of the applicant that was a school or school district and any other former employer with whom the applicant was employed in a position that involved direct contact with children;

(b) Any other contact information for the persons described in paragraph (a) prescribed by the board of trustees of the school district, governing body of the charter school or governing body of the university school for profoundly gifted pupils with which the applicant seeks to obtain employment;

(c) Written authorization for the persons described in paragraph (a) to release the information prescribed in section 9 of this act; and

(d) A written statement indicating whether the person has:

(1) Except as otherwise provided in this subparagraph, been the subject of an investigation concerning an alleged sexual offense by an employer, licensing agency, law enforcement agency, agency which provides child welfare services, agency which provides child protective services or a similar agency. A person is not required to provide the information described in this subparagraph if, after investigating the alleged violation, the employer or agency determined that the allegations were false ~~or~~, unfounded, unsubstantiated or inconclusive.

(2) Been discharged, disciplined, had a contract not renewed, asked to resign from employment, resigned from employment or otherwise separated from employment while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation, and was found, upon conclusion of the investigation, to have committed the sexual offense.

(3) Had a license or certificate suspended or revoked or has been required to surrender a license or certificate while an investigation concerning an alleged sexual offense was pending or upon conclusion of

such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

2. Any action brought by an applicant for employment described in subsection 1 which is based upon information obtained by a 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 with which the applicant seeks employment to determine the fitness of the applicant for employment, including, without limitation, an action for defamation, must be brought in a court in the State of Nevada and governed by the laws of this State.

3. An applicant for employment with an independent contractor of a school district, charter school or university school for profoundly gifted pupils who may have direct contact with pupils must, before having direct contact with pupils, submit to the independent contractor on a form prescribed by the Department:

(a) The information described in paragraphs (a), (c) and (d) of subsection 1; and

(b) Any other contact information for the persons described in paragraph (a) of subsection 1 requested by the independent contractor with which the applicant seeks to obtain employment.

~~3-7~~ 4. Any applicant for employment described in subsection 1 ~~for 2~~ or 3 who knowingly provides false information or willfully fails to disclose any information required by this section:

(a) Is subject to discipline, including, without limitation, suspension or revocation of the person's license pursuant to NRS 391.330 or 391.750, termination of employment or a civil penalty ~~prescribed by the Department~~ pursuant to section 17 of this act; and

(b) Is guilty of a misdemeanor.

Sec. 9. 1. Upon receipt of the information required by section 8 of this act, the board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor shall:

(a) Contact each person described in paragraph (a) of subsection 1 of section 8 of this act and request that the person provide:

(1) The dates of employment of the applicant; and

(2) On a form prescribed by the Department, a written statement indicating whether the applicant has:

(I) Except as otherwise provided in this sub-subparagraph, been the subject of an investigation concerning an alleged sexual offense by the employer. A person is not required to provide the information described in this sub-subparagraph if, after investigating the alleged violation, the employer determined that the allegations were false ~~+~~, unfounded, unsubstantiated or inconclusive.

(II) Been discharged, disciplined, had a contract not renewed, asked to resign from employment, resigned from employment or otherwise

separated from employment while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

(III) Had a license or certificate suspended or revoked or has been required to surrender a license or certificate while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

(b) Ensure that the applicant has a license authorizing him or her to teach or perform other educational functions at the level and, except as otherwise provided in NRS 391.125, in the field for which he or she is applying for employment, if a license is required, and that the applicant is otherwise eligible for employment.

(c) Verify that the Department has not received notice, including, without limitation, notice provided pursuant to NRS 391.055, that the applicant is a defendant in a criminal case.

2. A person contacted by a board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor pursuant to paragraph (a) of subsection 1:

(a) Shall provide the information requested not later than 20 days after the date on which the board of trustees, governing body or independent contractor contacts the person.

(b) Is immune from civil and criminal liability for ~~providing~~ any act relating to the provision of such information, unless the person knowingly provides false information. Such information is privileged and must not be used as the basis for any action against the person or entity that provided the information.

3. Except as otherwise prohibited by federal or state law, a person who willfully fails to disclose any information required by subsection 1 is subject to discipline, including, without limitation, a civil penalty ~~prescribed by the Department~~ pursuant to section 17 of this act.

4. In addition to the penalty set forth in subsection 3, a private school that willfully fails to disclose any information required by subsection 1 is subject to discipline, which may include, without limitation, being placed on a plan of corrective action by the Department.

Sec. 10. 1. If a statement provided pursuant to paragraph (d) of subsection 1 of section 8 of this act or paragraph (a) of subsection 2 of section 8 of this act indicates that the person meets any of the criteria prescribed in those paragraphs, the board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor who receives the statement shall request that the employer that conducted the investigation concerning an alleged sexual offense, discharged, disciplined or dismissed

the employee or asked the employee to resign from employment provide additional information concerning the matter and all records related to the matter ~~for~~ , including, without limitation, any documents relating to a disciplinary action taken against the employee, disciplinary records or documents used in the decision made by the employer concerning the investigation.

2. A person contacted by the board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor pursuant to subsection 1:

(a) ~~Shall~~ Except as otherwise provided in this subsection, shall provide the information requested not later than 60 days after the date on which the board of trustees, governing body or independent contractor contacts the person.

(b) Is not required to disclose any information or records held by the school police of the school district, if the school district has school police officers.

(c) Is immune from civil and criminal liability ~~for providing such information, unless the person knowingly provides false information,~~ to the same extent provided in paragraph (b) of subsection 2 of section 9 of this act.

3. Except as otherwise prohibited by federal or state law, a person who willfully fails to disclose any information required by subsection 1 is subject to discipline, including, without limitation, a civil penalty ~~(prescribed by the Department)~~ pursuant to section 17 of this act.

4. In addition to the penalty set forth in subsection 3, a private school that willfully fails to disclose any information required by subsection 1 is subject to discipline, which may include, without limitation, being placed on a plan of corrective action by the Department.

Sec. 11. The board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor ~~: may;~~

1. ~~Consider~~ May consider the information submitted pursuant to sections 8, 9 and 10 of this act when deciding whether to employ an applicant or continue to employ a person ~~, and~~

2. ~~Report~~ May report the information submitted pursuant to sections 8, 9 and 10 of this act to the Department or a licensing agency, law enforcement agency, agency which provides child welfare services, an agency which provides child protective services or a similar agency.

3. Shall not be held liable for any damages resulting from the failure of an entity not subject to the jurisdiction of this State to respond to a request for information pursuant to section 9 or 10 of this act or any inaccuracy or omission in the information submitted to the school district, charter school, university school for profoundly gifted pupils or independent contractor pursuant to section 9 or 10 of this act.

4. Is immune from civil or criminal liability for considering the information submitted pursuant to sections 8, 9 and 10 of this act when deciding whether to employ an applicant or continue to employ a person.

Sec. 12. 1. An independent contractor of a school district, charter school or university school for profoundly gifted pupils who employs a person who may have direct contact with pupils shall:

(a) Maintain a record for each such employee that includes, without limitation, the information submitted pursuant to subsection 2 of section 8 of this act and the information submitted pursuant to subsection 2 of section 9 of this act; and

(b) Upon request, provide the record maintained pursuant to paragraph (a) to the board of trustees of the school district, governing body of the charter school or governing body of the university school for profoundly gifted pupils, as applicable, for the school at which an employee has been assigned to perform work.

2. Before assigning an employee to perform work at a location where the employee may have direct contact with pupils, an independent contractor shall inform the board of trustees of the school district, governing body of the charter school or governing body of the university school for profoundly gifted pupils, as applicable, with which the employee will be assigned to perform work of any instance known in which the employee:

(a) Except as otherwise provided in this paragraph, has been the subject of an investigation concerning an alleged sexual offense by an employer. A person is not required to provide the information described in this paragraph if, after investigating the alleged violation, the employer determined that the allegations were ~~false~~, false, unfounded, unsubstantiated or inconclusive.

(b) Has ever been discharged, disciplined, had a contract not renewed, asked to resign from employment, resigned from employment or otherwise separated from employment while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

(c) Had a license or certificate suspended or revoked or has been required to surrender a license or certificate while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

3. An independent contractor may not assign an employee to perform work at a public school, charter school or university school for profoundly gifted pupils if the board of trustees of the school district in which the school is located, governing body of the charter school or governing body of the university school for profoundly gifted pupils, as applicable, objects

to such an assignment upon receiving the notification required by subsection 2.

Sec. 13. 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 may authorize provisional employment of a person for a period not to exceed 90 days pending the review of information submitted pursuant to sections 8, 9 and 10 of this act if the board of trustees or the governing body determines the applicant is otherwise qualified and:

1. The applicant provided the statement described in paragraph (d) of subsection 1 of section 8 of this act.

2. The board of trustees of the school district, governing body of the charter school or governing body of the university school for profoundly gifted pupils, as applicable, has no knowledge of information pertaining to the applicant that would disqualify the applicant from employment.

3. The applicant swears or affirms that he or she is not disqualified from employment.

4. The applicant is directly supervised by a permanent employee in any duties that involve direct contact with pupils. The supervision must be such that the applicant is in the immediate location of the permanent employee and is readily available during such times as supervision is required.

Sec. 14. Nothing in sections 2 to 17, inclusive, of this act shall be construed to:

1. Prevent a board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor from:

(a) Conducting further investigations of a prospective employee; or

(b) Requiring an applicant to submit additional information or authorizations beyond what is required by sections 8, 9 and 10 of this act.

2. Prohibit a person from disclosing more information than is required by sections 8, 9 and 10 of this act.

3. Relieve a person of a duty to report prescribed by NRS 432B.220 or any other provision of state or federal law.

Sec. 15. 1. The board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or the independent contractor of a school district, charter school or university school for profoundly gifted pupils shall not enter into an agreement that:

(a) Has the effect of suppressing information relating to an investigation concerning a report of suspected abuse or sexual misconduct by a current or former employee.

(b) Affects the ability of the school district, charter school, university school for profoundly gifted pupils or independent contractor to report suspected abuse or sexual misconduct to the appropriate authorities.

(c) Requires the school district, charter school, university school for profoundly gifted pupils or independent contractor to expunge information

about allegations or findings of suspected abuse or sexual misconduct from any documents maintained by the school district, charter school, university school for profoundly gifted pupils or independent contractor, unless, after investigating the alleged violation, the school district, charter school, university school for profoundly gifted pupils or independent contractor determines that the allegations were false ~~or~~, unfounded, unsubstantiated or inconclusive.

2. If an agreement requires the removal of a document from the personnel file of an employee, the employer must maintain the document with the agreement.

3. Any provisions in an agreement that violate the provisions of this section are void.

Sec. 16. Any information collected pursuant to section 8, 9 or 10 of this act is confidential and is not a public book or record within the meaning of NRS 239.010.

Sec. 17. 1. ~~If any person is found after notice and a hearing to have willfully violated.~~ Any person who willfully violates any provision of sections 2 to 17, inclusive, of this act, ~~the Department may impose an administrative penalty against the person.~~ is subject to a civil penalty of not more than \$10,000 for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General. In such an action, the Attorney General may recover reasonable attorney's fees and costs. If a civil penalty is imposed against an independent contractor for willfully violating any provision of sections 2 to 17, inclusive, of this act, the Attorney General shall, within 30 days after the imposition of the civil penalty, notify the Department of the name of the independent contractor.

2. The Department shall maintain a list of any independent contractors who have been found to have willfully violated the provisions of sections 2 to 17, inclusive, of this act and make the list available, upon request, to 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.

3. 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 shall not contract with an independent contractor who has been found to have willfully violated the provisions of sections 2 to 17, inclusive, of this act.

Sec. 18. NRS 391.033 is hereby amended to read as follows:

391.033 1. All licenses for teachers and other educational personnel are granted by the Superintendent of Public Instruction pursuant to regulations adopted by the Commission and as otherwise provided by law.

2. An application for the issuance of a license must include the social security number of the applicant.

3. Every applicant for a license must submit with his or her application a complete set of his or her fingerprints and written permission authorizing the

Superintendent to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its initial report on the criminal history of the applicant and for reports thereafter upon renewal of the license pursuant to subsection 7 of NRS 179A.075, and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant.

4. The Superintendent may issue a provisional license pending receipt of the reports of the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History if the Superintendent determines that the applicant is otherwise qualified.

5. A license must be issued to, or renewed for, as applicable, an applicant if:

(a) The Superintendent determines that the applicant is qualified;

(b) The reports on the criminal history of the applicant from the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History:

(1) Do not indicate that the applicant has been convicted of a felony or any offense involving moral turpitude; or

(2) Indicate that the applicant has been convicted of a felony or an offense involving moral turpitude but the Superintendent determines that the conviction is unrelated to the position within the county school district or charter school for which the applicant applied or for which he or she is currently employed, as applicable; and

(c) For initial licensure, the applicant submits the statement required pursuant to NRS 391.034.

6. *If the Superintendent denies an application for a license pursuant to this section, the Superintendent must, within 15 days after the date on which the application is denied, provide notice of the denial to the school district or charter school that employs the applicant if the applicant is employed by a school district or charter school. Such a notice must not state the reasons for denial.*

7. The Department shall:

(a) Maintain a list of the names of persons whose application for a license is denied due to conviction of a sexual offense involving a minor;

(b) Update the list maintained pursuant to paragraph (a) monthly; and

(c) Provide this list to the board of trustees of a school district or the governing body of a charter school upon request.

8. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.097.

Sec. 19. NRS 391.750 is hereby amended to read as follows:

391.750 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) Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations and assessments adopted pursuant to NRS 390.270 or 390.275;
- (r) An intentional violation of NRS 388.497 or 388.499;
- (s) Knowingly and willfully failing to comply with the provisions of NRS 388.1351;
- (t) ***Knowingly and willfully violating any provision of sections 2 to 17, inclusive, of this act;***
- (u) Gross misconduct; or
- ~~(u)~~ (v) 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 is found, through an investigation of a testing irregularity, to have willfully breached the security or confidentiality of the questions and answers of the examinations that are administered pursuant to NRS 390.105 or 390.600 or the college and career readiness assessment administered pursuant to NRS 390.610, 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.

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. 20. NRS 391.755 is hereby amended to read as follows:

391.755 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 391.750, 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 391.760, 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 391.820.

4. A licensed employee is subject to immediate dismissal or a refusal to reemploy according to the procedures provided in NRS 391.650 to 391.830, inclusive, without the admonition required by this section, on grounds contained in paragraphs (b), (f), (g), (h), (p), (s) , ~~and~~ (t) **and (u)** of subsection 1 of NRS 391.750.

Sec. 21. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **and section 16 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. 22. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of the home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A person providing services licensed or certified in this State pursuant to, without limitation, chapter 450B, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637B, 639, 640, 640A, 640B, 640C, 640D, 640E, 641, 641A, 641B or 641C of NRS.

(b) Any personnel of a medical facility licensed pursuant to chapter 449 of NRS who are engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of such a medical facility upon notification of suspected abuse or neglect of a child by a member of the staff of the medical facility.

(c) A coroner.

(d) A member of the clergy, practitioner of Christian Science or religious healer, unless the person has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A person working in a school who is licensed or endorsed pursuant to chapter 391 or 641B of NRS.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed pursuant to chapter 424 of NRS to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) Except as otherwise provided in NRS 432B.225, an attorney.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for a youth shelter. As used in this paragraph, "youth shelter" has the meaning ascribed to it in NRS 244.427.

(l) Any adult person who is employed by an entity that provides organized activities for children ~~and~~ **, including, without limitation, a person who is employed by a school district or public school as defined in NRS 385.007.**

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his or her written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

7. The agency, board, bureau, commission, department, division or political subdivision of the State responsible for the licensure, certification or endorsement of a person who is described in subsection 4 and who is required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State shall, at the time of initial licensure, certification or endorsement:

(a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section;

(b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section; and

(c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is licensed, certified or endorsed in this State.

8. The employer of a person who is described in subsection 4 and who is not required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State must, upon initial employment of the person:

(a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section;

(b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section; and

(c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is employed by the employer.

Sec. 23. The provisions of section 15 of this act do not apply to any agreement entered into before July 1, 2017, until the agreement is extended or renewed.

Sec. 24. 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. 25. This act becomes effective on July 1, 2017.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 365.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 409.

AN ACT relating to marriage; providing for the issuance of a certificate of vow renewal; authorizing certain persons to perform a marriage; authorizing a county clerk to establish a course for certain persons authorized to perform a marriage; revising various provisions governing the performance of marriages; increasing the penalty for certain crimes related to performing marriages; revising provisions related to certain fees for the issuance of a marriage license; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the following persons to obtain a certificate of permission to perform marriages: (1) any licensed, ordained or appointed minister or other church or religious official authorized to solemnize a marriage; (2) certain notaries public; (3) a temporary replacement for a licensed, ordained or appointed minister or other church or religious official, after receiving a written authorization from the minister or other church or

religious official and the county clerk; and (4) any chaplain who is assigned to duty in this State by the Armed Forces of the United States. Existing law also authorizes certain ministers or other church or religious officials or certain notaries public to perform not more than five marriages per year in the county upon receiving a separate written authorization from the county clerk for each marriage performed. (NRS 122.062) **Sections 2, 5, 6 and 8-17** of this bill amend existing law to grant the same authorization and responsibilities for performing a marriage to marriage officiants as the statutes do for other authorized persons. **Section 2** defines the term “marriage officiant” as a person, other than a minister, other church or religious official authorized to solemnize a marriage or notary public, who obtains a certificate of permission to perform marriages. **Section 8 prohibits a county clerk from authorizing a marriage officiant to solemnize a marriage unless the county clerk first establishes a course for marriage officiants.** **Sections 8 and 9** authorize a county clerk to establish a course for marriage officiants and requires an applicant who desires to be a marriage officiant to successfully complete the course. **Section 9** authorizes a county clerk to charge a fee of not more than \$100 for the course to persons who desire to be a marriage officiant and requires any fees collected to be used only for establishing **and maintaining** such a course. **Section 10:** (1) provides for the inclusion of marriage officiants who obtain **or renew** a certificate of permission to perform marriages in the statewide database of certain persons authorized to perform marriages which is maintained by the Secretary of State under existing law; (2) requires marriage officiants to comply with Nevada laws pertaining to persons who perform marriages; and (3) provides for the expiration and revocation of the certificate of permission to perform marriages issued to a marriage officiant.

Existing law provides that a certificate of permission to perform marriages expires when: (1) a minister, other person who is authorized to solemnize a marriage or notary public, to whom the certificate has been issued, moves from the county in which his or certificate was issued; (2) a minister or other religious official’s authority to solemnize marriages is removed; or (3) the expiration, cancellation, revocation or suspension of an appointment of a notary public. (NRS 122.066) **Section 10** provides that ~~if~~ **if a county clerk establishes a policy providing for the expiration of a certificate of permission to perform marriages,** unless certain exceptions apply, any certificate of permission to perform marriages ~~is valid until~~ **expires** 5 years after the date the certificate was issued ~~or renewed~~. **Section 9** requires all applicants for renewal of a certificate to complete an application and pay to the county clerk a fee of \$25.

Section 3 of this bill authorizes **a county clerk to establish a program to provide for** a couple who renews their marriage vows to request a certificate of vow renewal from the county clerk. **Section 3** sets forth the requirements for such a request as well as the requirements concerning the contents of such a certificate. ~~[Section 3 also authorizes a board of county commissioners to~~

~~adopt an ordinance to carry out the requirements, form and procedure governing the issuance of a certificate of vow renewal, including authorizing a county clerk to collect a fee to cover the cost of issuing the certificate.~~

Finally, **section 3** prohibits the use of a certificate of vow renewal to establish a record of marriage ~~and~~ **and exempts such a certificate from any requirement for the retention of records by the office of the county clerk.**

Existing law provides that a person is guilty of a misdemeanor if he or she performs a marriage and he or she knows that he or she is not lawfully authorized or knows of any legal impediment to the proposed marriage. (NRS 122.260) **Section 17** ~~increases~~ **revises** the penalty by providing that such an act is ~~also~~ punishable by a ~~fine~~ **civil penalty** of not ~~less~~ **more** than \$1,500. **Section 17 also authorizes a board of county commissioners to enact an ordinance delegating to a hearing officer the authority to determine such violations and levy civil penalties for those violations.**

Under existing law, the county clerk may place an affidavit of application for a marriage license, a certificate of marriage license and a marriage license on a single form, on the reverse of which the county clerk must have printed or stamped instructions for obtaining a certified copy or certified abstract of the certificate of marriage. (NRS 122.055) **Section 7** of this bill requires the county clerk to include on the form certain language that the certificate is not a certified copy. Existing law also requires a person who solemnizes a marriage to give each couple being married a certificate of marriage. **Section 15** clarifies that the certificate the couple receives from the person who solemnizes the marriage is an uncertified copy of a certificate of marriage.

Existing law authorizes a board of county commissioners in a county whose population is 700,000 or more (currently Clark County) to adopt an ordinance imposing an additional fee of not more than \$14 for the issuance of a marriage license. If a board of county commissioners adopts such an ordinance: (1) the fee must be deposited in a special revenue fund designated as the fund for the promotion of marriage tourism; (2) money in the fund must be used by the county clerk to promote marriage tourism in the county; and (3) the county clerk is required to submit to the board of county commissioners a report of the projected expenditures of the money in the fund for the following fiscal year. (NRS 246.075) **Section 18** of this bill requires the county clerk to report to the board rather than submitting a report to the board of the projected expenditures of the money in the fund for the following fiscal year.

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

Section 1. Chapter 122 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *“Marriage officiant” means a person, other than a minister, other church or religious official authorized to solemnize a marriage or*

notary public, who obtains a certificate of permission to perform marriages as provided in NRS 122.062 to 122.073, inclusive.

Sec. 3. 1. ~~{Upon}~~ A county clerk may, in his or her discretion, establish a program to provide for the issuance of a certificate of vow renewal. If a county clerk establishes such a program, upon the request of a couple who desires to renew their marriage vows, ~~for~~ the county clerk shall issue a certificate of vow renewal.

2. *The request for a certificate of vow renewal must be made on a form prescribed by the county clerk and must include the date of the vow renewal and the county in which the vow renewal occurred.*

3. *The certificate of vow renewal must contain:*

(a) *The date of the vow renewal;*

(b) *The county in which the vow renewal occurred;*

(c) *The name of the persons to whom the certificate of vow renewal is issued; and*

(d) *A statement that the certificate of vow renewal is not a record of marriage.*

4. *This section may not be used to establish a record of marriage.*

5. ~~A board of county commissioners may adopt any ordinance as it determines necessary to carry out the provisions of this section.~~

~~6. If a board of county commissioners has adopted an ordinance pursuant to subsection 5, the~~ county clerk may charge and collect a fee in the same amount as the fee collected for the issuance of a marriage license pursuant to NRS 122.060 to cover the cost of preparing the certificate furnished pursuant to this section.

6. Notwithstanding any other provision of law to the contrary, a certificate of vow renewal is exempt from any schedule for the retention of records that applies to records in the office of the county clerk.

Sec. 4. NRS 122.001 is hereby amended to read as follows:

122.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 122.0015, 122.002 and 122.006 **and section 2 of this act** have the meanings ascribed to them in those sections.

Sec. 5. NRS 122.030 is hereby amended to read as follows:

122.030 1. With respect to any marriage solemnized before January 1, 1971, the original certificate and records of marriage made by the judge, justice or minister, as prescribed in this chapter, and the record thereof by the recorder of the county, or a copy or abstract of the record certified by the recorder, must be received in all courts and places as presumptive evidence of the fact of the marriage.

2. With respect to any marriage solemnized on or after January 1, 1971, the original certificate and records of marriage made by the judge, justice, minister or other church or religious official authorized to solemnize a marriage, notary public, commissioner of civil marriages, ~~for~~ deputy commissioner of civil marriages ~~{}~~ **or marriage officiant**, as prescribed in this chapter, and the record thereof by the county recorder or the county

clerk, as the case may be, or a copy or abstract of the record certified by the county recorder or the county clerk, as the case may be, must be received in all courts and places as presumptive evidence of the fact of the marriage.

Sec. 6. NRS 122.050 is hereby amended to read as follows:

122.050 The marriage license must contain the name of each applicant as shown in the documents presented pursuant to subsection 2 of NRS 122.040 and must be substantially in the following form:

Marriage License
(Expires 1 Year After Issuance)

State of Nevada }
 } ss.
County of.....}

These presents are to authorize any minister, other church or religious official authorized to solemnize a marriage , ~~for~~ notary public **or marriage officiant** who has obtained a certificate of permission to perform marriages, any Supreme Court justice, judge of the Court of Appeals or district judge within this State, or justice of the peace within a township wherein the justice of the peace is permitted to solemnize marriages or if authorized pursuant to subsection 3 of NRS 122.080, or a municipal judge if authorized pursuant to subsection 4 of NRS 122.080 or any commissioner of civil marriages or his or her deputy within a commissioner township wherein they are permitted to solemnize marriages, to join in marriage of (City, town or location), State of State of birth (If not in U.S.A., name of country); Date of birth Father's name Father's state of birth (If not in U.S.A., name of country) Mother's maiden name Mother's state of birth (If not in U.S.A., name of country) Number of this marriage (1st, 2nd, etc.) Wife deceased Divorced Annulled When Where And of (City, town or location), State of State of birth (If not in U.S.A., name of country); Date of birth Father's name Father's state of birth (If not in U.S.A., name of country) Mother's maiden name Mother's state of birth (If not in U.S.A., name of country) Number of this marriage (1st, 2nd, etc.) Husband deceased Divorced Annulled When Where; and to certify the marriage according to law.

Witness my hand and the seal of the county, this day of the month of of the year

(Seal)

.....
Clerk
.....
Deputy clerk

Sec. 7. NRS 122.055 is hereby amended to read as follows:

122.055 1. The county clerk may place the affidavit of application for a marriage license, the certificate of marriage and the marriage license on a single form.

2. The county clerk shall have printed or stamped on the reverse of the form:

(a) Instructions for obtaining a certified copy or certified abstract of the certificate of marriage.

(b) Language in black ink and at least 16-point bold type in a font that is easy to read and that is in substantially the following form:

This is ***a duplicate of*** your certificate. This is not a certified copy.
After the certificate has been recorded by the county recorder or filed by the county clerk, you may obtain a certified copy. For name changes and other legal matters, you will need to obtain a certified copy.

3. Nothing may be printed, stamped or written on the reverse of the form other than the instructions and language described in subsection 2 and a time stamp used by the county clerk to signify that the form has been filed.

Sec. 8. NRS 122.062 is hereby amended to read as follows:

122.062 1. Any licensed, ordained or appointed minister or other church or religious official authorized to solemnize a marriage in good standing within his or her church or religious organization, or either of them, incorporated, organized or established in this State, ~~for~~ a notary public appointed by the Secretary of State pursuant to chapter 240 of NRS and in good standing with the Secretary of State, ***or a marriage officiant*** may join together as husband and wife persons who present a marriage license obtained from any county clerk of the State, if the minister, other church or religious official authorized to solemnize a marriage, ~~for~~ notary public ***or marriage officiant*** first obtains ***or renews*** a certificate of permission to perform marriages as provided in NRS 122.062 to 122.073, inclusive. The fact that a minister or other church or religious official authorized to solemnize a marriage is retired does not disqualify him or her from obtaining a certificate of permission to perform marriages if, before retirement, the minister or other church or religious official authorized to solemnize a marriage had active charge of a church or religious organization for a period of at least 3 years.

2. A temporary replacement for a licensed, ordained or appointed minister or other church or religious official authorized to solemnize a marriage certified pursuant to NRS 122.062 to 122.073, inclusive, may solemnize marriages pursuant to subsection 1 for a period not to exceed 90 days, if the requirements of this subsection are satisfied. The minister or other church or religious official authorized to solemnize a marriage whom he or she temporarily replaces shall provide him or her with a written authorization which states the period during which it is effective, and the temporary replacement shall obtain from the county clerk in the county in

which he or she is a temporary replacement a written authorization to solemnize marriage and submit to the county clerk an application fee of \$25.

3. Any chaplain who is assigned to duty in this State by the Armed Forces of the United States may solemnize marriages if the chaplain obtains a certificate of permission to perform marriages from the county clerk of the county in which his or her duty station is located. The county clerk shall issue such a certificate to a chaplain upon proof of his or her military status as a chaplain and of his or her assignment.

4. A licensed, ordained or appointed minister, other church or religious official authorized to solemnize a marriage, active or retired, ~~for~~ a notary public **or person who desires to be a marriage officiant** may submit to the county clerk in the county in which a marriage is to be performed an application to perform a specific marriage in the county. The application must:

- (a) Include the full names and addresses of the persons to be married;
- (b) Include the date and location of the marriage ceremony;
- (c) Include the information and documents required pursuant to subsection 1 of NRS 122.064; ~~and~~
- (d) ***If the applicant is a person who desires to be a marriage officiant, include verification that the applicant has satisfied the requirements of paragraph (d) of subsection 1 of NRS 122.064; and***
- (e) Be accompanied by an application fee of \$25.

5. A county clerk may grant authorization to perform a specific marriage to a person who submitted an application pursuant to subsection 4 if the county clerk is satisfied that the minister or other church or religious official authorized to solemnize a marriage, whether he or she is active or retired, is in good standing with his or her church or religious organization or, in the case of a notary public, if the notary public is in good standing with the Secretary of State ~~for~~, ***or in the case of a person who desires to be a marriage officiant, that the person satisfied the requirements of paragraph (d) of subsection 1 of NRS 122.064.*** The authorization must be in writing and need not be filed with any other public officer. A separate authorization is required for each marriage performed. A person may not obtain more than five authorizations to perform a specific marriage pursuant to this section in any calendar year and must acknowledge that he or she is subject to the jurisdiction of the county clerk with respect to the provisions of this chapter governing the conduct of ministers, other church or religious officials authorized to solemnize a marriage, ~~for~~ notaries public **or marriage officiants** to the same extent as if he or she had obtained a certificate of permission to perform marriages.

6. This section must not be construed to allow a county clerk to authorize a marriage officiant to solemnize a marriage unless the county clerk has established a course for marriage officiants.

Sec. 9. NRS 122.064 is hereby amended to read as follows:

122.064 1. A certificate of permission to perform marriages ***or a renewal of such a certificate*** may be obtained only from the county clerk of the county in which the minister, other church or religious official authorized to solemnize a marriage, ~~for~~ notary public ***or person who desires to be a marriage officiant*** resides, after the filing of a proper application. The initial application ***or application for renewal*** must:

(a) Be in writing and be verified by the applicant.

(b) If the applicant is a minister or other church or religious official authorized to solemnize a marriage:

(1) Include the date of licensure, ordination or appointment of the minister or other church or religious official authorized to solemnize a marriage, and the name of the church or religious organization with which he or she is affiliated; and

(2) Be accompanied by one copy of the affidavit of authority to solemnize marriages described in subsection 5.

(c) If the applicant is a notary public:

(1) Include the date of the appointment of the notary public by the Secretary of State; and

(2) Be accompanied by a verification issued by the Secretary of State within the 3 months immediately preceding the date of the application which states that the applicant has been appointed as a notary public by the Secretary of State pursuant to chapter 240 of NRS and is in good standing with the Secretary of State. The county clerk must refuse to issue a certificate of permission if the appointment of the notary public is suspended or revoked and may refuse to issue a certificate of permission if the notary public has committed any violations of chapter 240 of NRS.

(d) ***If the applicant is not a minister, other church or religious official authorized to solemnize a marriage or notary public but a person who desires to be a marriage officiant:***

(1) Include an additional fee not to exceed \$100 for a course for marriage officiants established by the county clerk; and

(2) Be accompanied by verification that the applicant successfully completed a course for marriage officiants established by the county clerk.

(e) Include the social security number of the applicant.

~~for~~ (f) Be accompanied by an application fee of \$25.

2. To determine the qualifications of any minister, other church or religious official authorized to solemnize a marriage, ~~for~~ notary public ***or person who desires to be a marriage officiant*** who has filed an application for a certificate of permission, the county clerk with whom the application has been filed may require:

(a) The church or religious organization of the minister or other church or religious official authorized to solemnize a marriage to furnish any evidence which the county clerk considers necessary or helpful.

(b) An investigation of the background and present activities of the minister , ~~for~~ other **church or religious official** ~~person~~ authorized to solemnize a marriage ~~is~~ , **notary public or person who desires to be a marriage officiant**. The cost of an investigation conducted pursuant to this paragraph must be charged to the applicant.

3. In addition to the requirement of good standing, the county clerk shall, before approving an initial application, satisfy himself or herself that:

(a) If the applicant is a minister or other church or religious official authorized to solemnize a marriage, the applicant's ministry is one of service to his or her church or religious organization or, in the case of a retired minister or other church or religious official authorized to solemnize a marriage, that his or her active ministry was of such a nature.

(b) No certificate previously issued to the applicant has been cancelled for a knowing violation of the laws of this State or of the United States.

(c) The applicant has not been convicted of a felony, released from confinement or completed his or her parole or probation, whichever occurs later, within 10 years before the date of the application.

4. The county clerk may require any applicant to submit information in addition to that required by this section.

5. The affidavit of authority to solemnize marriages required by subparagraph (2) of paragraph (b) of subsection 1 must be in substantially the following form:

AFFIDAVIT OF AUTHORITY TO
SOLEMNIZE MARRIAGES FOR
CHURCHES AND RELIGIOUS
ORGANIZATIONS

State of Nevada }
 }ss.
County of }

The..... (name of church or religious organization) is organized and carries on its work in the State of Nevada. Its active meetings are located at..... (street address, city or town). The..... (name of church or religious organization) hereby finds that..... (name of minister or other person authorized to solemnize marriages) is in good standing and is authorized by the..... (name of church or religious organization) to solemnize a marriage.

I am duly authorized by..... (name of church or religious organization) to complete and submit this affidavit.

.....
Signature of Official

.....

Name of Official
(type or print name)

.....

Title of Official

.....

Address

.....

City, State and Zip Code

.....

Telephone Number

Signed and sworn to (or affirmed) before me this..... day of the
month of..... of the year.....

.....

Notary Public for

..... County, Nevada.

My appointment expires.....

6. Not later than 30 days after issuing **or renewing** a certificate of permission to perform marriages to a notary public, the county clerk must submit to the Secretary of State the name of the notary public to whom the certificate has been issued.

7. If a licensed, ordained or appointed minister , ~~for~~ other church or religious official authorized to solemnize a marriage **or marriage officiant** who holds a certificate of permission to perform marriages changes his or her mailing address, the minister , ~~for~~ other church or religious official authorized to solemnize a marriage **or marriage officiant** must notify the county clerk who issued the certificate of his or her new mailing address not later than 30 days after the change. If a notary public who holds a certificate of permission to perform marriages changes his or her mailing address, the notary public must submit to the Secretary of State a request for an amended certificate of appointment pursuant to NRS 240.036.

8. The fees collected by the county clerk pursuant to paragraph (d) of subsection 1 must be deposited in the county treasury to be used for establishing and maintaining a course for marriage officiants.

Sec. 10. NRS 122.066 is hereby amended to read as follows:

122.066 1. The Secretary of State shall establish and maintain a statewide database of ministers, other church or religious officials authorized to solemnize a marriage , ~~for~~ notaries public **or marriage officiants** who have been issued a permission to perform marriages ~~for~~ **or for** ~~renewal of a~~ whose certificate ~~for~~ has been renewed. The database must:

(a) Serve as the official list of ministers, other church or religious officials authorized to solemnize a marriage , ~~for~~ notaries public **or marriage officiants** approved to perform marriages in this State;

(b) Provide for a single method of storing and managing the official list;

(c) Be a uniform, centralized and interactive database;

(d) Be electronically secure and accessible to each county clerk in this State;

(e) Contain the name, mailing address and other pertinent information of each minister, other church or religious official authorized to solemnize a marriage , ~~for~~ notary public **or marriage officiant** as prescribed by the Secretary of State; and

(f) Include a unique identifier assigned by the Secretary of State to each minister, other church or religious official authorized to solemnize a marriage , ~~for~~ notary public **or marriage officiant**.

2. If the county clerk approves an application for a certificate of permission to perform marriages ~~for~~ **or for the renewal of a certificate**, the county clerk shall:

(a) Enter all information contained in the application into the electronic statewide database of ministers, other church or religious officials authorized to solemnize a marriage , ~~for~~ notaries public **or marriage officiants** maintained by the Secretary of State not later than 10 days after the certificate of permission to perform marriages **or the renewal of a certificate** is approved by the county clerk; and

(b) Provide to the Secretary of State all information related to the minister, other church or religious official authorized to solemnize a marriage , ~~for~~ notary public **or marriage officiant** pursuant to paragraph (e) of subsection 1.

3. Upon approval of an application pursuant to subsection 2, the minister, other church or religious official authorized to solemnize a marriage , ~~for~~ notary public **or marriage officiant**:

(a) Shall comply with the laws of this State governing the solemnization of marriage and conduct of ministers, other church or religious officials authorized to solemnize a marriage , ~~for~~ notaries public **or marriage officiants**;

(b) Is subject to further review or investigation by the county clerk to ensure that he or she continues to meet the statutory requirements for a person authorized to solemnize a marriage; and

(c) Shall provide the county clerk with any changes to his or her status or information, including, without limitation, the address or telephone number of the church or religious organization, if applicable, or any other information pertaining to certification within 30 days after such a change. If a notary public to whom a certificate of permission to perform marriages has been issued **or renewed** changes his or her address, the notary public must submit to the Secretary of State a request for an amended certificate of appointment in accordance with NRS 240.036.

4. ~~Except as otherwise provided in this section,~~ In addition to the circumstances set forth in this section in which a certificate of permission to perform marriages is no longer valid or expires, a county clerk may, in his or her discretion, establish a policy providing that a certificate of permission ~~to perform marriages or a renewal of a certificate~~ expires 5 years after the date it was issued ~~or renewed~~. If a county clerk does not establish such a policy, the certificate of permission remains valid unless and until it becomes invalid or expires pursuant to this section.

5. A certificate of permission is valid until:

(a) If the certificate is issued to a minister or other church or religious official authorized to solemnize a marriage, the county clerk has received an affidavit of removal of authority to solemnize marriages pursuant to NRS 122.0665 or the certificate of permission is revoked pursuant to NRS 122.068.

(b) If the certificate is issued to a notary public, the appointment as a notary public has expired or has been cancelled, revoked or suspended. If, after the expiration of his or her appointment, a notary public receives a new appointment, the notary public may reapply for a certificate of permission to perform marriages ~~, without charge, if the reapplication occurs within 3 months after the expiration of the previous notary public appointment.~~

~~5.~~ 6. An affidavit of removal of authority to solemnize marriages that is received pursuant to paragraph (a) of subsection ~~4~~ 5 must be sent to the county clerk within 5 days after the minister or other church or religious official authorized to solemnize a marriage ceased to be a member of the church or religious organization in good standing or ceased to be a minister or other church or religious official authorized to solemnize a marriage for the church or religious organization.

~~6.~~ 7. If the county clerk in the county where the certificate of permission was issued has reason to believe that:

(a) The minister or other church or religious official authorized to solemnize a marriage is no longer in good standing within his or her church or religious organization, or that he or she is no longer a minister or other church or religious official authorized to solemnize a marriage, or that such church or religious organization no longer exists; ~~or~~

(b) The notary public is no longer in good standing with the Secretary of State or that the appointment of the notary public has expired ~~or~~ ; **or**

(c) **The marriage officiant is no longer in good standing with the county clerk,**

the county clerk may require satisfactory proof of the good standing of the minister, other church or religious official authorized to solemnize a marriage , ~~notary public~~ **or marriage officiant**. If such proof is not presented within 15 days, the county clerk shall remove the certificate of permission by amending the electronic record of the minister, other church or religious official authorized to solemnize a marriage , ~~notary public~~ **or marriage officiant** in the statewide database pursuant to subsection 1.

~~{7.}~~ **8.** Except as otherwise provided in subsection ~~{8.}~~ **9**, if any minister or other church or religious official authorized to solemnize a marriage to whom a certificate of permission has been issued severs ties with his or her church or religious organization or moves from the county in which his or her certificate was issued, the certificate shall expire immediately upon such severance or move, and the church or religious organization shall, within 5 days after the severance or move, file an affidavit of removal of authority to solemnize marriages pursuant to NRS 122.0665. If the minister or other church or religious official authorized to solemnize a marriage voluntarily advises the county clerk of the county in which his or her certificate was issued of his or her severance with his or her church or religious organization, or that he or she has moved from the county, the certificate shall expire immediately upon such severance or move without any notification to the county clerk by the church or religious organization.

~~{8.}~~ **9.** If any minister or other church or religious official authorized to solemnize a marriage, who is retired and to whom a certificate of permission has been issued, moves from the county in which his or her certificate was issued to another county in this State, the certificate remains valid until such time as the certificate otherwise expires or is removed or revoked as prescribed by law. The minister or other church or religious official authorized to solemnize a marriage must provide his or her new address to the county clerk in the county to which the minister or other church or religious official authorized to solemnize a marriage has moved.

~~{9.}~~ **10.** If any notary public **or marriage officiant** to whom a certificate of permission has been issued **or renewed** moves from the county in which his or her certificate was issued, the certificate shall expire immediately upon such move.

~~{10.}~~ **11.** The Secretary of State may adopt regulations concerning the creation and administration of the statewide database. This section does not prohibit the Secretary of State from making the database publicly accessible for the purpose of viewing ministers, other church or religious officials who are authorized to solemnize a marriage, ~~for~~ notaries public **or marriage officiants** to whom a certificate of permission to perform marriages ~~for renewal of a certificate~~ has been issued **or renewed** in this State.

Sec. 11. NRS 122.068 is hereby amended to read as follows:

122.068 1. Any county clerk who has issued **or renewed** a certificate of permission to perform marriages to a minister, other church or religious official authorized to solemnize a marriage, ~~for~~ notary public **or marriage officiant** pursuant to NRS 122.062 to 122.073, inclusive, may revoke the certificate for good cause shown after a hearing.

2. If the certificate of permission to perform marriages ~~for renewal of a certificate~~ of any minister, other church or religious official authorized to solemnize a marriage, ~~for~~ notary public **or marriage officiant** is revoked or if the county clerk has received an affidavit of removal of authority to solemnize marriages pursuant to NRS 122.0665, the county clerk shall

inform the Secretary of State of that fact, and the Secretary of State shall immediately remove the name of the minister, other church or religious official authorized to solemnize a marriage, ~~for~~ notary public **or marriage officiant** from the official list contained in the database of ministers, other church or religious officials authorized to solemnize a marriage, ~~for~~ notaries public **or marriage officiants** and shall notify each county clerk and county recorder in the State of the revocation or removal of authority.

Sec. 12. NRS 122.071 is hereby amended to read as follows:

122.071 Any minister, other church or religious official authorized to solemnize a marriage, ~~for~~ notary public **or marriage officiant** whose application for a certificate of permission to perform marriages or renewal of such certificate is denied, or whose certificate of permission is revoked, is entitled to judicial review of such action in the district court of the county in which such action was taken.

Sec. 13. NRS 122.090 is hereby amended to read as follows:

122.090 No marriage solemnized before any person professing to be a judge, justice, minister or other church or religious official authorized to solemnize a marriage, notary public **or marriage officiant** to whom a certificate of permission to perform marriages **or a renewal of a certificate** has been issued, commissioner of civil marriages or deputy commissioner of civil marriages shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected on account of any want of jurisdiction or authority, provided it be consummated with a full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

Sec. 14. NRS 122.110 is hereby amended to read as follows:

122.110 1. In the solemnization of marriage, no particular form is required except that the parties shall declare, in the presence of the justice, judge, minister or other church or religious official authorized to solemnize a marriage, notary public **or marriage officiant** to whom a certificate of permission to perform marriages **or a renewal of a certificate** has been issued, justice of the peace, commissioner of civil marriages or deputy commissioner of civil marriages, and the attending witness, that they take each other as husband and wife.

2. In every case, there shall be at least one witness present besides the person performing the ceremony.

Sec. 15. NRS 122.120 is hereby amended to read as follows:

122.120 1. After a marriage is solemnized, the person solemnizing the marriage shall give to each couple being married ~~to~~ **an uncertified copy of a** certificate of marriage.

2. The certificate of marriage must contain the date of birth of each applicant as contained in the form of marriage license pursuant to NRS 122.050. If a male and female person who are the husband and wife of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, the certificate of marriage must state that the male and female

person were rejoined in marriage and that the certificate is replacing a record of marriage which was lost or destroyed or is otherwise unobtainable. The certificate of marriage must be in substantially the following form:

State of Nevada
Marriage Certificate

State of Nevada }
 }ss.
County of..... }

This is to certify that the undersigned, ... (a minister or other church or religious official authorized to solemnize a marriage, notary public, judge, justice of the peace of County, commissioner of civil marriages , ~~for~~ deputy commissioner of civil marriages ~~or~~ **or marriage officiant**, as the case may be), did on the day of the month of of the year, at (address or church), ... (city), Nevada, join or rejoin, as the case may be, in lawful wedlock (name), of (city), State of, date of birth, and (name), of(city), State of, date of birth, with their mutual consent, in the presence of and (witnesses). (If a male and female person who are the husband and wife of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, this certificate replaces the record of the marriage of the male and female person who are being rejoined in marriage.)

.....
Signature of person performing
(Seal of County Clerk) the marriage

.....
Name under signature typewritten
or printed in black ink

.....
County Clerk

.....
Official title of person performing
the marriage

.....
.....
Couple's mailing address

3. All information contained in the certificate of marriage must be typewritten or legibly printed in black ink, except the signatures. The

signature of the person performing the marriage must be an original signature.

Sec. 16. NRS 122.220 is hereby amended to read as follows:

122.220 1. It is unlawful for any Supreme Court justice, judge of the Court of Appeals, judge of a district court, justice of the peace, municipal judge, minister or other church or religious official authorized to solemnize a marriage, notary public, commissioner of civil marriages, ~~for~~ deputy commissioner of civil marriages **or marriage officiant** to join together as husband and wife persons allowed by law to be joined in marriage, until the persons proposing such marriage exhibit to him or her a license from the county clerk as provided by law.

2. Any Supreme Court justice, judge of the Court of Appeals, judge of a district court, justice of the peace, municipal judge, minister or other church or religious official authorized to solemnize a marriage, notary public, commissioner of civil marriages, ~~for~~ deputy commissioner of civil marriages **or marriage officiant** who violates the provisions of subsection 1 is guilty of a misdemeanor.

Sec. 17. NRS 122.260 is hereby amended to read as follows:

122.260 If any person ~~[shall undertake]~~ **undertakes** to join others in marriage, knowing that he or she is not lawfully authorized so to do, or knowing of the existence of any legal impediment to the proposed marriage, the person ~~[is guilty of a misdemeanor . . . and] shall be punished by a [fine]~~ **civil penalty of not less than \$1,500. A board of county commissioners may enact an ordinance delegating to a hearing officer the authority to determine violations of this section and to levy civil penalties for those violations.**

Sec. 18. NRS 246.075 is hereby amended to read as follows:

246.075 1. In a county whose population is 700,000 or more, the board of county commissioners may impose by ordinance an additional fee of not more than \$14 for the issuance of a marriage license.

2. An ordinance adopted pursuant to subsection 1 must include a provision creating a special revenue fund designated as the fund for the promotion of marriage tourism. Any money collected from a fee imposed pursuant to subsection 1 must be paid by the county clerk to the county treasurer, and the county treasurer shall deposit the money received in the fund.

3. Any interest earned on money in the fund, after deducting any applicable charges, must be credited to the fund.

4. Any money remaining in the fund at the end of a fiscal year must not revert to the county general fund, and the balance in the fund must be carried forward to the next fiscal year.

5. The money in the fund:

(a) Must be used by the county clerk only to promote wedding tourism in the county.

(b) Must not be used to replace or supplant any money available to fund the regular operations of the office of the county clerk.

6. If a board of county commissioners adopts an ordinance pursuant to subsection 1, on or before July 1 of each year, the county clerk shall ~~submit~~ **report** to the board of county commissioners ~~a report of~~ the projected expenditures of the money in the fund for the following fiscal year.

Sec. 19. ~~Any~~ If, pursuant to NRS 122.066, as amended by section 10 of this act, a county clerk establishes a policy providing that a certificate of permission to perform marriages expires 5 years after the certificate of permission is issued or renewed, a certificate of permission issued by the county clerk to a minister or other church or religious official authorized to solemnize a marriage or a notary public before July 1, 2017, expires on June 30, 2022, and may be renewed pursuant to NRS 122.064, as amended by section 9 of this act.

Sec. 20. This act becomes effective on July 1, 2017.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 375.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 439.

AN ACT relating to taxation; authorizing the governing body of a flood management authority under specified circumstances to adopt a resolution establishing a flood control project needs committee to recommend the imposition of certain taxes to fund the flood management projects of the flood management authority; providing that if such a committee is established and submits its recommendations to the board of county commissioners within the time prescribed, the board of county commissioners is required to submit a question to the voters at the 2018 General Election asking whether the recommended taxes should be imposed in the county; requiring the board of county commissioners to adopt an ordinance imposing any such taxes that are approved by the voters; providing for the use of the proceeds of such taxes for certain flood management projects; providing that if a flood control project needs committee is established, the committee is required to obtain information and submit a report concerning certain flooding issues in the county; providing for the prospective expiration of the authority of a governing body to establish such a committee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes the governing body of a flood management authority to establish by resolution a flood control project needs committee to recommend the imposition of certain taxes for consideration by the voters at

the 2018 General Election to fund the flood management projects of the flood management authority.

Sections 2 and 3 of this bill provide that if such a committee is established, the committee may recommend the imposition of one or more of the following taxes: (1) an additional tax on the gross receipts from the rental of transient lodging in the county; (2) a supplemental governmental services tax for the privilege of operating a vehicle upon the public streets, roads and highways of the county; (3) an additional tax on the transfer of real property in the county; (4) an additional sales and use tax in the county; ~~and~~ (5) an additional property tax in the county ~~;~~ **and (6) any other tax, fee, levy or assessment the county is authorized under the law of this State to impose.** The recommendations of the committee must specify the rate or rates for each of the recommended taxes **, fees, levies or assessments** and may specify the period during which the recommended taxes **, fees, levies or assessments** will be imposed. If the committee submits its recommendations to the board of county commissioners on or before April 2, 2018, the board of county commissioners is required to submit a question to the voters at the November 6, 2018, General Election asking whether any of the taxes **, fees, levies or assessments** recommended by the committee should be imposed in the county. If a majority of the voters approve the question, the board of county commissioners is required to impose the approved taxes **, fees, levies and assessments** at the rate **or rates** specified in the question submitted to the voters. If a majority of the voters approve the imposition of an additional property tax, the additional rate is exempt from the partial abatement of property taxes on certain property and the requirement that taxes ad valorem not exceed \$3.64 on each \$100 of assessed valuation.

Section 4 of this bill provides that the proceeds resulting from the imposition of such taxes ~~;~~ **, fees, levies and assessments:** (1) must be deposited in the fund for flood management projects of the flood management authority; and (2) may be pledged to the payment of the principal and interest on bonds or other obligations issued for certain flood management projects.

Section 5 of this bill provides that if a flood control project needs committee is established, the committee must conduct meetings to receive information and evidence about flooding issues in the county and provide a report to the Governor, the Legislature, the board of county commissioners, the city council or other governing body of each city in the county and the board of directors of the flood management authority of the county.

Section 6 of this bill provides that the provisions of this bill authorizing the governing body of a flood management authority to establish such a flood control project needs committee expire by limitation on April 2, 2018.

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

Section 1. 1. The governing body of a flood management authority may, by resolution, establish a flood control project needs committee to recommend the imposition of one or more of the taxes , fees, levies or assessments described in section 3 of this act for consideration by the voters at the 2018 General Election to fund the flood management projects of the flood management authority. If such a resolution is adopted, the committee must be appointed consisting of:

(a) The chief executive officer of the flood management authority, who serves ex officio, or his or her designee.

(b) One Senator whose legislative district includes all or part of the flood management authority. If the legislative district of more than one Senator includes the flood management authority, those Senators shall jointly appoint the member to serve.

(c) One member of the Assembly whose legislative district includes all or part of the flood management authority. If the legislative district of more than one member of the Assembly includes the flood management authority, those members of the Assembly shall jointly appoint the member to serve.

(d) One member who is a representative of the Nevada Association of Realtors, or its successor, appointed by that Association.

(e) One member who is a representative of the Retail Association of Nevada, or its successor, appointed by that Association.

(f) One member appointed by the board of county commissioners.

(g) If the county includes one or more cities, the mayor of each such city shall appoint a member to serve.

(h) One member who is a representative of a labor organization, appointed by the State of Nevada AFL-CIO or its successor.

(i) One member of the general public, appointed by the Governor of the State of Nevada.

(j) One member who represents economic development in the county, appointed by the regional development authority, as defined in NRS 231.009, for that county.

(k) One member who represents gaming, appointed by the gaming association with the largest membership in the county or, if there are no members of a gaming association in the county, the governing body of the flood management authority.

(l) One member who represents business or commercial interests, other than gaming, appointed by the local chamber of commerce with the largest membership in the county or, if there is no local chamber of commerce in the county, the governing body of the flood management authority.

(m) One member who represents homebuilders in the county, appointed by the association of homebuilders with the largest membership in the county

or, if there are no members of an association of homebuilders in the county, the governing body of the flood management authority.

(n) One member who represents the largest airport in the county, if any, appointed by that airport's governing board ~~is~~ **as a nonvoting member of the committee.**

(o) One member representing commercial developers in the county, appointed by the Northern Nevada Chapter of ~~the National Association of Industrial and Office Properties~~ **NAIOP Commercial Real Estate Development Association, or its successor.**

2. The members appointed pursuant to paragraphs (d) to (o), inclusive, of subsection 1 must be residents of the county.

3. Any vacancy occurring in the appointed membership of a committee established pursuant to subsection 1 must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

4. If a committee is established pursuant to subsection 1, the committee shall hold its first meeting upon the call of the chief executive officer of the flood management authority as soon as practicable after the appointments are made pursuant to subsection 1. At the first meeting of the committee, the members of the committee shall elect a Chair.

5. A majority of **the voting members of** a committee established pursuant to subsection 1 constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the committee.

6. If a committee is established pursuant to subsection 1, the chief executive officer of the flood management authority shall provide administrative support to the committee.

7. As used in this section, "flood management authority" has the meaning ascribed to it in NRS 244A.0293.

Sec. 2. 1. If a flood control project needs committee is established pursuant to subsection 1 of section 1 of this act, the committee shall, on or before April 2, 2018:

(a) Prepare recommendations for the imposition of one or more of the taxes **, fees, levies or assessments** described in section 3 of this act in the county to provide funding to the flood management authority for one or more flood management projects, as defined in NRS 244A.0297. The recommendations must specify the proposed rate or rates for each of the recommended taxes **, fees, levies or assessments** and may specify the period during which one or more of the recommended taxes **, fees, levies or assessments** will be imposed.

(b) Submit the recommendations to the board of county commissioners.

2. Upon the receipt of recommendations pursuant to subsection 1, the board of county commissioners shall, at the General Election on November 6, 2018, submit a question to the voters of the county asking whether any of the recommended taxes **, fees, levies or assessments** should be imposed in the county. The question submitted to the voters of the county must specify

the proposed rate or rates for each of the recommended taxes **, fees, levies or assessments** and the period during which each of the recommended taxes **, fees, levies or assessments** will be imposed, if the period was specified in the recommendations submitted pursuant to subsection 1. If the question submitted to the voters pursuant to this subsection asks the voters of the county whether to impose the tax described in subsection 5 of section 3 of this act ~~or~~ **or any other property tax**, the question must state that any such tax imposed is exempt from each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724.

3. If a majority of the voters voting on the question submitted to the voters pursuant to subsection 2 vote affirmatively on the question:

(a) The board of county commissioners shall impose the recommended ~~tax or~~ taxes **, fees, levies or assessments** in accordance with the provisions of section 3 of this act and at the rate or rates specified in the question submitted to the voters pursuant to subsection 2.

(b) If the question recommended the imposition of the tax described in subsection 5 of section 3 of this act ~~or~~ **or any other property tax**:

(1) Any such tax imposed is exempt from each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724.

(2) The provisions of NRS 361.453 do not apply to any such tax imposed.

(c) The ~~tax or~~ taxes **, fees, levies and assessments** must be imposed notwithstanding the provisions of any specific statute to the contrary and, except as otherwise specifically provided in sections 1 to 4, inclusive, of this act, such ~~tax or~~ taxes **, fees, levies and assessments** are not subject to any limitations set forth in any statute which authorizes the board of county commissioners to impose such ~~tax or~~ taxes, **fees, levies and assessments**, including, without limitation, any limitations on the maximum rate or rates which may be imposed or the duration of the period during which such taxes **, fees, levies and assessments** may be imposed.

Sec. 3. 1. Upon approval of the registered voters of a county voting on a question presented to the voters pursuant to section 2 of this act recommending the imposition of a tax on the gross receipts from the rental of transient lodging, in addition to all other taxes imposed on the revenue from the rental of transient lodging, the board of county commissioners shall impose a tax on the gross receipts from the rental of transient lodging at the rate specified in the question presented to the voters pursuant to section 2 of this act. The tax must be imposed throughout the county, including its incorporated cities, upon all persons in the business of providing transient lodging. The tax must be administered and enforced in the same manner as similar taxes imposed pursuant to chapter 244 of NRS on the revenue from the rental of transient lodging are administered and enforced.

2. Upon approval of the registered voters of a county voting on a question presented to the voters pursuant to section 2 of this act recommending the imposition of a supplemental governmental services tax

for the privilege of operating a vehicle upon the public streets, roads and highways of the county, the board of county commissioners shall, in addition to any supplemental governmental services tax imposed pursuant to NRS 371.043 or 371.045, impose a supplemental governmental services tax at the rate specified in the question presented to the voters pursuant to section 2 of this act on each vehicle based in the county except:

(a) A vehicle exempt from the governmental services tax pursuant to chapter 371 of NRS; or

(b) A vehicle subject to NRS 706.011 to 706.861, inclusive, which is engaged in interstate or intercounty operations.

➡ The tax must be administered and enforced in the same manner as the taxes imposed pursuant to NRS 371.043 and 371.045 are administered and enforced.

3. Upon approval of the registered voters of a county voting on a question presented to the voters pursuant to section 2 of this act recommending the imposition of a tax on transfers of real property, in addition to all other taxes imposed on transfers of real property pursuant to chapter 375 of NRS, the board of county commissioners shall impose a tax at the rate specified in the question presented to the voters pursuant to section 2 of this act on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, or land sale installment contract, if the consideration or value of the interest or property conveyed exceeds \$100. The amount of the tax must be computed on the basis of the value of the real property that is the subject of the transfer or land sale installment contract as declared pursuant to NRS 375.060. The county recorder shall collect the tax in the manner provided in NRS 375.030.

4. Upon approval of the registered voters of a county voting on a question presented to the voters pursuant to section 2 of this act recommending the imposition of a tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed in the county, the board of county commissioners shall impose the tax at the rate specified in the question presented to the voters pursuant to section 2 of this act. The tax must be administered and enforced in the same manner as the taxes imposed pursuant to chapter 374 of NRS are administered and enforced.

5. Upon approval of the registered voters of a county voting on a question presented to the voters pursuant to section 2 of this act recommending an increase in the rate of the tax levied in accordance with NRS 361.460, the board of county commissioners shall, in addition to any tax levied in accordance with NRS 361.460, levy a tax on the assessed valuation of taxable property within the county in the amount described in the question presented to the voters pursuant to section 2 of this act. The tax must be administered and enforced in the same manner as the tax imposed pursuant to NRS 361.460 is administered and enforced.

6. Upon approval of the registered voters of a county voting on a question presented to the voters pursuant to section 2 of this act recommending the imposition of any other tax, fee, levy or assessment not described in subsections 1 to 5, inclusive, that the county is authorized under the law of this State to impose, the board of county commissioners shall levy or otherwise impose such a tax, fee, levy or assessment at the rate or rates specified in the question presented to the voters pursuant to section 2 of this act. Each tax, fee, levy or assessment must be administered and enforced as provided for under the laws of this State.

Sec. 4. The proceeds of any ~~tax or~~ taxes, **fees, levies and assessments** imposed pursuant to sections 2 and 3 of this act:

1. Must be deposited in the flood management authority's fund for flood management projects to be held and, except as otherwise provided in subsection 2, expended to pay the costs of one or more of the flood management projects set forth in NRS 244A.0297.

2. May be pledged to the payment of principal and interest on bonds or other obligations issued for one or more of the flood management projects set forth in NRS 244A.0297. The proceeds of such taxes, **fees, levies and assessments** so pledged may be treated as pledged revenues for the purposes of subsection 3 of NRS 350.020, and the governing body of the flood management authority may issue bonds for those purposes in accordance with the provisions of chapter 350 of NRS.

Sec. 5. 1. If a flood control project needs committee is established pursuant to subsection 1 of section 1 of this act, the committee shall, not later than 18 months after the date of the first meeting of the committee:

(a) Conduct meetings at which the committee receives information and evidence concerning the issue of flooding in areas of the county not covered by a plan for protection against floods which is adopted by the flood management authority of the county, regardless of the source or cause of such flooding; and

(b) Submit a report to the Governor, the Director of the Legislative Counsel Bureau for transmission to the next session of the Legislature, the board of county commissioners, the city council or other governing body of each incorporated city in the county and the board of directors of the flood management authority. The report must contain:

(1) A description of the areas of the county which are most affected by flooding and which are not covered by the plan for protection against floods which is adopted by the flood management authority of the county;

(2) A description of the source of flooding in the areas of the county described pursuant to subparagraph (1);

(3) A compilation of projects suggested in existing community planning documents that would address known areas of flooding in the county;

(4) Recommendations for flood protection or mitigation measures for known sources of flooding and sources of flooding identified during the course of the meetings conducted pursuant to subsection 1; and

(5) Recommendations of issues that need further study and modeling.

2. As used in this section, “flood management authority” has the meaning ascribed to it in NRS 244A.0293.

Sec. 6. 1. This act becomes effective upon passage and approval.

2. Section 1 of this act expires by limitation on April 2, 2018.

Assemblywoman Neal moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 377.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 411.

AN ACT relating to criminal procedure; prohibiting a prosecuting attorney from seeking an indictment while competency proceedings are pending, ~~and~~ **except with leave of the court;** prohibiting a prosecuting attorney from refiling charges against a defendant who has been found incompetent ~~unless the prosecuting attorney has a good faith belief, based on articulable facts, that the defendant has attained competency;~~ **except with leave of the court;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that: (1) a person may not be tried or adjudged to punishment for a public offense while incompetent; and (2) any time after the arrest of a defendant, if doubt arises as to the competence of the defendant, the court must suspend the proceedings, the trial or the pronouncing of the judgment until the question of competence is determined. (NRS 178.400, 178.405) **Section 1** of this bill provides that a prosecuting attorney may not seek an indictment of the defendant for any offense during the period in which the court is considering whether the defendant is competent or incompetent, ~~and~~ **except upon the prosecuting attorney’s application for leave of the court. Section 1 requires the prosecuting attorney to: (1) demonstrate that an objective factor significantly impacts the ability of the State to prosecute the matter in the absence of such leave of the court; and (2) give at least 24 hours’ notice of the application to the defendant’s attorney.**

Existing law provides that, under certain circumstances, when a criminal defendant has been found incompetent, the proceedings against the defendant must be dismissed. (NRS 178.425) **Section 2** of this bill provides for the refiling of charges arising out of the same circumstances in cases in which the prosecuting attorney **applies for, and is granted, leave of the court where: (1) the State has a good faith belief, based on articulable facts, that the defendant has regained competency, and** **(2) the State has a compelling**

interest in bringing charges again; and (3) the period for commencing the criminal action has not lapsed. Section 2 requires the prosecuting attorney to give at least 24 hours' notice of the application to the defendant's attorney.

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

Section 1. NRS 178.415 is hereby amended to read as follows:

178.415 1. Except as otherwise provided in this subsection, the court shall appoint two psychiatrists, two psychologists, or one psychiatrist and one psychologist, to examine the defendant. If the defendant is accused of a misdemeanor, the court of jurisdiction shall appoint a psychiatric social worker, or other person who is especially qualified by the Division, to examine the defendant.

2. Except as otherwise provided in this subsection, at a hearing in open court, the court that orders the examination must receive the report of the examination. If a justice court orders the examination of a defendant who is charged with a gross misdemeanor or felony, the district court must receive the report of the examination.

3. The court that receives the report of the examination shall permit counsel for both sides to examine the person or persons appointed to examine the defendant. The prosecuting attorney and the defendant may:

(a) Introduce other evidence including, without limitation, evidence related to treatment to competency and the possibility of ordering the involuntary administration of medication; and

(b) Cross-examine one another's witnesses.

4. ***A prosecuting attorney may not seek an indictment of the defendant for any offense during the period in which the court is considering whether the defendant is competent or incompetent ~~for~~ except upon application by the prosecuting attorney to the chief judge of the district court, or his or her designee, and with leave of the court. The prosecuting attorney must demonstrate that adequate cause exists for the court to grant leave to seek an indictment on the grounds that the availability or unavailability of a witness, or any other objective factor, significantly impacts the ability of the State to prosecute the matter in the absence of such leave. The prosecuting attorney must give notice of an application made pursuant to this subsection to the attorney for the defendant not less than 24 hours before the hearing on the application.***

5. The court that receives the report of the examination shall then make and enter its finding of competence or incompetence.

~~{5-}~~ 6. The court shall not appoint a person to provide a report or an evaluation pursuant to this section, unless the person is certified by the Division pursuant to NRS 178.417.

Sec. 2. NRS 178.425 is hereby amended to read as follows:

178.425 1. If the court finds the defendant incompetent, and dangerous to himself or herself or to society and that commitment is required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the sheriff to convey the defendant forthwith, together with a copy of the complaint, the commitment and the physicians' certificate, if any, into the custody of the Administrator or the Administrator's designee for detention and treatment at a division facility that is secure. The order may include the involuntary administration of medication if appropriate for treatment to competency.

2. The defendant must be held in such custody until a court orders the defendant's release or until the defendant is returned for trial or judgment as provided in NRS 178.450, 178.455 and 178.460.

3. If the court finds the defendant incompetent but not dangerous to himself or herself or to society, and finds that commitment is not required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the defendant to report to the Administrator or the Administrator's designee as an outpatient for treatment, if it might be beneficial, and for a determination of the defendant's ability to receive treatment to competency and to attain competence. The court may require the defendant to give bail for any periodic appearances before the Administrator or the Administrator's designee.

4. Except as otherwise provided in subsection 5, proceedings against the defendant must be suspended until the Administrator or the Administrator's designee or, if the defendant is charged with a misdemeanor, the judge finds the defendant capable of standing trial or opposing pronouncement of judgment as provided in NRS 178.400.

5. Whenever the defendant has been found incompetent, with no substantial probability of attaining competency in the foreseeable future, and released from custody or from obligations as an outpatient pursuant to paragraph (d) of subsection 4 of NRS 178.460, the proceedings against the defendant which were suspended must be dismissed. No new charge arising out of the same circumstances may be brought ~~after~~

~~(a) Unless~~ except upon application by the prosecuting attorney to the chief judge of the district court, or his or her designee, and with leave of the court where:

(a) The State has a good faith belief, based on articulable facts, that the defendant has attained competency.

~~(b) After a~~ ;

(b) The State has a compelling interest in bringing charges again; and

(c) The period, equal to the maximum time allowed by law for commencing a criminal action for the crime with which the defendant was charged, has not lapsed since the date of the alleged offense.

↪ The prosecuting attorney must give notice of an application made pursuant to this subsection to the attorney for the defendant not less than 24 hours before the hearing on the application.

6. If a defendant is found incompetent pursuant to this section, the court shall cause, within 5 business days after the finding, on a form prescribed by the Department of Public Safety, a record of that finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

7. As used in this section, “National Instant Criminal Background Check System” has the meaning ascribed to it in NRS 179A.062.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 381.

Bill read second time.

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

Amendment No. 548.

SUMMARY—Revises provisions governing prescription drugs covered by **certain** policies of health insurance. (BDR 57-698)

AN ACT relating to health insurance; prohibiting an insurer from taking certain actions concerning prescription drugs covered by ~~the policy~~ **certain policies** of health insurance; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, policies of health insurance may provide coverage for prescription drugs. Prescription drugs which are covered by a policy of health insurance are organized into a formulary, which is an official list of the prescription drugs, and that formulary may be subcategorized based upon the cost to the insured person to purchase the prescription drug under the policy of health insurance. These subcategories are referred to as tiers. If a particular prescription drug is moved by the insurer from a lower cost tier to a higher cost tier, the insured person purchasing the prescription drug will need to pay more to purchase the prescription drug after the prescription drug is moved to the higher cost tier.

Section 1 of this bill prohibits ~~an insurer~~ **certain insurers** from moving a prescription drug from a lower cost tier to a higher cost tier ~~before the expiration of the policy of health insurance, while expressly authorizing such a move upon renewal of the policy. The applicable terms in section 1 are defined broadly to apply to private and public health care policies, contracts, certificates, plans and agreements, as specified, including, without limitation, policies offered to individuals and groups, plans offered through small~~

~~employers, contracts offered by fraternal benefit societies, policies offered by hospital or medical services corporations, plans offered by health maintenance organizations and by managed care organizations, coverage provided by prepaid limited health service organizations, and programs such as Medicaid administered by governmental entities. Sections 3 and 4 of this bill make conforming changes to apply the provisions of section 1 to state and local governmental employees.~~ under certain policies of health insurance issued to an individual or a small employer, except on specified dates or when an applicable generic drug is added to the formulary under specified circumstances. Section 1 does not prevent such an insurer from: (1) moving a prescription drug from a higher cost tier to a lower cost tier; (2) removing a prescription drug from a formulary; or (3) adding a prescription drug to a formulary.

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

Section 1. Chapter 687B of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a policy of health insurance issued to an individual pursuant to chapter 689A, ~~689B, 689C, 695A, 695B, 695C, 695F or 695G~~ of NRS includes coverage for a prescription drug pursuant to a formulary with more than one cost tier, the insurer ~~shall not~~ may move the prescription drug from a lower cost tier to a higher cost tier ~~before the expiration of the policy of health insurance. The insurer may move a prescription drug from a lower cost tier to a higher cost tier upon renewal of the policy of health insurance.~~

~~2.~~ only:

(a) On January 1; and

(b) On any date on which the insurer adds to the formulary a generic prescription drug that:

(1) Has been approved by the Food and Drug Administration for use as an alternative to the original prescription drug; and

(2) Is being added to the formulary at:

(I) The same cost tier from which the original prescription drug is being moved; or

(II) A cost tier which has a smaller deductible, copayment or coinsurance than the cost tier from which the original prescription drug is being moved.

2. If a policy of health insurance issued to a small employer pursuant to chapter 689C, 695B or 695C of NRS includes coverage for a prescription drug pursuant to a formulary with more than one cost tier, the insurer may move the prescription drug from a lower cost tier to a higher cost tier only:

(a) On January 1;

(b) On July 1; and

(c) On any date on which the insurer adds to the formulary a generic prescription drug that:

(1) Has been approved by the Food and Drug Administration for use as an alternative to the original prescription drug; and

(2) Is being added to the formulary at:

(I) The same cost tier from which the original prescription drug is being moved; or

(II) A cost tier which has a smaller deductible, copayment or coinsurance than the cost tier from which the original prescription drug is being moved.

3. The provisions of this section do not prevent an insurer, at any time, from:

(a) Moving a prescription drug from a higher cost tier of a formulary to a lower cost tier of the formulary; ~~for~~

(b) Removing a prescription drug from a formulary; or

(c) Adding a prescription drug to a formulary.

~~{2.}~~ 4. This section does not apply to a grandfathered plan.

5. As used in this section ~~for~~ “insurer”:

(a) “Individual carrier” has the meaning ascribed to it in NRS 689A.550.

(b) “Insurer” includes, without limitation ~~for~~ ~~a~~:

(1) An individual carrier; and

(2) A governmental entity which offers, administers or otherwise provides a policy of health insurance.

(c) “Small employer” has the meaning ascribed to it in NRS 689C.095.

Sec. 2. ~~[NRS 689C.425 is hereby amended to read as follows:~~

~~689C.425 A voluntary purchasing group and any contract issued to such a group pursuant to NRS 689C.360 to 689C.600, inclusive, are subject to the provisions of NRS 689C.015 to 689C.355, inclusive, to the extent applicable and not in conflict with the express provisions of NRS 687B.408 and 689C.360 to 689C.600, inclusive [.] , and section 1 of this act.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 287.010 is hereby amended to read as follows:~~

~~287.010 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada may:~~

~~(a) Adopt and carry into effect a system of group life, accident or health insurance, or any combination thereof, for the benefit of its officers and employees, and the dependents of officers and employees who elect to accept the insurance and who, where necessary, have authorized the governing body to make deductions from their compensation for the payment of premiums on the insurance.~~

~~(b) Purchase group policies of life, accident or health insurance, or any combination thereof, for the benefit of such officers and employees, and the dependents of such officers and employees, as have authorized the purchase,~~

~~from insurance companies authorized to transact the business of such insurance in the State of Nevada, and, where necessary, deduct from the compensation of officers and employees the premiums upon insurance and pay the deductions upon the premiums.~~

~~—(c) Provide group life, accident or health coverage through a self-insurance reserve fund and, where necessary, deduct contributions to the maintenance of the fund from the compensation of officers and employees and pay the deductions into the fund. The money accumulated for this purpose through deductions from the compensation of officers and employees and contributions of the governing body must be maintained as an internal service fund as defined by NRS 354.543. The money must be deposited in a state or national bank or credit union authorized to transact business in the State of Nevada. Any independent administrator of a fund created under this section is subject to the licensing requirements of chapter 683A of NRS, and must be a resident of this State. Any contract with an independent administrator must be approved by the Commissioner of Insurance as to the reasonableness of administrative charges in relation to contributions collected and benefits provided. The provisions of NRS 687B.408, 689B.030 to 689B.050, inclusive, and 689B.287 **and section 1 of this act** apply to coverage provided pursuant to this paragraph.~~

~~—(d) Defray part or all of the cost of maintenance of a self insurance fund or of the premiums upon insurance. The money for contributions must be budgeted for in accordance with the laws governing the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada.~~

~~—2. If a school district offers group insurance to its officers and employees pursuant to this section, members of the board of trustees of the school district must not be excluded from participating in the group insurance. If the amount of the deductions from compensation required to pay for the group insurance exceeds the compensation to which a trustee is entitled, the difference must be paid by the trustee.~~

~~—3. In any county in which a legal services organization exists, the governing body of the county, or of any school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada in the county, may enter into a contract with the legal services organization pursuant to which the officers and employees of the legal services organization, and the dependents of those officers and employees, are eligible for any life, accident or health insurance provided pursuant to this section to the officers and employees, and the dependents of the officers and employees, of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency.~~

~~—4. If a contract is entered into pursuant to subsection 3, the officers and employees of the legal services organization:~~

~~— (a) Shall be deemed, solely for the purposes of this section, to be officers and employees of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency with which the legal services organization has contracted; and~~

~~— (b) Must be required by the contract to pay the premiums or contributions for all insurance which they elect to accept or of which they authorize the purchase.~~

~~— 5. A contract that is entered into pursuant to subsection 3:~~

~~— (a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.~~

~~— (b) Does not become effective unless approved by the Commissioner.~~

~~— (c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.~~

~~— 6. As used in this section, “legal services organization” means an organization that operates a program for legal aid and receives money pursuant to NRS 49.031. **(Deleted by amendment.)**~~

Sec. 4. [NRS 287.04335 is hereby amended to read as follows:]

~~— 287.04335 If the Board provides health insurance through a plan of self insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.162, 695G.164, 695G.1645, 695G.1665, 695G.167, 695G.170 to 695G.173, inclusive, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, and 695G.405, **and section 1 of this act**, in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions. **(Deleted by amendment.)**~~

Sec. 5. This act becomes effective on January 1, 2019.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 400.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 480.

AN ACT relating to education; requiring the board of trustees of a school district or governing body of a charter school to transfer the copyright **or otherwise relinquish any claim to the copyright** for certain instructional materials ~~for tools~~ to an employee of the school district or charter school; requiring the Department of Education to establish a database of instructional materials ~~and tools~~ created by employees of school districts and charter schools in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing federal law provides that the employer owns the copyright of a work produced by an employee within the scope of his or her employment. (17 U.S.C. § 201) This bill requires the board of trustees of a school district or the governing body of a charter school to : **(1) transfer to an employee of the school district or charter school the copyright for any instructional materials ~~for tools~~ created by the employee ~~for tools~~ outside the scope of his or her employment; or (2) otherwise relinquish any claim to the copyright for such instructional materials.**

This bill also requires the Department of Education to establish a database of instructional materials ~~and tools~~ created by employees of school districts and charter schools in this State and provide access to the database to any employee of a school district or charter school in this State upon request. This bill authorizes any person to suggest to the Department the inclusion of instructional materials ~~for tools~~ in the database. This bill provides that instructional materials ~~for tools~~ suggested for inclusion will be included in the database if: (1) use of the instructional materials ~~for tools~~ is approved by the regional training program established for the region in which the employee who created the instructional materials ~~for tools~~ is employed; and (2) the Department enters into a contract with the employee who created the instructional materials ~~for tools~~ authorizing the Department to include the instructional materials ~~for tools~~ in the database **for tools** **and allow any employee of a school district or charter school in this State to use the instructional materials free of charge.**

WHEREAS, Creating instructional materials, including textbooks, outside of the scope of a teacher's or other employee's employment allows the teacher or other employee to use his or her knowledge and experience to benefit a larger number of teachers, school employees and pupils; and

WHEREAS, A teacher or other employee of a school deserves to own any instructional materials created by the teacher or employee outside the scope of his or her employment without hindrance and receive compensation for the use of such instructional materials; and

WHEREAS, Providing teachers and other school employees with access to a wide variety of instructional materials will allow those teachers and school employees to better meet the needs of their pupils; now, therefore,

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

Section 1. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a school district or the governing body of a charter school shall transfer to an employee of the school district or charter school, as applicable, free of charge, the copyright for any

instructional materials ~~for tools~~ created by the employee ~~if~~ outside the scope of his or her employment or otherwise relinquish any claim to the copyright for such instructional materials.

2. The Department shall establish a database of instructional materials ~~for tools~~ created by employees of school districts and charter schools in this State. Any person, including, without limitation, an employee of a school district or charter school, may suggest to the Department the inclusion of such instructional materials ~~for tools~~ in the database. The suggested instructional materials ~~for tools~~ must be included in the database if:

(a) The inclusion of the instructional materials ~~for tools~~ in the database is approved by the regional training program established pursuant to NRS 391A.120 for the region in which the employee who created the instructional materials ~~for tools~~ is employed; and

(b) The Department enters into a contract with the employee who created the instructional materials ~~for tools~~ authorizing the Department to include the instructional materials ~~for tools~~ in the database ~~if~~ and allow any employee of a school district or charter school in this State to use the instructional materials free of charge.

3. The database established pursuant to subsection 2 must:

(a) Identify, for each set of instructional materials included in the database, the school and, if applicable, the school district in which the set of instructional materials is used; and

(b) Allow an employee of a school district or charter school to search for all instructional materials that are used in schools that, pursuant to the attendance matriculation pattern of a particular school, are regularly attended by pupils who ultimately attend that school.

4. The Department shall provide access to the database established pursuant to subsection 2 to any employee of a school district or charter school in this State upon request.

~~4.1~~ 5. The State Board may adopt any regulations necessary to carry out the provisions of this section.

6. As used in this section, the term “instructional materials” does not include tests, quizzes, homework problems or lesson plans.

Sec. 1.5. NRS 389.840 is hereby amended to read as follows:

389.840 As used in NRS 389.840 to 389.880, inclusive, unless the context requires otherwise:

1. “Basic textbook” or “textbook” means any medium or manual of instruction, including, without limitation, software for computers ~~if~~ or a medium or manual of instruction to which an employee of a school district owns the copyright pursuant to section 1 of this act, containing a presentation of the principles of a subject and used as a basis of instruction.

2. “Supplemental textbook” means any medium or material, including, without limitation, software for computers ~~if~~ or a medium or material to which an employee of a school district owns the copyright pursuant to

section 1 of this act, used to reinforce or extend a basic program of instruction.

3. A basic or supplemental textbook becomes “unserviceable” when 4 years have elapsed since its removal from the adopted list.

Sec. 2. Insofar as they conflict with the provisions of such an agreement, the amendatory provisions of this act do not apply during the current term of any contract of employment or collective bargaining agreement entered into before January 1, 2018, but do apply to any extension or renewal of such an agreement and to any agreement entered into on or after January 1, 2018.

Sec. 3. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act and on January 1, 2018, for all other purposes.

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 402.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 440.

~~[ASSEMBLYWOMAN]~~ **ASSEMBLYWOMEN JAUREGUI; AND KRASNER**

AN ACT relating to taxes on retail sales; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption from the tax for feminine hygiene products and diapers; providing for the exemptions from certain analogous taxes if the voters approve this amendment to the Sales and Use Tax Act of 1955; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

The nonadministrative provisions of the Sales and Use Tax Act of 1955 (part of chapter 372 of NRS) was approved by the voters by a referendum and therefore cannot be amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people. (Nev. Const. Art. 19, § 1)

Sections 2-9 of this bill require the submission of a question to the voters at the 2018 General Election of whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption for feminine hygiene products and diapers. **Section 10** of this bill construes the terms “feminine hygiene product” and “diaper” for the purposes of the exemption. **Sections 11 and 12** of this bill amend the Local School Support Tax Law to provide an identical exemption. This tax exemption becomes effective on January 1, 2019, and expires by limitation on December 31, 2028, only if the voters approve the amendment to the Sales and Use Tax Act of 1955 at the General Election in 2018.

Any amendment to the Local School Support Tax Law also applies to other sales and use taxes imposed under existing law. (NRS 354.705, 374A.020, 376A.060, 377.040, 377A.030, 377B.110 and 543.600 and various special and local acts)

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

Section 1. The Legislature hereby finds that each exemption provided by this act from any excise tax on the sale, storage, use or consumption of tangible personal property sold at retail:

1. Will achieve a bona fide social or economic purpose and that the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local government that would otherwise receive revenue from the tax from which the exemption would be granted; and

2. Will not impair adversely the ability of the State or a local government to pay, when due, all interest and principal on any outstanding bonds or any other obligations for which revenue from the tax from which the exemption would be granted was pledged.

Sec. 2. At the General Election on November 6, 2018, a proposal must be submitted to the registered voters of this State to amend the Sales and Use Tax Act, which was enacted by the 47th Session of the Legislature of the State of Nevada and approved by the Governor in 1955, and subsequently approved by the people of this State at the General Election held on November 6, 1956.

Sec. 3. At the time and in the manner provided by law, the Secretary of State shall transmit the proposed act to the several county clerks, and the county clerks shall cause it to be published and posted as provided by law.

Sec. 4. The proclamation and notice to the voters given by the county clerks pursuant to law must be in substantially the following form:

Notice is hereby given that at the General Election on November 6, 2018, a question will appear on the ballot for the adoption or rejection by the registered voters of the State of the following proposed act:

AN ACT to amend an Act entitled “An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto.” approved March 29, 1955, as amended.

THE PEOPLE OF THE STATE OF NEVADA
DO ENACT AS FOLLOWS:

Section 1. Section 56.1 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, as added by chapter 306, Statutes of Nevada 1969, at page 532, and amended by chapter 627, Statutes of

Nevada 1985, at page 2028, and amended by chapter 404, Statutes of Nevada 1995, at page 1007, is hereby amended to read as follows:

Sec. 56.1. 1. There are exempted from the taxes imposed by this act the gross receipts from sales and the storage, use or other consumption of:

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis.

(d) Medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

(2) Furnished by a licensed physician, dentist or podiatric physician to his own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

(e) *Feminine hygiene products.*

(f) *Diapers.*

2. As used in this section:

(a) "Medicine" means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or affliction of the human body and which is commonly recognized as a substance or preparation intended for such use. The term includes splints, bandages, pads, compresses and dressings.

(b) "Medicine" does not include:

(1) Any auditory, ophthalmic or ocular device or appliance.

(2) Articles which are in the nature of instruments, crutches, canes, devices or other mechanical, electronic, optical or physical equipment.

(3) Any alcoholic beverage, except where the alcohol merely provides a solution in the ordinary preparation of a medicine.

(4) Braces or supports, other than those prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

3. Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on a prescription within the meaning of this section.

Sec. 2. This act becomes effective on January 1, 2019, and expires by limitation on December 31, 2028.

Sec. 5. The ballot page assemblies and the paper ballots to be used in voting on the question must present the question in substantially the following form:

Shall the Sales and Use Tax Act of 1955 be amended to provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of feminine hygiene products and diapers?

Yes ☐ No ☐

Sec. 6. The explanation of the question which must appear on each paper ballot and sample ballot and in every publication and posting of notice of the question must be in substantially the following form:

(Explanation of Question)

The proposed amendment to the Sales and Use Tax Act of 1955 would exempt from the taxes imposed by this Act the gross receipts from the sale and storage, use or other consumption of feminine hygiene products and diapers.

If this proposal is adopted, the Legislature has provided that the Local School Support Tax Law and certain analogous taxes on retail sales will be amended to provide the same exemptions.

Sec. 7. If a majority of the votes cast on the question is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2019, and expires by limitation on December 31, 2028. If less than a majority of votes cast on the question is yes, the question fails and the amendment to the Sales and Use Tax Act of 1955 does not become effective.

Sec. 8. All general election laws not inconsistent with this act are applicable.

Sec. 9. Any informalities, omissions or defects in the content or making of the publications, proclamations or notices provided for in this act and by the general election laws under which this election is held must be so construed as not to invalidate the adoption of the act by a majority of the registered voters voting on the question if it can be ascertained with reasonable certainty from the official returns transmitted to the Office of the Secretary of State whether the proposed amendment was adopted by a majority of those registered voters.

Sec. 10. Chapter 372 of NRS is hereby amended by adding thereto a new section to read as follows:

In administering the provisions of section 56.1 of chapter 397, Statutes of Nevada 1955, which is included in NRS as NRS 372.283, the Department shall construe the term:

1. "Diaper" to mean any type of diaper intended for use by a child or an adult, including, without limitation, a disposable diaper.

2. ~~“Feminine hygiene product” to include, without limitation, mean a sanitary napkin, or tampon, for similar item used for feminine hygiene.~~

Sec. 11. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

In administering the provisions of NRS 374.287, the Department shall construe the term:

1. ***“Diaper” to mean any type of diaper intended for use by a child or an adult, including, without limitation, a disposable diaper.***

2. ~~“Feminine hygiene product” to include, without limitation, mean a sanitary napkin, or tampon, for similar item used for feminine hygiene.~~

Sec. 12. NRS 374.287 is hereby amended to read as follows:

374.287 1. There are exempted from the taxes imposed by this chapter the gross receipts from sales and the storage, use or other consumption of:

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his or her scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis.

(d) Medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

(2) Furnished by a licensed physician, dentist or podiatric physician to his or her own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

(e) Feminine hygiene products.

(f) Diapers.

2. As used in this section:

(a) “Medicine” means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or affliction of the human body and which is commonly recognized as a substance or preparation intended for such use. The term includes splints, bandages, pads, compresses and dressings.

(b) “Medicine” does not include:

(1) Any auditory, ophthalmic or ocular device or appliance.

(2) Articles which are in the nature of instruments, crutches, canes, devices or other mechanical, electronic, optical or physical equipment.

(3) Any alcoholic beverage, except where the alcohol merely provides a solution in the ordinary preparation of a medicine.

(4) Braces or supports, other than those prescribed or applied by a licensed provider of health care, within his or her scope of practice, for human use.

3. Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on a prescription within the meaning of this section.

Sec. 13. 1. This section and sections 1 to 9, inclusive, of this act become effective on October 1, 2017.

2. Sections 10, 11 and 12 of this act become effective on January 1, 2019, and expire by limitation on December 31, 2028, only if the proposal submitted pursuant to sections 2 to 9, inclusive, of this act is approved by the voters at the General Election on November 6, 2018.

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 403.

Bill read second time.

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

Amendment No. 522.

SUMMARY—Revises various provisions relating to governmental administration. (BDR ~~117-573~~) **18-573**)

AN ACT relating to governmental administration; ~~for creating the Governmental Oversight and Accountability Subcommittee of the Legislative Commission; prescribing the powers and duties of the Subcommittee;~~ authorizing the Legislative Commission to suspend or nullify certain regulations; abolishing the Subcommittee to Review Regulations of the Legislative Commission; revising provisions relating to administrative regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 5 of this bill creates the Governmental Oversight and Accountability Subcommittee of the Legislative Commission and provides for the appointment of its membership. Section 6 of this bill prescribes the manner in which meetings are required to be conducted by the Oversight Subcommittee and provides for the compensation of its members. Section 7 of this bill prescribes the powers and duties of the Oversight Subcommittee, including the evaluation and review of issues related to governmental agencies. Section 8 of this bill prescribes the manner in which investigations and hearings are required to be conducted by the Oversight Subcommittee.]~~

The separation-of-powers provision of the Nevada Constitution provides that if the Legislature authorizes the adoption of regulations by an agency of the Executive Department of the State Government which bind persons outside the agency, the Legislature is authorized to enact laws providing for:

(1) the review of such regulations by a legislative agency before their

effective date to determine whether each such regulation is within the statutory authority for its adoption; (2) the suspension by a legislative body of any such regulation which appears to exceed the statutory authority for its adoption until the regulation is reviewed by a legislative body composed of members of the Senate and Assembly; and (3) the nullification of any such regulation by a majority vote of a legislative body composed of members of the Senate and Assembly. (Nev. Const. Art. 3, § 1) The Nevada Administrative Procedure Act sets forth the procedures for the adoption of emergency, temporary and permanent regulations by nonexempt state agencies. (NRS 233B.0395-233B.120) With limited exceptions, the Legislative Commission or the Subcommittee to Review Regulations of the Legislative Commission is required under existing law to approve permanent regulations before those regulations become effective. (NRS 233B.067-233B.070)

Section 10 of this bill authorizes the Legislative Commission to suspend or nullify a regulation adopted pursuant to the Nevada Administrative Procedure Act if the regulation: (1) exceeds the statutory authority for its adoption; (2) is inconsistent with the intent of the Legislature in granting the statutory authority for its adoption; or (3) is no longer being administered or interpreted in a manner that is consistent with the agency's stated intention when adopting the regulation or the agency's stated intention during the review and approval of the regulation by the Legislative Commission. **Section 10** also precludes judicial review of a decision of the Legislative Commission to suspend or nullify a regulation and authorizes the Legislative Commission to determine what constitutes a regulation for the purposes of exercising the Legislative Commission's power to suspend or nullify a regulation. **Sections 12, 26 and 28** of this bill make conforming changes.

Section 22 of this bill abolishes the Subcommittee to Review Regulations of the Legislative Commission and, with limited exceptions, requires only the Legislative Commission to review and approve permanent regulations before those regulations become effective. **Sections 16, 19, 21-24, 27 and 29** of this bill make conforming changes.

Section 11 of this bill authorizes the Legislative Commission to adopt regulations necessary to carry out the provisions of the Nevada Administrative Procedure Act governing administrative regulations.

Existing law excludes the application of certain agency policies as applied to a person with sufficient prior actual notice of the policy from the definition of "regulation" for the purposes of the Nevada Administrative Procedure Act. (NRS 233B.038) **Section 13** of this bill removes this exception.

Existing law ratifies the Nevada Administrative Code as revised or supplemented before May 15, 1987. (NRS 233B.0395) **Section 14** of this bill ratifies the Code as revised or supplemented before February 6, 2017.

Existing law requires an agency to adopt a proposed regulation not later than 2 years after the proposed regulation is submitted to the Legislative Counsel. (NRS 233B.040) **Section 15** of this bill requires an agency to also

submit the proposed regulation to the Legislative Commission for review within the same 2-year period.

Existing law requires an agency to hold an oral public hearing on a proposed regulation if an oral hearing is requested by certain persons and the proposed regulation is substantive. (NRS 233B.061) **Section 17** of this bill eliminates the requirement regarding the substantiveness of the regulation.

Under existing law, the Legislative Counsel is required to prepare and publish a Register of Administrative Regulations, which includes information relating to adopted permanent regulations. (NRS 233B.0653) **Section 20** of this bill eliminates the requirement that the Legislative Counsel publish paper copies of the Register and instead requires the Legislative Counsel to publish the Register electronically on the public website of the Legislature on the Internet.

An emergency regulation becomes effective when certain documents are filed with the Secretary of State. (NRS 233B.070) **Section 25** of this bill requires that a copy of the written statement of the emergency endorsed by the Governor is included with the information that must be filed with the Secretary of State before an emergency regulation becomes effective.

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

Section 1. ~~{Chapter 218E of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.}~~ (Deleted by amendment.)

Sec. 2. ~~{As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.}~~ (Deleted by amendment.)

Sec. 3. ~~{“Governmental agency” means any agency, office, board, commission, department, division, bureau, authority, institution, district or other unit of the State or a political subdivision of the State, excluding constitutional officers, justices and judges of the Judicial Department of the State Government and any council, board or commission whose members are elected.}~~ (Deleted by amendment.)

Sec. 4. ~~{“Oversight Subcommittee” means the Governmental Oversight and Accountability Subcommittee of the Legislative Commission created by section 5 of this act.}~~ (Deleted by amendment.)

Sec. 5. ~~{1. There is hereby created a Governmental Oversight and Accountability Subcommittee of the Legislative Commission, consisting of six legislative members.~~

~~2. The Chair of the Legislative Commission shall appoint to the Oversight Subcommittee:~~

~~(a) Three members designated by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party.~~

~~—(b) Three members designated by the Speaker of the Assembly, at least one of whom must be a member of the minority political party.~~

~~—3. The Legislative Commission shall review and approve the budget and work program for the Oversight Subcommittee and any changes to the budget or work program.~~

~~—4. The Legislative Commission shall select the Chair and Vice Chair of the Oversight Subcommittee from among the members of the Oversight Subcommittee. Each Chair and Vice Chair holds office for a term of 2 years commencing on July 1 of each odd numbered year. The office of Chair of the Oversight Subcommittee must alternate each biennium between the Houses. If a vacancy occurs in the office of Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.~~

~~—5. A member of the Oversight Subcommittee who is not a candidate for reelection or who is defeated for reelection continues to serve after the general election until the next regular or special session convenes.~~

~~—6. A vacancy on the Oversight Subcommittee must be filled in the same manner as the original appointment for the remainder of the unexpired term.} (Deleted by amendment.)~~

Sec. 6. ~~{1. Except as otherwise ordered by the Legislative Commission, the members of the Oversight Subcommittee shall meet not earlier than September 1 of each odd numbered year and not later than August 31 of the following even numbered year at the times and places specified by a call of the Chair or a majority of the Oversight Subcommittee.~~

~~—2. The Director or the Director's designee shall act as the nonvoting recording Secretary of the Oversight Subcommittee.~~

~~—3. Four members of the Oversight Subcommittee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Oversight Subcommittee.~~

~~—4. Except during a regular or special session, for each day or portion of a day during which a member of the Oversight Subcommittee attends a meeting of the Oversight Subcommittee or is otherwise engaged in the business of the Oversight Subcommittee, the member is entitled to receive the:~~

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

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

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

~~—5. All such compensation, per diem allowances and travel expenses must be paid from the Legislative Fund.} (Deleted by amendment.)~~

Sec. 7. ~~{The Oversight Subcommittee may~~

~~—1. To fulfill the powers and duties imposed upon and entrusted to the Legislative Commission pursuant to NRS 232B.010 to 232B.100, inclusive,~~

~~and pursuant to paragraph (b) of subsection 1 and paragraph (c) of subsection 2 of NRS 219E.175, evaluate, review and comment upon issues related to governmental agencies, including, without limitation:~~

- ~~— (a) Programs to enhance accountability in government;~~
- ~~— (b) Legislative measures regarding governmental oversight;~~
- ~~— (c) Methods of financing governmental agencies; and~~
- ~~— (d) Any other matters that, in the determination of the Oversight Subcommittee, affect governmental agencies.~~

~~2. Conduct investigations and hold hearings in connection with its duties pursuant to this section.~~

~~3. Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Oversight Subcommittee.~~

~~4. Make recommendations to the Legislature concerning the manner in which government may be improved.] (Deleted by amendment.)~~

Sec. 8. ~~1. If the Oversight Subcommittee conducts investigations or holds hearings pursuant to section 7 of this act:~~

~~— (a) The Secretary of the Oversight Subcommittee or, in the Secretary's absence, a member designated by the Oversight Subcommittee may administer oaths;~~

~~— (b) The Secretary or Chair of the Oversight Subcommittee may cause the deposition of witnesses, residing either within or without the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.~~

~~— (c) The Chair of the Oversight Subcommittee may issue subpoenas to compel the attendance and testimony of witnesses and the production of books, papers, accounts, department records and other documents.~~

~~2. If any witness fails or refuses to attend or testify or to produce the books, papers, accounts, department records or other documents required by the subpoena, the Chair of the Oversight Subcommittee may report the failure or refusal to the district court by a petition which:~~

~~— (a) Sets forth that:~~

~~— (1) Due notice has been given of the time and place of the attendance of the witness or the production of the required books, papers, accounts, department records or other documents;~~

~~— (2) The witness has been subpoenaed by the Oversight Subcommittee pursuant to this section; and~~

~~— (3) The witness has failed or refused to attend or testify or to produce the books, papers, accounts, department records or other documents required by the subpoena before the Oversight Subcommittee named in the subpoena; and~~

~~— (b) Asks for an order of the court compelling the witness to attend and testify or to produce the required books, papers, accounts, department records or other documents before the Oversight Subcommittee.~~

~~3. Upon such a petition, the court shall:~~

~~— (a) Enter an order directing the witness:~~

~~(1) To appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order; and~~

~~(2) To show cause why the witness has not attended or testified or produced the required books, papers, accounts, department records or other documents before the Oversight Subcommittee; and~~

~~(b) Serve a certified copy of the order upon the witness.~~

~~4. If it appears to the court that the subpoena was regularly issued by the Oversight Subcommittee, the court shall enter an order that the witness:~~

~~(a) Must appear before the Oversight Subcommittee at the time and place fixed in the order;~~

~~(b) Must testify or produce the required books, papers, accounts, department records or other documents; and~~

~~(c) Upon failure to obey the order, must be dealt with as for contempt of court. (Deleted by amendment.)~~

Sec. 9. Chapter 233B of NRS is hereby amended by adding thereto the provisions set forth as sections 10 and 11 of this act.

Sec. 10. 1. Upon its own initiative, the Legislative Commission may suspend or nullify a regulation adopted pursuant to this chapter if, in the opinion of the Legislative Commission, the regulation:

(a) Exceeds the statutory authority for the adoption of the regulation;

(b) Is inconsistent with the intent of the Legislature in granting the statutory authority for the adoption of the regulation; or

(c) Is no longer being administered or interpreted by the agency in a manner consistent with the stated intent of the agency when adopting the regulation or during the review and approval of the regulation by the Legislative Commission.

2. If the Legislative Commission exercises its authority to suspend or nullify a regulation pursuant to this section, the Legislative Commission shall:

(a) Notify the agency that the regulation has been suspended or nullified; and

(b) Within 120 days after the suspension or nullification becomes effective, provide the reason for the suspension or nullification to the agency.

3. Any decision of the Legislative Commission to suspend or nullify a regulation is final and not subject to judicial review.

4. In exercising the powers granted in this section, the Legislative Commission shall have the authority to determine if an agency rule, standard, directive or statement is a regulation pursuant to NRS 233B.038. Any agency rule, standard, directive or statement which is nullified by the Legislative Commission pursuant to this section must be removed from the Nevada Administrative Code and from any agency publications and notices.

Sec. 11. *The Legislative Commission may adopt such regulations as are necessary to carry out the provisions of this section and NRS 233B.0395 to 233B.120, inclusive, and section 10 of this act.*

Sec. 12. NRS 233B.020 is hereby amended to read as follows:

233B.020 1. By this chapter, the Legislature intends to establish ~~minimum~~ procedural requirements for the ~~regulation-making and~~ **adoption, review, suspension or nullification of regulations, for the** adjudication procedure of all agencies of the Executive Department of the State Government and for judicial review of ~~both functions,~~ **contested cases**, except **as to** those agencies expressly exempted pursuant to the provisions of this chapter. This chapter confers no additional regulation-making authority upon any agency except to the extent provided in subsection 1 of NRS 233B.050.

2. The provisions of this chapter are intended to supplement statutes applicable to specific agencies. This chapter does not abrogate or limit additional requirements imposed on such agencies by statute or otherwise recognized by law.

Sec. 13. NRS 233B.038 is hereby amended to read as follows:

233B.038 1. “Regulation” means:

(a) An agency rule, standard, directive or statement of general applicability which effectuates or interprets law or policy, or describes the organization, procedure or practice requirements of any agency;

(b) A proposed regulation;

(c) The amendment or repeal of a prior regulation; and

(d) The general application by an agency of a written policy, interpretation, process or procedure to determine whether a person is in compliance with a federal or state statute or regulation in order to assess a fine, monetary penalty or monetary interest.

2. The term does not include:

(a) A statement concerning only the internal management of an agency and not affecting private rights or procedures available to the public;

(b) A declaratory ruling;

(c) An intraagency memorandum;

(d) A manual of internal policies and procedures or audit procedures of an agency which is used solely to train or provide guidance to employees of the agency and which is not used as authority in a contested case to determine whether a person is in compliance with a federal or state statute or regulation;

(e) An agency decision or finding in a contested case;

(f) An advisory opinion issued by an agency that is not of general applicability;

(g) A published opinion of the Attorney General;

(h) An interpretation of an agency that has statutory authority to issue interpretations;

(i) Letters of approval, concurrence or disapproval issued in relation to a permit for a specific project or activity;

- (j) A contract or agreement into which an agency has entered;
- (k) The provisions of a federal law, regulation or guideline;
- (l) An emergency action taken by an agency that is necessary to protect public health and safety;
- (m) ~~[(The application by an agency of a policy, interpretation, process or procedure to a person who has sufficient prior actual notice of the policy, interpretation, process or procedure to determine whether the person is in compliance with a federal or state statute or regulation in order to assess a fine, monetary penalty or monetary interest;~~
- ~~—(n)]~~ A regulation concerning the use of public roads or facilities which is indicated to the public by means of signs, signals and other traffic-control devices that conform with the manual and specifications for a uniform system of official traffic-control devices adopted pursuant to NRS 484A.430;
- ~~[(o)]~~ (n) The classification of wildlife or the designation of seasons for hunting, fishing or trapping by regulation of the Board of Wildlife Commissioners pursuant to the provisions of title 45 of NRS; or
- ~~[(p)]~~ (o) A technical bulletin prepared pursuant to NRS 360.133.

Sec. 14. NRS 233B.0395 is hereby amended to read as follows:

233B.0395 The Nevada Administrative Code as most recently revised or supplemented before ~~[(May 15, 1987,)]~~ **February 6, 2017**, and the text of those regulations which have been prepared by the Legislative Counsel for inclusion in the Nevada Administrative Code on or before ~~[(May 15, 1987,)]~~ **February 6, 2017**, but have not been included, are hereby ratified.

Sec. 15. NRS 233B.040 is hereby amended to read as follows:

233B.040 1. To the extent authorized by the statutes applicable to it, each agency may adopt reasonable regulations to aid it in carrying out the functions assigned to it by law and shall adopt such regulations as are necessary to the proper execution of those functions. If adopted and filed in accordance with the provisions of this chapter, the following regulations have the force of law and must be enforced by all peace officers:

- (a) The Nevada Administrative Code; and
 - (b) Temporary and emergency regulations.
- ➔ In every instance, the power to adopt regulations to carry out a particular function is limited by the terms of the grant of authority pursuant to which the function was assigned.
2. Every regulation adopted by an agency must include:
- (a) A citation of the authority pursuant to which it, or any part of it, was adopted; and
 - (b) The address of the agency and, to the extent not elsewhere provided in the regulation, a brief explanation of the procedures for obtaining clarification of the regulation or relief from the strict application of any of its terms, if the agency is authorized by a specific statute to grant such relief, or otherwise dealing with the agency in connection with the regulation.
3. An agency may adopt by reference in a regulation material published by another authority in book or pamphlet form if:

(a) It files one copy of the publication with the Secretary of State and one copy with the State Library, Archives and Public Records Administrator, and makes at least one copy available for public inspection with its regulations; and

(b) The reference discloses the source and price for purchase of the publication.

➔ An agency shall not attempt to incorporate any other material in a regulation by reference.

4. An agency shall adopt **and submit** a proposed regulation **to the Legislative Commission for review** not later than 2 years after the date on which the proposed regulation is submitted to the Legislative Counsel pursuant to subsection 1 of NRS 233B.063. If an agency does not adopt **and submit** a proposed regulation **to the Legislative Commission for review** within the time prescribed by this subsection, the executive head of the agency shall appear personally before the Legislative Commission and explain why the proposed regulation has not been adopted ~~and submitted~~ **to the Legislative Commission for review**.

Sec. 16. NRS 233B.060 is hereby amended to read as follows:

233B.060 1. Except as otherwise provided in subsection 2 and NRS 233B.061, before adopting, amending or repealing:

(a) A permanent regulation, the agency must, after receiving the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063, give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute.

(b) A temporary regulation, the agency must give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute.

2. Except as otherwise provided in subsection 3, if an agency has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt, after providing a second notice and the opportunity for a hearing, a permanent regulation, but the language of the permanent regulation must first be approved or revised by the Legislative Counsel and the adopted regulation must be approved by the Legislative Commission . ~~for the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067.~~

3. If the Public Utilities Commission of Nevada has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt a substantively equivalent permanent regulation without further notice or hearing, but the language of the permanent regulation must first be approved or revised by the Legislative Counsel and the adopted regulation must be approved by the Legislative Commission . ~~for the Subcommittee to Review Regulations.~~

Sec. 17. NRS 233B.061 is hereby amended to read as follows:

233B.061 1. All interested persons must be afforded a reasonable opportunity to submit data, views or arguments upon a proposed regulation, orally or in writing.

2. Before holding the public hearing required pursuant to subsection 3, an agency shall conduct at least one workshop to solicit comments from interested persons on one or more general topics to be addressed in a proposed regulation. Not less than 15 days before the workshop, the agency shall provide notice of the time and place set for the workshop:

(a) In writing to each person who has requested to be placed on a mailing list; and

(b) In any other manner reasonably calculated to provide such notice to the general public and any business that may be affected by a proposed regulation which addresses the general topics to be considered at the workshop.

3. ~~With respect to substantive regulations, the~~ **The** agency shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposed regulation and requests an oral hearing, the agency may proceed immediately to act upon any written submissions. The agency shall consider fully all written and oral submissions respecting the proposed regulation.

4. An agency shall not hold the public hearing required pursuant to subsection 3 on the same day that the agency holds the workshop required pursuant to subsection 2.

5. Each workshop and public hearing required pursuant to subsections 2 and 3 must be conducted in accordance with the provisions of chapter 241 of NRS.

Sec. 18. NRS 233B.0617 is hereby amended to read as follows:

233B.0617 No regulation adopted after July 1, 1965, is valid unless adopted in substantial compliance with this chapter but no objection to any regulation on the ground of noncompliance with the procedural requirements of NRS 233B.060 to 233B.0617, inclusive, may be made more than 2 years after its effective date. ***Nothing in this section shall be construed to preclude the making of an objection to a regulation on a ground other than noncompliance with the procedural requirements of NRS 233B.060 to 233B.0617, inclusive.*** Regulations in effect on July 1, 1965, continue in effect until amended, ***suspended, nullified*** or repealed in accordance with the provisions of this chapter, if an original and two copies were deposited with the Secretary of State on or before July 1, 1965.

Sec. 19. NRS 233B.0633 is hereby amended to read as follows:

233B.0633 1. Upon the request of a Legislator, the Legislative Commission may examine a temporary regulation adopted by an agency that is not yet effective pursuant to subsection 2 of NRS 233B.070 to determine whether the temporary regulation conforms to the statutory authority

pursuant to which it was adopted and whether the temporary regulation carries out the intent of the Legislature in granting that authority.

2. If a temporary regulation that the Legislative Commission is requested to examine pursuant to subsection 1 was required to be adopted by the agency pursuant to a federal statute or regulation and the temporary regulation exceeds the specific statutory authority of the agency or sets forth requirements that are more stringent than a statute of this State, the agency shall submit a statement to the Legislative Commission that adoption of the temporary regulation was required by a federal statute or regulation. The statement must include the specific citation of the federal statute or regulation requiring such adoption.

3. ~~{Except as otherwise provided in subsection 4, the}~~ **The** Legislative Commission shall ~~{~~:

~~—(a) Review}~~ **review** the temporary regulation at its next regularly scheduled meeting if the request for examination of the temporary regulation is received more than 10 working days before the meeting. ~~{; or~~

~~—(b) Refer the temporary regulation for review to the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067.~~

~~4. If an agency determines that an emergency exists which requires a temporary regulation of the agency for which a Legislator requested an examination pursuant to subsection 1 to become effective before the next meeting of the Legislative Commission is scheduled to be held, the agency may notify the Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the Legislative Counsel shall refer the temporary regulation for review by the Subcommittee to Review Regulations as soon as practicable.~~

~~5.}~~ **4.** If the Legislative Commission ~~{, or the Subcommittee to Review Regulations if the temporary regulation was referred,}~~ approves the temporary regulation, the Legislative Counsel shall notify the agency that the agency may file the temporary regulation with the Secretary of State. If the Commission ~~{or the Subcommittee}~~ objects to the temporary regulation after determining that:

(a) If subsection 2 is applicable, the temporary regulation is not required pursuant to a federal statute or regulation;

(b) The temporary regulation does not conform to statutory authority; or

(c) The temporary regulation does not carry out legislative intent,

↪ the Legislative Counsel shall attach to the temporary regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the temporary regulation to the agency.

~~{6.}~~ **5.** If the Legislative Commission ~~{or the Subcommittee to Review Regulations}~~ has objected to a temporary regulation, the agency that adopted the temporary regulation shall revise the temporary regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority and return it to the

Legislative Counsel within 60 days after the agency received the written notice of the objection to the temporary regulation pursuant to subsection ~~{5.}~~ 4. Upon receipt of the revised temporary regulation, the Legislative Counsel shall resubmit the temporary regulation to the Legislative Commission . ~~{for the Subcommittee for review.}~~ If the Legislative Commission ~~{for the Subcommittee}~~ approves the revised temporary regulation, the Legislative Counsel shall notify the agency that the agency may file the revised temporary regulation with the Secretary of State.

~~{7.}~~ 6. If the Legislative Commission ~~{for the Subcommittee to Review Regulations}~~ objects to the revised temporary regulation, the Legislative Counsel shall attach to the revised temporary regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the revised temporary regulation to the agency. The agency shall continue to revise it and resubmit it to the Legislative Commission ~~{for the Subcommittee}~~ within 30 days after the agency received the written notice of the objection to the revised temporary regulation.

Sec. 20. NRS 233B.0653 is hereby amended to read as follows:

233B.0653 1. The Legislative Counsel shall **periodically** prepare and publish ~~{or cause to be prepared and published}~~ **electronically** a Register of Administrative Regulations ~~{ }~~ **on the public website of the Legislature on the Internet.** The Register must include the following information regarding each permanent regulation adopted by an agency:

(a) The proposed and adopted text of the regulation and any revised version of the regulation;

(b) The notice of intent to act upon the regulation set forth in NRS 233B.0603;

(c) The written notice of adoption of the regulation required pursuant to NRS 233B.064;

(d) The informational statement required pursuant to NRS 233B.066; and

(e) The effective date of the regulation, as determined pursuant to NRS 233B.070.

~~{ }~~ ~~In carrying out the duties set forth in this subsection, the Legislative Counsel may use the services of the State Printing Office.~~

~~2. The Legislative Counsel shall publish the Register not less than 10 times per year but not more than once every 2 weeks.~~

~~3. The Register must be provided to and maintained by:~~

~~(a) The Secretary of State;~~

~~(b) The Attorney General;~~

~~(c) The Supreme Court Law Library;~~

~~(d) The State Library, Archives and Public Records;~~

~~(e) Each county clerk;~~

~~(f) Each county library; and~~

~~(g) The Legislative Counsel Bureau.~~

~~4. The Legislative Counsel may sell an additional copy of the Register to any person or governmental entity that requests a copy, at a price which does not exceed the cost of publishing the additional copy.~~

~~5.}~~ 2. The Legislative Counsel is immune from civil liability which may result from failure to include any information in the Register.

Sec. 21. NRS 233B.0665 is hereby amended to read as follows:

233B.0665 If a regulation submitted to the Legislative Counsel Bureau pursuant to NRS 233B.067 is not accompanied by an informational statement which complies with the requirements of NRS 233B.066 or a small business impact statement which complies with the requirements of NRS 233B.0608 and 233B.0609, the Legislative Counsel shall return the regulation to the agency with a note indicating the statement which is missing. Unless the missing statement is supplied, the Legislative Counsel shall not submit the regulation to the Legislative Commission ~~for the Subcommittee to Review Regulations, as applicable,~~ and the regulation never becomes effective.

Sec. 22. NRS 233B.067 is hereby amended to read as follows:

233B.067 1. After adopting a permanent regulation, the agency shall submit the informational statement prepared pursuant to NRS 233B.066 and one copy of each regulation adopted to the Legislative Counsel for review by the Legislative Commission to determine whether to approve the regulation. The Legislative Counsel shall endorse on the original and the copy of each adopted regulation the date of their receipt. The Legislative Counsel shall maintain the copy of the regulation in a file and make the copy available for public inspection for 2 years.

2. If an agency submits an adopted regulation to the Legislative Counsel pursuant to subsection 1 that:

(a) The agency is required to adopt pursuant to a federal statute or regulation; and

(b) Exceeds the specific statutory authority of the agency or sets forth requirements that are more stringent than a statute of this State,

➔ it shall include a statement that adoption of the regulation is required by a federal statute or regulation. The statement must include the specific citation of the federal statute or regulation requiring such adoption.

3. ~~{Except as otherwise provided in subsection 4, the}~~ **The** Legislative Commission shall ~~{:~~

~~{(a) Review}~~ **review** the regulation at its next regularly scheduled meeting if the regulation is received more than 10 working days before the meeting . ~~{; or~~

~~{(b) Refer the regulation for review to the Subcommittee to Review Regulations appointed pursuant to subsection 6.~~

~~4. If an agency determines that an emergency exists which requires a regulation of the agency submitted pursuant to subsection 1 to become effective before the next meeting of the Legislative Commission is scheduled to be held, the agency may notify the Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the Legislative Counsel shall refer~~

~~the regulation for review by the Subcommittee to Review Regulations. The Subcommittee shall meet to review the regulation as soon as practicable.~~

~~—5.] 4. If the Legislative Commission [; or the Subcommittee to Review Regulations if the regulation was referred,] approves the regulation, the Legislative Counsel shall promptly file the regulation with the Secretary of State and notify the agency of the filing. If the Commission [or Subcommittee] objects to the regulation after determining that:~~

(a) If subsection 2 is applicable, the regulation is not required pursuant to a federal statute or regulation;

(b) The regulation does not conform to statutory authority;

(c) The regulation does not carry out legislative intent;

(d) The small business impact statement is inaccurate, incomplete or did not adequately consider or significantly underestimated the economic effect of the regulation on small businesses; or

(e) The agency has not provided a satisfactory explanation of the need for the regulation in its informational statement as required pursuant to NRS 233B.066, or the informational statement is insufficient or incomplete,

→ the Legislative Counsel shall attach to the regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the regulation to the agency.

~~[6.—As soon as practicable after each regular legislative session, the Legislative Commission shall appoint a Subcommittee to Review Regulations consisting of at least three members or alternate members of the Legislative Commission.]~~

Sec. 23. NRS 233B.0675 is hereby amended to read as follows:

233B.0675 1. If the Legislative Commission ~~[; or the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067,]~~ has objected to a regulation, the agency shall revise the regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority and return it to the Legislative Counsel within 60 days after the agency received the written notice of the objection to the regulation pursuant to NRS 233B.067. Upon receipt of the revised regulation, the Legislative Counsel shall resubmit the regulation to the Commission ~~[or Subcommittee]~~ for review. If the Commission ~~[or Subcommittee]~~ approves the revised regulation, the Legislative Counsel shall promptly file the revised regulation with the Secretary of State and notify the agency of the filing.

2. If the Legislative Commission ~~[or Subcommittee]~~ objects to the revised regulation, the Legislative Counsel shall attach to the revised regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the revised regulation to the agency. The agency shall continue to revise it and resubmit it to the Commission ~~[or Subcommittee]~~ within 30 days after the agency received the written notice of the objection to the revised regulation.

Sec. 24. NRS 233B.0677 is hereby amended to read as follows:

233B.0677 1. Before holding a meeting to review temporary regulations pursuant to NRS 233B.0633 or adopted regulations pursuant to NRS 233B.067 or 233B.0675, the Legislative Commission ~~for the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067, as applicable,~~ shall provide written notice of the meeting at least 3 working days before the meeting. The notice must include, without limitation:

(a) A list of the regulations that the Legislative Commission ~~for the Subcommittee to Review Regulations~~ will review at the meeting; and

(b) An explanation of the manner in which a person may obtain a copy of a regulation that the Legislative Commission ~~for Subcommittee to Review Regulations~~ will review at the meeting.

2. If the Legislative Counsel Bureau maintains a website on the Internet or its successor, the Legislative Counsel Bureau shall, at least 3 working days before the Legislative Commission ~~for the Subcommittee to Review Regulations~~ holds a meeting to review temporary regulations pursuant to NRS 233B.0633 or adopted regulations pursuant to NRS 233B.067 or 233B.0675, post on its website a list of the regulations that the Legislative Commission ~~for the Subcommittee to Review Regulations~~ will review at the meeting, unless the Legislative Counsel Bureau is unable to do so because of technical problems relating to the operation or maintenance of its website.

Sec. 25. NRS 233B.070 is hereby amended to read as follows:

233B.070 1. A permanent regulation becomes effective when the Legislative Counsel files with the Secretary of State the original of the final draft or revision of a regulation, except as otherwise provided in NRS 293.247 or where a later date is specified in the regulation.

2. Except as otherwise provided in NRS 233B.0633, an agency that has adopted a temporary regulation may not file the temporary regulation with the Secretary of State until 35 days after the date on which the temporary regulation was adopted by the agency. A temporary regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of the regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the temporary regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

3. An emergency regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of an emergency regulation, together with the informational statement prepared pursuant to NRS 233B.066 ~~and a copy of the written statement of the emergency endorsed by the Governor pursuant to NRS 233B.0613.~~ The agency shall also file a copy of the emergency regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066 ~~and a copy of the written statement of the emergency endorsed by the Governor pursuant to NRS 233B.0613.~~

4. The Secretary of State shall maintain the original of the final draft or revision of each regulation in a permanent file to be used only for the preparation of official copies.

5. The Secretary of State shall file, with the original of each agency's rules of practice, the current statement of the agency concerning the date and results of its most recent review of those rules.

6. Immediately after each permanent or temporary regulation is filed, the agency shall deliver one copy of the final draft or revision, bearing the stamp of the Secretary of State indicating that it has been filed, including material adopted by reference which is not already filed with the State Library, Archives and Public Records Administrator, to the State Library, Archives and Public Records Administrator for use by the public. If the agency is a licensing board as defined in NRS 439B.225 and it has adopted a permanent regulation relating to standards for the issuance or renewal of licenses, permits or certificates of registration issued to a person or facility regulated by the agency, the agency shall also deliver one copy of the regulation, bearing the stamp of the Secretary of State, to the Legislative Committee on Health Care within 10 days after the regulation is filed with the Secretary of State.

7. Each agency shall furnish a copy of all or part of that part of the Nevada Administrative Code which contains its regulations, to any person who requests a copy, and may charge a reasonable fee for the copy based on the cost of reproduction if it does not have money appropriated or authorized for that purpose.

8. An agency which publishes any regulations included in the Nevada Administrative Code shall use the exact text of the regulation as it appears in the Nevada Administrative Code, including the leadlines and numbers of the sections. Any other material which an agency includes in a publication with its regulations must be presented in a form which clearly distinguishes that material from the regulations.

Sec. 26. NRS 233B.100 is hereby amended to read as follows:

233B.100 1. Any interested person may petition an agency requesting the adoption, filing, amendment or repeal of any regulation and shall accompany the petition with relevant data, views and arguments. Each agency shall prescribe by regulation the form for such petitions and the procedure for their submission, consideration and disposition. Upon submission of such a petition, the agency shall within 30 days either deny the petition in writing, stating its reasons, or initiate regulation-making proceedings.

2. Any regulation of any agency is subject to ~~amendment~~ :

(a) Amendment or suspension by the Governor pursuant to the provisions of NRS 416.060.

(b) Suspension or nullification by the Legislative Commission pursuant to section 10 of this act.

Sec. 27. NRS 233B.105 is hereby amended to read as follows:

233B.105 1. A small business that is aggrieved by a regulation adopted by an agency on or after January 1, 2000, may object to all or a part of the regulation by filing a petition with the agency that adopted the regulation within 90 days after the date on which the regulation was adopted. An agency which receives such a petition shall transmit a copy of the petition to the Legislative Counsel for submission to the Legislative Commission . ~~for the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067.~~

2. A petition filed pursuant to subsection 1 may be based on the following grounds:

(a) The agency failed to prepare a small business impact statement as required pursuant to NRS 233B.0608 and 233B.0609; or

(b) The small business impact statement prepared by the agency pursuant to NRS 233B.0608 and 233B.0609 is inaccurate, incomplete or did not adequately consider or significantly underestimated the economic effect of the regulation on small businesses.

3. After receiving a petition pursuant to subsection 1, an agency shall determine whether the petition has merit. If the agency determines that the petition has merit, the agency may, pursuant to this chapter, take action to amend the regulation to which the small business objected.

Sec. 28. NRS 233B.110 is hereby amended to read as follows:

233B.110 1. The validity or applicability of any regulation may be determined in a proceeding for a declaratory judgment in the district court in and for Carson City, or in and for the county where the plaintiff resides, when it is alleged that the regulation, or its proposed application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the plaintiff. A declaratory judgment may be rendered after the plaintiff has first requested the agency to pass upon the validity of the regulation in question. The court shall declare the regulation invalid if it finds that it violates constitutional or statutory provisions or exceeds the statutory authority of the agency. The agency whose regulation is made the subject of the declaratory action shall be made a party to the action.

2. An agency may institute an action for declaratory judgment to establish the validity of any one or more of its own regulations.

3. Actions for declaratory judgment provided for in subsections 1 and 2 shall be in accordance with the Uniform Declaratory Judgments Act (chapter 30 of NRS), and the Nevada Rules of Civil Procedure. In all actions under subsections 1 and 2, the plaintiff shall serve a copy of the complaint upon the Attorney General, who is also entitled to be heard.

4. *Nothing in this section shall be construed to limit the authority of the Legislative Commission to suspend or nullify a regulation as provided in this chapter.*

Sec. 29. NRS 514A.110 is hereby amended to read as follows:

514A.110 A permanent regulation adopted by the:

1. Nevada Tax Commission, pursuant to NRS 360.090, concerning any taxation related to the extraction of any mineral in this State, including, without limitation, the taxation of the net proceeds pursuant to chapter 362 of NRS and Section 5 of Article 10 of the Nevada Constitution;

2. Administrator of the Division of Industrial Relations of the Department of Business and Industry for mine health and safety pursuant to NRS 512.131;

3. Commission on Mineral Resources pursuant to NRS 513.063, 513.094 or 519A.290; and

4. State Environmental Commission pursuant to NRS 519A.160,

↪ is not effective unless it is reviewed by the Mining Oversight and Accountability Commission before it is approved pursuant to chapter 233B of NRS by the Legislative Commission . ~~for the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067.~~ After conducting its review of the regulation, the Mining Oversight and Accountability Commission shall provide a report of its findings and recommendations regarding the regulation to the Legislative Counsel for submission to the Legislative Commission . ~~for the Subcommittee to Review Regulations, as appropriate.~~

Sec. 30. This act becomes effective on July 1, 2017.

Assemblywoman Diaz moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 404.

Bill read second time.

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

Amendment No. 492.

ASSEMBLYMEN MILLER, MCCURDY II, BENITEZ-THOMPSON; BROOKS , **EDWARDS** AND FUMO

AN ACT relating to governmental administration; creating the Nevada Office of the Inspector General; setting forth the powers and duties of the Inspector General and employees of the Office of the Inspector General; requiring a state agency or local government to cooperate with and provide assistance to the Inspector General in carrying out those duties; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Office of Finance in the Office of the Governor consisting of the Director of the Office, the Division of Internal Audits and the Budget Division. (NRS 223.400) This bill creates the Nevada Office of the Inspector General. **Section 6** of this bill provides that the Nevada Office of the Inspector General consists of the Inspector General and any person employed in the Office of the Inspector General. **Section 6** also requires the Governor to appoint the Inspector General for a term of 4 years from a list of

candidates submitted by the Legislative Commission. **Section 8** of this bill: (1) requires the Inspector General to appoint a Deputy Inspector General and a Special Counsel who are in the unclassified service of this State; and (2) authorizes the Inspector General, within the limits of available money, to employ such persons in the classified service of this State as he or she deems necessary to provide an appropriate staff for the Office.

Section 9 of this bill requires the Inspector General to submit a quarterly report to the Governor and the Director of the Legislative Counsel Bureau setting forth any findings, conclusions or recommendations relating to an audit, investigation, inspection or review. **Section 11** of this bill transfers from the Division of Internal Audits to the Inspector General the requirement to establish a telephone number to receive information relating to abuse, fraud and waste with respect to the use of public money. **Section 11** also: (1) requires a state agency or local government, upon request by the Inspector General, to cooperate with and provide assistance to the Inspector General in carrying out his or her duties; and (2) makes any person who willfully resists, prevents, impedes or interferes in the performance of the duties of the Nevada Office of the Inspector General guilty of a category ~~C~~ **E** felony. **Section 12** of this bill authorizes the Inspector General to issue subpoenas. **Sections 10, 13 and 19** of this bill provide for the confidentiality of: (1) any record maintained by the Inspector General during an investigation; and (2) the identity of any whistleblower. Otherwise, **section 13** provides that ~~the reports~~ **a report** of the Inspector General must be made available to the public ~~annually~~ **annually**. **Section 16** of this bill makes it a category ~~C~~ **E** felony to retaliate against ~~a whistleblower~~ **certain persons who file a lawful complaint concerning fraud, waste, abuse or corruption within a state agency or local government**.

Existing law provides that a person commits a gross misdemeanor if he or she uses threats or force to prevent an executive or administrative officer from performing his or her duties. **Section 17** of this bill makes it a category E felony for a person to use threats or force to prevent the Inspector General or an employee of the Nevada Office of the Inspector General from performing his or her duties.

~~Section~~ **Sections 17.5 and 18** of this bill ~~includes~~ **include** the Inspector General and employees of the Nevada Office of the Inspector General in the definition of “officer” for the purpose of the increased penalty for **assault or battery** of an officer.

Section 23 of this bill requires the Governor to appoint the Inspector General on or before December 1, 2017.

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

Section 1. Title 18 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 16, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context requires otherwise, the words and terms defined in sections 3 ~~4 and 5~~ to 5.5, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Local government” means any political subdivision of this State that receives any public funding, ~~from the State,~~ including, without limitation, any county, city, town, board, airport authority, regional transportation commission, fire protection district, irrigation district, school district or other special district that performs a governmental function and receives any public funding. ~~from the State.~~*

Sec. 4. *“Office” means the Nevada Office of the Inspector General created by section 6 of this act.*

Sec. 5. *“State agency” means any board, commission, department, division, officer or employee in the Executive Department of the State Government.*

Sec. 5.5. *“Waste” means the squandering of money or resources, whether or not the activity is unlawful.*

Sec. 6. 1. *The Nevada Office of the Inspector General is hereby created. The Nevada Office of the Inspector General consists of the Inspector General and any person employed in the Office.*

2. *The Governor shall appoint the Inspector General for a term of 4 years, and until a successor is appointed and qualified, from a list of three candidates submitted by the Legislative Commission. The Inspector General may be reappointed, and the Legislative Commission shall include the incumbent Inspector General on its list of candidates unless the Legislative Commission determines that the incumbent should not be recommended for reappointment for cause, including, without limitation, inefficiency, neglect of duty or malfeasance in office. A vacancy in the Office must be filled in the same manner as the original appointment.*

3. *The Inspector General may be removed only by impeachment for misdemeanor or malfeasance in office. The Inspector General shall be deemed to be a state officer for the purposes of NRS 283.140 to 283.290, inclusive.*

4. *The Inspector General must have the demonstrated ability to administer a major public agency in the field of auditing, investigations or inspections or performance reviews of programs of government agencies, including, without limitation:*

(a) Experience in accounting, auditing, financial analysis, law, management analysis, public administration, investigation, criminal justice administration or any other closely related fields; ~~and~~

(b) Certification as a Certified Fraud Examiner by the Association of Certified Fraud Examiners, or its successor organization, and as a Certified Inspector General by the Association of Inspectors General, or its successor organization, not later than 18 months after appointment as the Inspector General ~~;~~ and

(c) Continued status as a Certified Inspector General by the Association of Inspectors General, or its successor organization, while in office.

5. The Inspector General:

(a) Is in the unclassified service of the State.

(b) Shall devote his or her entire time and attention to the business of his or her office and shall not engage in any other gainful employment or occupation.

(c) Is ineligible for elective public office under the government and laws of this State, other than federal office, for 4 years after the date he or she leaves office.

Sec. 7. The Inspector General is responsible for the administration of the provisions of this chapter and all other provisions of law relating to the functions of the Office.

Sec. 8. 1. The Inspector General:

(a) Shall appoint a Deputy Inspector General and a Special Counsel. The Deputy Inspector General and Special Counsel are in the unclassified service of the State.

(b) May, within the limits of available money, employ such persons he or she deems necessary to provide an appropriate staff for the Office, including, without limitation, auditors, administrative staff, investigators and sworn peace officers. The Inspector General may employ category II peace officers. Any such persons employed pursuant to this paragraph are in the classified service of the State.

2. The Inspector General may obtain the services of certified public accountants, qualified management consultants or other professional experts necessary to independently perform the functions of the Office, within the limits of money available for that purpose.

Sec. 9. 1. The Inspector General shall:

(a) Establish and maintain a full-time program of auditing, investigation, inspection, and performance review to provide increased accountability and oversight of each state agency and local government and to assist in improving agency operations and deterring and identifying fraud, waste, abuse or corruption; and

(b) Upon request by the Governor, but not less often than quarterly, submit a report to the Governor and to the Director of the Legislative Counsel Bureau for distribution to the Legislature setting forth any findings and conclusions relating to an audit, investigation, inspection or

review specified in subsection 2 and any suggested corrective or remedial actions, including, without limitation, increased oversight, carrying out or modifying any controls for internal management, termination of employment or referral to the Commission on Ethics or the Attorney General when appropriate.

2. The Inspector General may:

(a) Engage in prevention activities, including, without limitation, the review of legislation, rules, regulations, policies, procedures, transactions, training and education by any state agency or local government.

(b) Review the reliability and validity of the information provided through the performance measures and standards of any state agency or local government.

(c) Conduct a review of the performance measurement system of any state agency or local government.

(d) Attend any meeting held by any state agency or local government.

(e) Audit the economy, efficiency and effectiveness of the operations and functions of any state agency or local government.

(f) Audit, inspect, investigate and review the activities, records, procurements, grants, agreements and other financial arrangements undertaken by any state agency, local government, contractor, grantee or other recipient of money, property or services to be spent or used on behalf of the State or a political subdivision, but not including a natural person who is receiving:

(1) Compensation for employment; or

(2) An income subsidy with no restriction on his or her use of the money or property.

(g) Recommend remedial actions to be taken by any state agency or local government to overcome or correct operating or maintenance deficiencies or inefficiencies identified by the Office.

(h) Establish a program for receiving, reviewing and investigating any complaint submitted to the Inspector General concerning any fraud, waste, abuse or corruption within any state agency or local government, including, without limitation, deficiencies in the operation and maintenance of facilities, and referral of those complaints to the appropriate state agency or local government.

(i) Conduct civil, criminal and administrative investigations.

(j) Conduct joint investigations and projects with other oversight or law enforcement agencies.

(k) Provide information and evidence relating to criminal acts to appropriate law enforcement officials.

(l) Refer matters for further civil, criminal and administrative action to appropriate administrative and prosecutorial agencies.

(m) Identify any other state agency or local government that is responsible for auditing, investigating, inspecting or reviewing the operation and management of a state agency or local government,

including, without limitation, the Inspector General of the Department of Corrections, and coordinate with those state agencies and local governments to share information and avoid any duplication of activities.

(n) Issue public reports.

(o) Adopt regulations to carry out the provisions of this chapter.

(p) Perform any other task relating to his or her duties as he or she determines is necessary.

Sec. 10. 1. The Inspector General shall:

(a) Establish a telephone number at which a person may confidentially report to the Office information relating to abuse, fraud or waste with respect to public money received and used by an agency or contractor; and

(b) Create a written notice that:

(1) Clearly identifies the telephone number established pursuant to paragraph (a); and

(2) Contains a statement directing any person with any information relating to abuse, fraud or waste with respect to public money received and used by an agency or contractor to report the information at the telephone number established pursuant to paragraph (a).

2. The written notice created pursuant to paragraph (b) of subsection 1 must be posted conspicuously:

(a) In each public building of an agency; and

(b) On the Internet website maintained by the Office.

3. Upon receipt of information from a person calling the telephone number established pursuant to paragraph (a) of subsection 1, the Office shall perform a review and prepare a report of its findings. The report is a public record and:

(a) Must include, without limitation, an explanation of:

(1) The purpose of the review; and

(2) Any resolution or corrective action taken by the Office that resulted from the review.

(b) Must not include the identity of the person who reported the information.

4. Except as otherwise provided in subsections 3 and 5, any information reported to the Office at the telephone number established pursuant to paragraph (a) of subsection 1, including, without limitation, the identity of the person who reported the information, is confidential.

5. The Office shall not disclose information that is confidential pursuant to subsection 4 except:

(a) Pursuant to NRS 239.0115;

(b) For the purpose of carrying out any duty of the Office or for the purpose of assisting the Director of the Office of Finance or Administrator of the Division of Internal Audits of the Office of Finance in carrying out any duty of the Director or Administrator;

(c) Upon the lawful order of a court of competent jurisdiction; or

(d) To the Office of the Attorney General or the office of a district attorney within this State for the purpose of investigating the alleged abuse, fraud or waste reported to the Nevada Office of the Inspector General.

6. As used in this section:

(a) "Contractor" means any person, business, organization or nonprofit corporation that contracts with a state agency or local government to receive public money. The term includes a subcontractor or a third party who receives any portion of the public money from the contractor to carry out any obligation pursuant to a contract between the contractor and the state agency or local government.

(b) "Public money" means any money deposited with a depository by the State Treasurer and includes money which is received by a state agency or local government from the Federal Government for distribution and use in this State pursuant to a federal law or federal regulation.

Sec. 11. 1. Upon request by the Inspector General, each state agency and local government and any employee of a state agency or local government shall cooperate with and provide assistance to the Inspector General in carrying out the provisions of this chapter and shall ensure that the premises, equipment, employees, books, papers, contracts, correspondence and other records of the state agency or local government are available for use by the Inspector General in carrying out those provisions.

2. A person who willfully prevents, impairs or prohibits the Inspector General from initiating, carrying out or completing any audit, investigation, inspection or review is guilty of a category ~~FC~~ E felony and shall be punished as provided in NRS 193.130.

Sec. 12. 1. In carrying out the provisions of this chapter, the Inspector General may subpoena the attendance of witnesses or the production of books, papers and documents, notwithstanding any claim of privilege.

2. If any person refuses to obey a subpoena issued by the Inspector General, the Inspector General may present a petition to the district court of the county in which the person resides, setting forth the facts, and thereupon the court, in a proper case, shall issue its subpoena to the person requiring his or her attendance before the court to testify or to produce books, papers and documents.

3. Any person failing or refusing to obey the subpoena of a district court may be proceeded against in the same manner as for a refusal to obey any other order of the court.

Sec. 13. 1. Except as otherwise provided in subsection 2, the Inspector General shall make public ~~all reports~~ an annual report of audits, investigations, inspections and reviews conducted by the Office ~~and open to inspection~~ after the audit, investigation, inspection ~~such audits, investigations, inspections or review is~~ reviews are concluded.

2. A report made public pursuant to subsection 1 must not include:

(a) *The personal identifying information of an original source without his or her written consent; or*

(b) *Any information deemed privileged or confidential by law.*

3. *As used in this section:*

(a) *“Original source” means a person:*

(1) *Who voluntarily discloses to the State or a local government the information on which the allegations or transactions for an audit, investigation, inspection or review are based before the public disclosure of the information; or*

(2) *Who has knowledge of information that is independent of and materially adds to any allegations or transactions which are publicly disclosed and who voluntarily provides such information to the State or a local government.*

(b) *“Personal identifying information” has the meaning ascribed to it in NRS 205.4617.*

Sec. 14. 1. *Audits, investigations, inspections and reviews conducted by the Office must conform to professional standards such as those promulgated by the Association of Inspectors General or its successor organization.*

2. *The Legislative Auditor shall, on or before July 1, 2022, and at least once every 3 years thereafter, prepare and make public a report reviewing a representative sample of the audits, investigations, inspections and reviews issued by the Office for that time period for conformance with the professional standards pursuant to subsection 1.*

Sec. 15. 1. *The Nevada Inspector General’s Fund is hereby created in the State Treasury as a special revenue fund to be administered by the Office. All money received by the Office must be deposited in the Fund. The money in the Fund does not revert to the State General Fund at the end of any fiscal year, and the balance in the Fund must be carried forward to the next fiscal year.*

2. *The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.*

3. *The money in the Fund may be used only to pay the costs of carrying out programs or laws administered by the Office.*

Sec. 16. *A person who willfully discharges, demotes, suspends, threatens, harasses or discriminates against an employee, contractor or agent as a result of a lawful complaint of the employee, contractor or agent concerning any fraud, waste, abuse or corruption within any state agency or local government is guilty of a category ~~4~~ E felony and shall be punished as provided in NRS 193.130.*

Sec. 17. NRS 197.090 is hereby amended to read as follows:

197.090 1. Except under circumstances where a greater penalty is provided in **subsection 2 or** NRS 200.481, any person who, by means of any threat, force or violence, attempts to deter or prevent any executive or

administrative officer from performing any duty imposed upon the officer by law, or who knowingly resists by force or violence any executive or administrative officer in the performance of the officer's duty, is guilty of a gross misdemeanor.

2. Any person who, by means of any threat, force or violence, attempts to deter or prevent the Inspector General appointed pursuant to section 6 of this act, or an employee of the Nevada Office of the Inspector General, from performing any duty imposed by law upon the Inspector General or the Office, or who knowingly resists by force or violence the Inspector General or an employee of the Office in the performance of his or her duty, is guilty of a category E felony.

3. As used in this section:

(a) "Inspector General" means the Inspector General appointed pursuant to section 6 of this act.

(b) "Nevada Office of the Inspector General" or "Office" means the Nevada Office of the Inspector General created by 6 of this act.

Sec. 17.5. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means:

(1) Unlawfully attempting to use physical force against another person;

or

(2) Intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard or other correctional officer of a city or county jail;

(5) **The Inspector General appointed pursuant to section 6 of this act or an employee of the Nevada Office of the Inspector General created by section 6 of this act.**

(6) A justice of the Supreme Court, judge of the Court of Appeals, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

~~[(6)]~~ **(7)** An employee of the State or a political subdivision of the State whose official duties require the employee to make home visits.

(c) "Provider of health care" means a physician, a medical student, a perfusionist or a physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical

laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a medication aide - certified, a dentist, a dental student, a dental hygienist, a dental hygienist student, a pharmacist, a pharmacy student, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern, a licensed dietitian, an emergency medical technician, an advanced emergency medical technician and a paramedic.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100 or 391.281.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee

charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

Sec. 18. NRS 200.481 is hereby amended to read as follows:

200.481 1. As used in this section:

(a) "Battery" means any willful and unlawful use of force or violence upon the person of another.

(b) "Child" means a person less than 18 years of age.

(c) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail or detention facility;

(5) *The Inspector General appointed pursuant to section 6 of this act or an employee of the Nevada Office of the Inspector General created by section 6 of this act;*

(6) A justice of the Supreme Court, judge of the Court of Appeals, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including, without limitation, a person acting pro tempore in a capacity listed in this subparagraph; or

~~[(6)]~~ (7) An employee of the State or a political subdivision of the State whose official duties require the employee to make home visits.

(d) "Provider of health care" has the meaning ascribed to it in NRS 200.471.

(e) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100 or 391.281.

(f) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(g) "Sports official" has the meaning ascribed to it in NRS 41.630.

(h) "Strangulation" means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person in a manner that creates a risk of death or substantial bodily harm.

(i) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(j) "Taxicab driver" means a person who operates a taxicab.

(k) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. Except as otherwise provided in NRS 200.485, a person convicted of a battery, other than a battery committed by an adult upon a child which constitutes child abuse, shall be punished:

(a) If the battery is not committed with a deadly weapon, and no substantial bodily harm to the victim results, except under circumstances where a greater penalty is provided in this section or NRS 197.090, for a misdemeanor.

(b) If the battery is not committed with a deadly weapon, and either substantial bodily harm to the victim results or the battery is committed by strangulation, for a category C felony as provided in NRS 193.130.

(c) If:

(1) The battery is committed upon an officer, provider of health care, school employee, taxicab driver or transit operator who was performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event;

(2) The officer, provider of health care, school employee, taxicab driver, transit operator or sports official suffers substantial bodily harm or the battery is committed by strangulation; and

(3) The person charged knew or should have known that the victim was an officer, provider of health care, school employee, taxicab driver, transit operator or sports official,

↪ 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, or by a fine of not more than \$10,000, or by both fine and imprisonment.

(d) If the battery is committed upon an officer, provider of health care, school employee, taxicab driver or transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event and the person charged knew or should have known that the victim was an officer, provider of health care, school employee, taxicab driver, transit operator or sports official, for a gross misdemeanor, except under circumstances where a greater penalty is provided in this section.

(e) If the battery is committed with the use of a deadly weapon, and:

(1) No substantial bodily harm to the victim results, 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 may be further punished by a fine of not more than \$10,000.

(2) Substantial bodily harm to the victim results or the battery is committed by strangulation, 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 15 years, and may be further punished by a fine of not more than \$10,000.

(f) If the battery is committed by a probationer, a prisoner who is in lawful custody or confinement or a parolee, without the use of a deadly weapon, whether or not substantial bodily harm results and whether or not the battery

is committed by strangulation, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

(g) If the battery is committed by a probationer, a prisoner who is in lawful custody or confinement or a parolee, with the use of a deadly weapon, and:

(1) No substantial bodily harm to the victim results, 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.

(2) Substantial bodily harm to the victim results or the battery is committed by strangulation, 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 15 years.

Sec. 19. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, ~~353A.049,~~ 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **and sections 10 and 13 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. 20. 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. Subject to the provisions of NRS 258.070, constables and their deputies;

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 Nevada 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 ~~[-]; and~~

21. *The Inspector General appointed pursuant to section 6 of this act and any person employed as an investigator by the Nevada Office of the Inspector General created by section 6 of this act.*

Sec. 21. NRS 353A.010 is hereby amended to read as follows:

353A.010 As used in this chapter, unless the context otherwise requires:

1. “Agency” means every agency, department, division, board, commission or similar body, or elected officer, of the Executive Branch of the State.

2. “Committee” means the Executive Branch Audit Committee created pursuant to NRS 353A.038.

3. “Director” means the Director of the Office of Finance.

4. ***“Inspector General” means the Inspector General appointed by the Governor pursuant to section 6 of this act.***

5. “Internal accounting and administrative control” means a method through which agencies can safeguard assets, check the accuracy and reliability of their accounting information, promote efficient operations and encourage adherence to prescribed managerial policies.

Sec. 22. NRS 353A.025 is hereby amended to read as follows:

353A.025 1. The head of each agency shall periodically review the agency’s system of internal accounting and administrative control to determine whether it is in compliance with the uniform system of internal accounting and administrative control for agencies adopted pursuant to subsection 1 of NRS 353A.020.

2. On or before July 1 of each even-numbered year, the head of each agency shall report to the Director whether the agency's system of internal accounting and administrative control is in compliance with the uniform system adopted pursuant to subsection 1 of NRS 353A.020. The reports must be made available for inspection by the members of the Legislature.

3. For the purposes of this section, "agency" does not include:

(a) A board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS.

(b) The Nevada System of Higher Education.

(c) The Public Employees' Retirement System.

(d) The Housing Division of the Department of Business and Industry.

(e) The Colorado River Commission of Nevada.

4. The Director shall, on or before the first Monday in February of each odd-numbered year, submit a report on the status of internal accounting and administrative controls in agencies to the:

(a) Director of the Legislative Counsel Bureau for transmittal to the:

(1) Senate Standing Committee on Finance; and

(2) Assembly Standing Committee on Ways and Means;

(b) Governor; ~~and~~

(c) **Inspector General; and**

(d) Legislative Auditor.

5. The report submitted by the Director pursuant to subsection 4 must include, without limitation:

(a) The identification of each agency that has not complied with the requirements of subsections 1 and 2;

(b) The identification of each agency that does not have an effective method for reviewing its system of internal accounting and administrative control; and

(c) The identification of each agency that has weaknesses in its system of internal accounting and administrative control, and the extent and types of such weaknesses.

Sec. 23. 1. On or before December 1, 2017, the Governor shall appoint an Inspector General pursuant to section 6 of this act.

2. The Administrator of the Division of Internal Audits of the Office of Finance is the acting Inspector General until the Governor appoints the initial Inspector General pursuant to section 6 of this act.

Sec. 24. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 25. NRS 353A.049 is hereby repealed.

Sec. 26. This act becomes effective:

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

2. On October 1, 2017, for all other purposes.

TEXT OF REPEALED SECTION**353A.049 Duties of Director.**

1. The Director shall:

(a) Establish a telephone number at which a person may confidentially report to the Division information relating to abuse, fraud or waste with respect to public money received and used by an agency or contractor; and

(b) Create a written notice that:

(1) Clearly identifies the telephone number established pursuant to paragraph (a); and

(2) Contains a statement directing any person with any information relating to abuse, fraud or waste with respect to public money received and used by an agency or contractor to report the information at the telephone number established pursuant to paragraph (a).

2. The written notice created pursuant to paragraph (b) of subsection 1 must be posted conspicuously:

(a) In each public building of an agency; and

(b) On the Internet website maintained by the Office of Finance.

3. Upon receipt of information from a person calling the telephone number established pursuant to paragraph (a) of subsection 1, the Division shall perform a review and prepare a report of its findings. The report is a public record and:

(a) Must include, without limitation, an explanation of:

(1) The purpose of the review; and

(2) Any resolution or corrective action taken by the Division that resulted from the review.

(b) Must not include the identity of the person who reported the information.

4. Except as otherwise provided in subsections 3 and 5, any information reported to the Division at the telephone number established pursuant to paragraph (a) of subsection 1, including, without limitation, the identity of the person who reported the information, is confidential.

5. The Division shall not disclose information that is confidential pursuant to subsection 4 except:

(a) Pursuant to NRS 239.0115;

(b) For the purpose of carrying out any duty of the Division prescribed by NRS 353A.031 to 353A.100, inclusive, or for the purpose of assisting the Director or Administrator in carrying out any duty of the Director or Administrator prescribed by this chapter;

(c) Upon the lawful order of a court of competent jurisdiction; or

(d) To the Office of the Attorney General or the office of a district attorney within this State for the purpose of investigating the alleged abuse, fraud or waste reported to the Division.

6. As used in this section:

(a) "Contractor" means any person, business, organization or nonprofit corporation that contracts with an agency to receive public money. The term includes a subcontractor or a third party who receives any portion of the public money from the contractor to carry out any obligation pursuant to a contract between the contractor and the agency.

(b) "Public money" means any money deposited with a depository by the State Treasurer and includes money which is received by an agency from the Federal Government for distribution and use in this State pursuant to a federal law or federal regulation.

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 406.

Bill read second time.

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

Amendment No. 490.

AN ACT relating to construction; revising provisions relating to the payment of prevailing wages ~~and~~ **and bidding on public works**; revising provisions governing the construction of a public work by a construction manager at risk; revising provisions relating to agreements with labor organizations concerning contracts with a public body for a public work or with an awardee of certain grants, tax abatements, tax credits or tax exemptions from a public body; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that a bidder **or bid** on various types of public works be ~~["responsible and responsive."], "responsive."~~ (NRS 338.010, 338.13844, 338.1385, 338.13862, 338.1389, 338.143, 338.1444, 338.147, 338.1475)

Section 2 of this bill specifies that the term ~~relates to,~~ **means the bid received from the bidder:** (1) ~~the record of the contractor on public works with respect to timeliness of completion, requesting change orders and quality of workforce; and (2) the compliance of the bid with,~~ **meets** the requirements of the applicable provisions of law ~~and (2) complies with~~ **the mandatory provisions of the advertisement or solicitation for bids.**

Under existing law, with certain exceptions, the prevailing wage in a county for each craft or type of work, as determined by the Labor Commissioner, is required to be paid on a project in the county involving new construction, repair or reconstruction that is financed in whole or in part with public money and for which the estimated cost is \$250,000 or more. (NRS 338.010, 338.020-338.080) **Section 4** of this bill decreases the minimum threshold for the applicability of the prevailing wage requirements from \$250,000 to ~~\$25,000. Section 21 of this bill makes a conforming~~

~~change with respect to incentives provided to a developer for a redevelopment project.~~ **\$100,000.**

To determine the prevailing wages in each county under existing law, the Labor Commissioner is required to **annually** survey contractors who have performed work in the county. If, based on the survey, the rate of wages is the same for more than 50 percent of the total hours worked by a specific craft or ~~(trade)~~ **type of work** on similar construction, the Labor Commissioner is required to determine that rate as the prevailing wage. **If no such rate can be determined, existing law provides that the prevailing wage for a craft or type of work is the average rate of wages per hour.** (NRS 338.030) **Section 3** of this bill ~~[decreases the percentage at which the rate is required to be prevailing to 30 percent of the total hours for the craft or trade.]~~ **removes these requirements with which the Labor Commissioner must comply in determining the prevailing rate of wages.**

School districts and the Nevada System of Higher Education are required under existing law to pay on their public works and certain other construction projects 90 percent of the prevailing wage rates that are otherwise required to be paid by other public bodies. (NRS 338.030) **Section 3** of this bill eliminates this exception and therefore requires school districts and the Nevada System of Higher Education to pay the same prevailing wage rates on their public works and other construction projects as other public bodies are required to pay.

During the 78th Regular Session, the exemption from the laws governing public works, including the prevailing wage requirements, was removed for a building of the Nevada System of Higher Education for which less than 25 percent of the costs was paid from money appropriated by this State or from federal money. (Section 2 of chapter 410, Statutes of Nevada 2015, p. 2375) **Section 36** of this bill eliminates requirements in existing law for the payment of prevailing wages on construction work of the Nevada System of Higher Education even if the construction work does not qualify as a public work that are duplicative as a result of the removal of the exemption.

Under existing law, charter schools are exempt from the requirement in existing law to pay prevailing wages rates on their public works and certain other construction projects. (NRS 338.080) **Section 4** of this bill eliminates this exemption and therefore requires charter schools to pay prevailing wage rates on their public works and other construction projects.

Existing law makes the prevailing wage requirements applicable to certain construction projects that are not a “public work” as defined in existing law. (NRS 244A.058, 244A.763, 268.568, 271.710, 271.800, 278C.240, 279.500, 318.140, 318.144, 332.390, 333A.120, 349.670, 349.956, 388A.635, 408.3886, 543.545, 701B.265, 701B.625) **Sections 15-33** of this bill clarify that those prevailing wage requirements apply in the same manner as if the applicable public body had undertaken the project or awarded the contract.

Section 8 of the federal National Labor Relations Act prohibits certain agreements between an employer and a labor union whereby the employer

agrees to cease or refrain from handling, using, selling, transporting or otherwise dealing in the products of an employer. Agreements in the construction industry relating to the contracting or subcontracting of work to be done at a construction site are exempt from this prohibition. (29 U.S.C. § 158(e)) **Section 7** of this bill provides that the general terms of a subcontract include any provision relating to the contracting or subcontracting of work for an employer in the construction industry that is not prohibited by section 8.

Under existing law, public bodies are authorized to construct public works under certain circumstances through a method by which a construction manager at risk provides preconstruction services on the public work and, in some cases, construction services on the public work. (NRS 338.1685-338.16995) Under existing law, the proposal of an applicant for a contract as a construction manager at risk is required to include the resume of any employee of the applicant who will be managing the preconstruction and construction of the public work. (NRS 338.1692) With certain exceptions, **section 10** of this bill prohibits an applicant from substituting such an employee. **Section 10** also, with an exception, increases from 25 percent to 50 percent the amount of the estimated cost of construction that the applicant is required to state in the proposal that the applicant will perform if the public work predominantly involves horizontal construction.

Under existing law, the public body is required to appoint a panel to initially rank the proposals submitted by all applicants for a contract as a construction manager at risk and a second panel to interview and rank applicants whom the public body selected from the rankings of the first panel. **The second panel is authorized to require the applicants to submit a preliminary proposed amount of compensation for managing the preconstruction and construction of the public work.** (NRS 338.1693) ~~Section 11 of this bill prohibits a majority of the members of either panel from being employed by the public body unless the public body is the State Public Works Board. Section 11 also eliminates the requirement in existing law that the public body provide an explanation, upon request, to unsuccessful applicants regarding the reasons they were not selected.~~ **(1) makes submission of the preliminary proposed amount of compensation mandatory; (2) specifies the contents of that amount; and (3) requires applicants to also submit a list of the personnel of the applicant who will provide services on the public work.**

The amount of a contract with a construction manager at risk for the construction of a public work is authorized under existing law to be for: (1) the cost of the work, plus a fee, with a guaranteed maximum price; (2) a fixed price; or (3) a fixed price plus reimbursement for certain costs and expenses. (NRS 338.1696) **Section 12** of this bill eliminates two pricing methods so that the ~~cost of work, plus a fee, with a~~ guaranteed maximum price is the only authorized pricing method for a contract with a construction manager at risk. ~~**Section 12** requires the State Public Works Board to~~

~~prescribe a form which is required to be completed and submitted by a construction manager at risk to the public body to identify and itemize]~~
specifies that the guaranteed maximum price includes the cost of the work and the fee and **related costs and requires the construction manager at risk** to list the names of the subcontractors selected by the construction manager at risk to provide labor, materials or equipment which are estimated by the construction manager at risk to exceed 1 percent of the estimated cost of the public work.

~~[To be eligible to provide labor, materials or equipment on a public work for which a construction manager at risk has entered into a contract with a public body, a subcontractor is required to be licensed by the State Contractors' Board and be determined to be qualified by the construction manager at risk to submit a proposal based on specified criteria. (NRS 338.16991) Section 13 of this bill adds the additional eligibility requirement that the subcontractor agree in advance to comply with any provision in the general terms of the contract relating to the contracting or subcontracting of work for an employer in the construction industry that is not prohibited by section 8 of the federal National Labor Relations Act. Therefore, if a subcontractor does not agree in advance to comply with such a provision, the subcontractor is not eligible to provide labor, materials or equipment on a subcontract with a construction manager at risk.~~

~~Under existing law, an applicant who is determined to not be eligible to provide labor, materials or equipment on a subcontract with a construction manager at risk is authorized to appeal that determination to the public body with whom the construction manager at risk has entered into a contract. (NRS 338.16991) Section 5 of this bill clarifies the burden of proof of such an applicant on appeal.]~~

Section 1 of this bill **authorizes certain persons and entities to file a complaint with the Labor Commissioner regarding a violation of certain requirements in existing law governing the construction method of a construction manager at risk. Section 1 requires the Labor Commissioner to investigate and issue a determination regarding such a complaint. Section 1** prohibits a public body that is found to have violated ~~[certain requirements governing construction of a public work with a construction manager at risk]~~ **such a requirement** from entering into a contract with a construction manager at risk for 2 years after ~~[being found in]~~ **a final determination of the** violation. If such a violation is found, **section 1** ~~[makes the]~~ **deems any** contract **that the public body enters into** with ~~[the]~~ **a** construction manager at risk ~~[void]~~ **during the 2-year period terminated by the public body without cause** and requires the public body to transmit a copy of the decision regarding the violation to the building official having jurisdiction over the project to issue a stop order on the project.

Existing law eliminates the authority for public bodies to enter into contracts with construction managers at risk, effective July 1, 2017 ~~[, and,~~
until that expiration date, requires public bodies to submit an annual

report to the Legislature concerning their projects with construction managers at risk. (Section) (Sections 14.5 and 15 of chapter 487, Statutes of Nevada 2013, [p. 2986,] pp. 2985-86; section 9 of chapter 123, Statutes of Nevada 2015, p. 457) Sections 34 and 35 of this bill postpone the prospective expiration of this authority until June 30, 2021. ~~It~~, and section 33.5 of this bill requires the inclusion of additional information in the annual reports.

Existing law prohibits a public body, in any solicitation, contract or other document related to a contract for a public work from: (1) requiring or prohibiting a bidder or contractor from entering into or adhering to any agreement with one or more labor organizations in regard to the public work; or (2) discriminating against a bidder or contractor for entering or not entering into, or adhering or refusing to adhere to, any agreement with one or more labor organizations in regard to the public work. Existing law further prohibits a public body, with certain exceptions, from awarding a grant, tax abatement, tax credit or tax exemption that is conditioned upon a requirement that the awardee include in a contract for a project that is the subject of the grant, tax abatement, tax credit or tax exemption a term that: (1) requires or prohibits a bidder or contractor from entering into or adhering to any agreement with one or more labor organizations in regard to the project; or (2) discriminates against a bidder or contractor for entering or not entering into, or adhering or refusing to adhere to, any agreement with one or more labor organizations in regard to the project. (NRS 338.1405) **Section 36** of this bill eliminates this prohibition.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any public body, craft affiliated with the State Federation of Labor or other recognized national labor organizations, contractor or any representative thereof who becomes aware of a violation of subsection 2 of NRS 338.169, NRS 338.1692, subsection 3 of NRS 338.1696 or subsection 10 of NRS 338.16995 by a public body may file a complaint with the Labor Commissioner. Upon receipt of such a complaint, the Labor Commissioner shall provide to the public body named in the complaint a copy of the complaint and written notification that the public body may file an answer to the complaint with the Labor Commissioner not later than 15 days after receipt of the notification. If the public body files an answer, the public body shall serve a copy of the answer on the complainant and every other party to the proceeding.

2. The Labor Commissioner shall investigate each complaint received pursuant to subsection 1. After such an investigation, the Labor Commissioner shall issue, in writing, a determination regarding whether a violation occurred and serve a copy on every party to the proceeding. The

determination must contain notice that a party aggrieved by the determination may file a written objection with the Labor Commissioner within 15 days after the date of service of the determination and that an objection must be accompanied by a short statement of the grounds for the objection and evidence substantiating the objection.

3. If a party who has been served a copy of the determination issued by the Labor Commissioner pursuant to subsection 2 files a written objection with the Labor Commissioner within 15 days after the date of service of the determination, the Labor Commissioner shall hold a hearing on the matter. Any such hearing must be conducted pursuant to NRS 607.207 and any regulations adopted pursuant thereto. A decision issued by the Labor Commissioner after such a hearing is deemed to be the final order of the Labor Commissioner on the matter.

4. If a public body is found to be in violation of subsection 2 of NRS 338.169 ~~for~~, NRS 338.1692, ~~for~~ subsection ~~44~~ 3 of NRS 338.1696 ~~or~~ or subsection 10 of NRS 338.16995, the public body shall not enter into a contract with a construction manager at risk pursuant to this section and NRS 338.1685 to 338.16995, inclusive, for the construction of a public work for 2 years after ~~being found in~~ a final determination regarding the violation ~~has been made~~. If such a violation is found:

~~1. The~~

(a) Any contract that ~~the~~ a public body ~~entered~~ enters into with ~~the~~ a construction manager at risk ~~is void~~.

~~2.~~ during the 2-year period shall be deemed terminated by the public body without cause, effective on the date of the issuance of a stop work order pursuant to paragraph (b).

(b) The public body shall transmit a copy of the decision regarding the violation to the building official having jurisdiction over ~~the~~ any project for which the public body enters into a contract with a construction manager at risk during the 2-year period and the building official shall issue a stop work order on the project.

Sec. 2. NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. “Authorized representative” means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. “Contract” means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. “Contractor” means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS.

(b) A design-build team.

4. “Day labor” means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a worker

or workers employed by them on public works by the day and not under a contract in writing.

5. “Design-build contract” means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. “Design-build team” means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. “Design professional” means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. “Division” means the State Public Works Division of the Department of Administration.

9. “Eligible bidder” means a person who is:

(a) Found to be a responsible ~~land-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. “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.

13. “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.

14. “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.

15. “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.

16. “Public work” means any project for the new construction, repair or reconstruction of a project financed in whole or in part from public money for:

- (a) Public buildings;
- (b) Jails and prisons;
- (c) Public roads;
- (d) Public highways;
- (e) Public streets and alleys;
- (f) Public utilities;
- (g) Publicly owned water mains and sewers;
- (h) Public parks and playgrounds;

(i) Public convention facilities which are financed at least in part with public money; and

(j) All other publicly owned works and property.

17. ~~“Responsible and responsive”~~ “Responsive,” as used in the context of a bid or bidder, means that:

~~— (a) A determination regarding a contractor has been made by a public body based on the record of the contractor on public works for:~~

~~— (1) Completing public works in a timely manner;~~

~~— (2) Improperly requesting change orders; and~~

~~— (3) Supplying a safe, qualified and skilled workforce; and~~

~~— (b) The contractor submitted a bid that is in compliance with the requirements of the applicable provisions of law; the bid received from the bidder:~~

(a) Meets the requirements of the applicable provisions of law; and

(b) Complies with the mandatory provisions of the advertisement or solicitation for bids.

18. “Specialty contractor” means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

~~{18.}~~ 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.

~~{19.}~~ 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.

~~{20.}~~ 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.

~~{21.}~~ 22. “Supplier” means a person who provides materials, equipment or supplies for a construction project.

~~{22.}~~ 23. “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.

~~{23.}~~ **24.** “Worker” means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker or unskilled worker in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Sec. 3. NRS 338.030 is hereby amended to read as follows:

338.030 1. The public body awarding any contract for public work, or otherwise undertaking any public work, shall ascertain from the Labor Commissioner the prevailing wage in the county in which the public work is to be performed for each craft or type of work.

2. The prevailing wage in each county, including Carson City, must be ~~established as follows:~~

~~—(a) The~~ determined by the Labor Commissioner . To determine the prevailing wage in each county, the Labor Commissioner shall, annually, survey contractors who have performed work in the county.

~~[(b) Based on the survey conducted pursuant to paragraph (a), where the rate of wages is the same for more than 50-30 percent of the total hours worked by each craft or type of work in that county on construction similar to the proposed construction, that rate will be determined as the prevailing wage.]~~

~~—(c) Where no such rate can be determined, the prevailing wage for a craft or type of work will be determined as the average rate of wages paid per hour based on the number of hours worked per rate, to that craft or type of work.~~

~~—(d) The Labor Commissioner shall determine the prevailing wage to be 90 percent of the rate determined pursuant to paragraphs (a), (b) and (c) for:~~

~~—(1) Any contract for a public work or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property to which a school district or the Nevada System of Higher Education is a party; and~~

~~—(2) A public work of, or constructed by, a school district or the Nevada System of Higher Education, or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property of or constructed by a school district or the Nevada System of Higher Education.]~~

3. Within 30 days after the determination is issued:

(a) A public body or person entitled under subsection 6 to be heard may submit an objection to the Labor Commissioner with evidence to substantiate that a different wage prevails; and

(b) Any person may submit information to the Labor Commissioner that would support a change in the prevailing wage of a craft or type of work by 50 cents or more per hour in any county.

4. The Labor Commissioner shall hold a hearing in the locality in which the work is to be executed if the Labor Commissioner:

(a) Is in doubt as to the prevailing wage; or

(b) Receives an objection or information pursuant to subsection 3.

↪ The Labor Commissioner may hold only one hearing a year on the prevailing wage of any craft or type of work in any county.

5. Notice of the hearing must be advertised in a newspaper nearest to the locality of the work once a week for 2 weeks before the time of the hearing.

6. At the hearing, any public body, the crafts affiliated with the State Federation of Labor or other recognized national labor organizations, and the contractors of the locality or their representatives must be heard. From the evidence presented, the Labor Commissioner shall determine the prevailing wage.

7. The wages so determined must be filed by the Labor Commissioner and must be available to any public body which awards a contract for any public work.

8. Nothing contained in NRS 338.020 to 338.090, inclusive, may be construed to authorize the fixing of any wage below any rate which may now or hereafter be established as a minimum wage for any person employed upon any public work, or employed by any officer or agent of any public body.

Sec. 4. NRS 338.080 is hereby amended to read as follows:

338.080 None of the provisions of NRS 338.020 to 338.090, inclusive, apply to:

1. Any work, construction, alteration, repair or other employment performed, undertaken or carried out, by or for any railroad company or any person operating the same, whether such work, construction, alteration or repair is incident to or in conjunction with a contract to which a public body is a party, or otherwise.

2. Apprentices recorded under the provisions of chapter 610 of NRS.

3. Any contract for a public work whose cost is less than ~~1~~~~\$250,000.~~
~~\$25,000.~~ **\$100,000.** A unit of the project must not be separated from the total project, even if that unit is to be completed at a later time, in order to lower the cost of the project below ~~1~~~~\$250,000.~~

~~4. Any contract for a public work or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property to which a charter school is a party, notwithstanding any other provision of law.~~

~~5. A public work of, or constructed by, a charter school, or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property of or constructed by a charter school, notwithstanding any other provision of law.~~ **\$25,000.** **\$100,000.**

Sec. 5. ~~NRS 338.1381 is hereby amended to read as follows:~~

~~338.1381 1. If, within 10 days after receipt of the notice denying an application pursuant to NRS 338.1379 or 338.16991 or disqualifying a subcontractor pursuant to NRS 338.1376, the applicant or subcontractor, as applicable, files a written request for a hearing with the Division or the local government, the State Public Works Board or governing body shall set the matter for a hearing within 20 days after receipt of the request. The hearing~~

~~must be held not later than 45 days after the receipt of the request for a hearing unless the parties, by written stipulation, agree to extend the time.~~

~~2. The hearing must be held at a time and place prescribed by the Board or local government. At least 10 days before the date set for the hearing, the Board or local government shall serve the applicant or subcontractor with written notice of the hearing. The notice may be served by personal delivery to the applicant or subcontractor or by certified mail to the last known business or residential address of the applicant or subcontractor.~~

~~3. The applicant or subcontractor has the burden at the hearing of proving by substantial evidence that:~~

~~(a) If the application was denied pursuant to NRS 338.1379, the applicant is entitled to be qualified to bid on a contract for a public work [, or that] pursuant to NRS 338.1379.~~

~~(b) If the subcontractor was disqualified pursuant to NRS 338.1376, the subcontractor is qualified to be a subcontractor on a contract for a public work [,] pursuant to NRS 338.1376.~~

~~(c) If the application was denied pursuant to NRS 338.16991, the applicant is eligible to provide labor, materials or equipment on a public work pursuant to NRS 338.16991.~~

~~4. In conducting a hearing pursuant to this section, the Board or governing body may:~~

~~(a) Administer oaths;~~

~~(b) Take testimony;~~

~~(c) Issue subpoenas to compel the attendance of witnesses to testify before the Board or governing body;~~

~~(d) Require the production of related books, papers and documents; and~~

~~(e) Issue commissions to take testimony.~~

~~5. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the Board or governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.~~

~~6. The Board or governing body shall issue a decision on the matter during the hearing. The decision of the Board or governing body is a final decision for purposes of judicial review. **(Deleted by amendment.)**~~

Sec. 6. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is

printed in the State of Nevada and having a general circulation within the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 and, with respect to the State, NRS 338.1384 to 338.13847, inclusive.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall

prepare and make available for public inspection a written statement containing:

- (a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;
- (b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;
- (c) An estimate of the cost of administrative support for the persons assigned to the public work;
- (d) An estimate of the total cost of the public work, including, the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and
- (e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

- (a) Any utility subject to the provisions of chapter 318 or 710 of NRS;
- (b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;
- (c) Normal maintenance of the property of a school district;
- (d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;
- (e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;
- (f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or
- (g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.1685 to 338.16995, inclusive ~~1-1~~, **and section 1 of this act.**

Sec. 7. NRS 338.141 is hereby amended to read as follows:

338.141 1. Except as otherwise provided in NRS 338.1727, each bid submitted to a public body for any public work to which paragraph (a) of subsection 1 of NRS 338.1385, paragraph (a) of subsection 1 of NRS 338.143 or NRS 408.327 applies, must include:

- (a) If the public body provides a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide such labor or portion of the work on the public work which is estimated to exceed 3 percent of the estimated cost of the public work; or

(b) If the public body does not provide a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding 5 percent of the prime contractor's total bid. If the bid is submitted pursuant to this paragraph, within 2 hours after the completion of the opening of the bids, the contractors who submitted the three lowest bids must submit a list containing:

(1) The name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding \$250,000.

(2) If any one of the contractors who submitted one of the three lowest bids will employ a first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will not be paid an amount exceeding \$250,000, the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid 1 percent of the prime contractor's total bid or \$50,000, whichever is greater.

(3) For each first tier subcontractor whose name is listed pursuant to subparagraph (1) or (2), the number of the license issued to the first tier subcontractor pursuant to chapter 624 of NRS.

2. The lists required by subsection 1 must include a description of the labor or portion of the work which each first tier subcontractor named in the list will provide to the prime contractor.

3. A prime contractor shall include his or her name on a list required by paragraph (a) or (b) of subsection 1. If the prime contractor will perform any work which is more than 1 percent of the prime contractor's total bid and which is not being performed by a subcontractor listed pursuant to paragraph (a) or (b) of subsection 1, the prime contractor shall also include on the list:

(a) A description of the labor or portion of the work that the prime contractor will perform; or

(b) A statement that the prime contractor will perform all work other than that being performed by a subcontractor listed pursuant to paragraph (a) or (b) of subsection 1.

4. Except as otherwise provided in this subsection, if a contractor:

(a) Fails to submit the list within the required time; or

(b) Submits a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the Division pursuant to NRS 338.1376,

➔ the contractor's bid shall be deemed not responsive. A contractor's bid shall not be deemed not responsive on the grounds that the contractor submitted a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the Division pursuant

to NRS 338.1376 if the contractor, before the award of the contract, provides an acceptable replacement subcontractor in the manner set forth in subsection 1 or 2 of NRS 338.13895.

5. A prime contractor shall not substitute a subcontractor for any subcontractor who is named in the bid, unless:

(a) The public body or its authorized representative objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change.

(b) The substitution is approved by the public body or its authorized representative. The substitution must be approved if the public body or its authorized representative determines that:

(1) The named subcontractor, after having a reasonable opportunity, fails or refuses to execute a written contract with the contractor which was offered to the named subcontractor with the same general terms that all other subcontractors on the project were offered;

(2) The named subcontractor files for bankruptcy or becomes insolvent;

(3) The named subcontractor fails or refuses to perform his or her subcontract within a reasonable time or is unable to furnish a performance bond and payment bond pursuant to NRS 339.025; or

(4) The named subcontractor is not properly licensed to provide that labor or portion of the work.

(c) If the public body awarding the contract is a governing body, the public body or its authorized representative, in awarding the contract pursuant to NRS 338.1375 to 338.139, inclusive:

(1) Applies such criteria set forth in NRS 338.1377 as are appropriate for subcontractors and determines that the subcontractor does not meet that criteria; and

(2) Requests in writing a substitution of the subcontractor.

6. If a prime contractor substitutes a subcontractor for any subcontractor who is named in the bid without complying with the provisions of subsection 5, the prime contractor shall forfeit, as a penalty to the public body that awarded the contract, an amount equal to 1 percent of the total amount of the contract.

7. If a prime contractor, after the submission of the bid, substitutes a subcontractor to perform the work indicated pursuant to subsection 3 that the prime contractor would perform, the prime contractor shall forfeit as a penalty to the public body that awarded the contract, the lesser of, and excluding any amount of the contract that is attributable to change orders:

(a) An amount equal to 2.5 percent of the total amount of the contract; or

(b) An amount equal to 35 percent of the estimate by the engineer of the cost of the work the prime contractor indicated pursuant to subsection 3 that he or she would perform on the public work.

8. As used in this section:

(a) "First tier subcontractor" means a subcontractor who contracts directly with a prime contractor to provide labor, materials or services for a construction project.

(b) "General terms" ~~means~~ :

(1) Means the terms and conditions of a contract that set the basic requirements for a public work and apply without regard to the particular trade or specialty of a subcontractor. ~~It but does~~

(2) Includes, without limitation, a provision relating to the contracting or subcontracting of work for an employer in the construction industry that is not prohibited by 29 U.S.C. § 158(e).

(3) Does not include any provision that controls or relates to the specific portion of the public work that will be completed by a subcontractor, including, without limitation, the materials to be used by the subcontractor or other details of the work to be performed by the subcontractor.

Sec. 8. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published within the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation within the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 or 338.1446.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

- (a) The bidder is not responsive or responsible;
- (b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or
- (c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

- (a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;
- (b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);
- (c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and
- (d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

- (a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;
- (b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;
- (c) An estimate of the cost of administrative support for the persons assigned to the public work;
- (d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and
- (e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

- (a) Any utility subject to the provisions of chapter 318 or 710 of NRS;
- (b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;
- (c) Normal maintenance of the property of a school district;
- (d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.1685 to 338.16995, inclusive ~~1~~, **and section 1 of this act.**

Sec. 9. NRS 338.1685 is hereby amended to read as follows:

338.1685 The Legislature hereby declares that the provisions of NRS 338.1685 to 338.16995, inclusive, **and section 1 of this act** relating to contracts involving construction managers at risk, are intended:

1. To promote public confidence and trust in the contracting and bidding procedures for public works established therein;

2. For the benefit of the public, to promote the philosophy of obtaining the best possible value as compared to low-bid contracting; and

3. To better equip public bodies to address public works that present unique and complex construction challenges.

Sec. 10. NRS 338.1692 is hereby amended to read as follows:

338.1692 1. A public body or its authorized representative shall advertise for proposals for a construction manager at risk in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

2. A request for proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the public work;

(b) An estimate of the cost of construction;

(c) A description of the work that the public body expects a construction manager at risk to perform;

(d) The dates on which it is anticipated that the separate phases of the preconstruction and construction of the public work will begin and end;

(e) The date by which proposals must be submitted to the public body;

(f) If the project is a public work of the State, a statement setting forth that the construction manager at risk must be qualified to bid on a public work of the State pursuant to NRS 338.1379 before submitting a proposal;

(g) The name, title, address and telephone number of a person employed by the public body that an applicant may contact for further information regarding the public work;

(h) A list of the selection criteria and relative weight of the selection criteria that will be used to rank proposals pursuant to subsection 2 of NRS 338.1693;

(i) A list of the selection criteria and relative weight of the selection criteria that will be used to rank applicants pursuant to subsection ~~7~~ 8 of NRS 338.1693; and

(j) A notice that the proposed form of the contract to assist in the preconstruction of the public work or to construct the public work, including, without limitation, the terms and general conditions of the contract, is available from the public body.

3. A proposal must include, without limitation:

(a) An explanation of the experience that the applicant has with projects of similar size and scope in both the public and private sectors by any delivery method, ~~[whether or not that method was the use of a construction manager at risk, and]~~ including, without limitation, **design-bid-build**, design-build, design-assist, negotiated work, **construction manager at risk** or value-engineered work, and an explanation of the experience that the applicant has in such projects in Nevada. ~~..~~

(b) The contact information for references who have knowledge of the background, character and technical competence of the applicant. ~~..~~

(c) Evidence of the ability of the applicant to obtain the necessary bonding for the work to be required by the public body. ~~..~~

(d) Evidence that the applicant has obtained or has the ability to obtain such insurance as may be required by law. ~~..~~

(e) A statement of whether the applicant has been:

(1) Found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause, during the 5 years immediately preceding the date of the advertisement for proposals; and

(2) Disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333. ~~..~~

(f) The professional qualifications and experience of the applicant, including, without limitation, the resume of any employee of the applicant who will be managing the preconstruction and construction of the public work. ~~..~~

(g) The safety programs established and the safety records accumulated by the applicant. ~~..~~

(h) Evidence that the applicant is licensed as a contractor pursuant to chapter 624 of NRS. ~~..~~

(i) The proposed plan of the applicant to manage the preconstruction and construction of the public work which sets forth in detail the ability of the applicant to provide preconstruction services and to construct the public work and which includes, if the public work involves predominantly horizontal construction, a statement that , except as otherwise provided in this paragraph, the applicant will perform construction work equal in value to at least ~~{25}~~ 50 percent of the estimated cost of construction. ~~.. and~~ The public

body may allow an applicant to perform at least 25 percent but less than 50 percent of the estimated cost of construction if the applicant agrees to comply with standard specifications or procedures for construction of public works adopted by the public body.

(j) If the project is for the design of a public work of the State, evidence that the applicant is qualified to bid on a public work of the State pursuant to NRS 338.1379.

4. The public body or its authorized representative shall make available to the public the name of each applicant who submits a proposal pursuant to this section.

5. **An applicant shall not substitute a different employee for any employee whose resume was submitted pursuant to paragraph (f) of subsection 3 unless ~~the~~ :**

(a) The employee whose resume was submitted is no longer employed by the applicant or is unavailable because of medical reasons ~~for~~; or

(b) The public body requests or agrees to the substitution.

Sec. 11. NRS 338.1693 is hereby amended to read as follows:

338.1693 1. The public body or its authorized representative shall appoint a panel consisting of at least three but not more than seven members, a majority of whom must have experience in the construction industry, ~~and, except if the public body is the State Public Works Board, are not employed by the public body~~ to rank the proposals submitted to the public body by evaluating the proposals as required pursuant to subsections 2 and 3.

2. The panel appointed pursuant to subsection 1 shall rank the proposals by:

(a) Verifying that each applicant satisfies the requirements of NRS 338.1691; and

(b) Evaluating and assigning a score to each of the proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for proposals.

3. When ranking the proposals, the panel appointed pursuant to subsection 1 shall assign a relative weight of 5 percent to the applicant's possession of a certificate of eligibility to receive a preference in bidding on public works if the applicant submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that work.

4. After the panel appointed pursuant to subsection 1 ranks the proposals, the public body or its authorized representative shall, except as otherwise provided in subsection ~~18.1~~ **9**, select at least the two but not more than the five applicants whose proposals received the highest scores for interviews.

5. The public body or its authorized representative may appoint a separate panel to interview and rank the applicants selected pursuant to

subsection 4. If a separate panel is appointed pursuant to this subsection, the panel must consist of at least three but not more than seven members, a majority of whom must have experience in the construction industry ~~and, except if the public body is the State Public Works Board, are not employed by the public body.~~

6. During the interview process, the panel conducting the interview ~~may~~ **shall** require the applicants to submit ~~to~~ **:**

(a) A preliminary proposed amount of compensation for managing the preconstruction and construction of the public work, but in no event shall the proposed amount of compensation exceed 20 percent of the scoring for the selection of the most qualified applicant. *The preliminary proposed amount of compensation must include, without limitation:*

(1) The proposed fee for the preconstruction services on the public work;

(2) The proposed fee for managing the construction services on the public work;

(3) The cost of travel and per diem for persons on the list submitted pursuant to paragraph (b); and

(4) The additional costs for bonding and insurance related to the preconstruction and construction services, including, without limitation, costs for general liability and course of construction insurance.

(b) A list of the name, title and total cost of compensation of and the anticipated number of hours of work to be performed by each person who will be employed or retained by the applicant to provide the preconstruction services or manage the construction services, or both, on the public work. As used in this paragraph, "total cost of compensation" means wages, benefits and any other costs associated with employment or retention, including, without limitation, the cost of workers' compensation, unemployment insurance and applicable taxes.

7. All presentations made at any interview conducted pursuant to ~~this subsection or~~ subsection 5 **or 6** may be made only by key personnel employed by the applicant, as determined by the applicant, and the employees of the applicant who will be directly responsible for managing the preconstruction and construction of the public work.

~~7.7~~ **8.** After conducting such interviews, the panel that conducted the interviews shall rank the applicants by using a ranking process that is separate from the process used to rank the applicants pursuant to subsection 2 and is based only on information submitted during the interview process. The score to be given for the proposed amount of compensation, if any, must be calculated by dividing the lowest of all the proposed amounts of compensation by the applicant's proposed amount of compensation multiplied by the total possible points available to each applicant. When ranking the applicants, the panel that conducted the interviews shall assign a relative weight of 5 percent to the applicant's possession of a certificate of eligibility to receive a preference in bidding on public works if the applicant

submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that work.

~~10.1~~ 9. If the public body did not receive at least two proposals, the public body may not contract with a construction manager at risk.

~~10.1~~ 10. Upon receipt of the final rankings of the applicants from the panel that conducted the interviews, the public body or its authorized representative shall enter into negotiations with the most qualified applicant determined pursuant to the provisions of this section for a contract for preconstruction services, unless the public body required the submission of a proposed amount of compensation, in which case the proposed amount of compensation submitted by the applicant must be the amount offered for the contract. If the public body or its authorized representative is unable to negotiate a contract with the most qualified applicant for an amount of compensation that the public body or its authorized representative and the most qualified applicant determine to be fair and reasonable, the public body or its authorized representative shall terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

~~10.1~~ 11. The public body or its authorized representative shall :
(a) Make ~~make~~ available to all applicants and the public the following information, as determined by the panel appointed pursuant to subsection 1 and the panel that conducted the interviews, as applicable:

(1) ~~(a)~~ The final rankings of the applicants;
 (2) ~~(b)~~ The score assigned to each proposal received by the public body; and

(3) ~~(c)~~ For each proposal received by the public body, the score assigned to each factor that the public body specified in the request for proposals ~~it~~ ; and

(b) Provide, upon request, an explanation to any unsuccessful applicant of the reasons why the applicant was unsuccessful.

Sec. 12. NRS 338.1696 is hereby amended to read as follows:

338.1696 1. If a public body enters into a contract with a construction manager at risk for preconstruction services pursuant to NRS 338.1693, after the public body has finalized the design for the public work, or any portion thereof sufficient to determine the provable cost of that portion, the public body shall enter into negotiations with the construction manager at risk for a contract to construct the public work or the portion thereof for the public body for ~~it~~

~~— (a) The ~~the~~ cost of the work, plus a fee, with] a guaranteed maximum price ~~f=~~;~~

~~— (b) A fixed price; or~~

~~— (c) A fixed price plus reimbursement for overhead and other costs and expenses related to the construction of the public work or portion thereof. **Before commencement of the negotiations, the construction manager at risk shall submit to the public body on the form prescribed pursuant to subsection 3+], which must include, without limitation:**~~

~~**(a) The fee and other related costs submitted for managing the construction services pursuant to subsection 6 of NRS 338.1693; and**~~

~~**(b) The cost of the work, including, without limitation, the cost of labor, materials and [the general conditions of the contract;**~~

~~**(b) The fee, including, without limitation, general overhead and profit; and**~~

~~**(c) A] equipment. The construction manager at risk shall submit a list of each subcontractor selected to provide labor, materials or equipment on the public work pursuant to NRS 338.16991 and 338.16995 the cost of which is estimated by the construction manager at risk to exceed 1 percent of the estimated cost of the public work.**~~

2. If the public body is unable to negotiate a satisfactory contract with the construction manager at risk to construct the public work or portion thereof, the public body shall terminate negotiations with that applicant and:

(a) May award the contract for the public work:

(1) If the public body is not a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive.

(2) If the public body is a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive, or 338.143 to 338.148, inclusive; and

(b) Shall accept a bid to construct the public work from the construction manager at risk with whom the public body entered into a contract for preconstruction services.

3. ~~{Before entering into a contract with the public body to construct a public work or a portion thereof pursuant to subsection 1, the construction manager at risk shall:~~

~~— (a) Provide the public body with a list of the labor or portions of the work which are estimated by the construction manager at risk to exceed 1 percent of the estimated cost of the public work; and~~

~~— (b) Select each subcontractor who is to provide labor or a portion of the work which is estimated by the construction manager at risk to exceed 1 percent of the estimated cost of the public work in accordance with NRS 338.16991 and 338.16995 and provide the names of each selected subcontractor to the public body.~~

~~4. **The State Public Works Board shall prescribe the form to be submitted by a construction manager at risk to a public body pursuant to**~~

~~subsection 1. The form must provide for the identification and itemization of the cost of the work and the fee.~~

~~4.]~~ Except as otherwise provided in subsection 13 of NRS 338.16995, a public body shall not interfere with the right of the construction manager at risk to select the subcontractor whom the construction manager at risk determines to have submitted the best proposal pursuant to NRS 338.16995.

Sec. 13. ~~[NRS 338.16991 is hereby amended to read as follows:~~

~~338.16991—1. To be eligible to provide labor, materials or equipment on a public work [, the contract] for which a public body has entered into a contract with a construction manager at risk pursuant to NRS 338.1696, a subcontractor must [be:]~~

~~—(a) [Licensed] **Be licensed** pursuant to chapter 624 of NRS; [and]~~

~~—(b) [Qualified] **After reasonable opportunity to review the general terms of the contract, agree in advance to comply with any provision in the general terms relating to the contracting or subcontracting of work for an employer in the construction industry that is not prohibited by 29 U.S.C. § 158(e); and**~~

~~—(c) **Be qualified** pursuant to the provisions of this section to submit a proposal for the provision of labor, materials or equipment on a public work.~~

~~2. Subject to the provisions of subsections 3, 4 and 5, the construction manager at risk shall determine whether an applicant is qualified to submit a proposal for the provision of labor, materials or equipment on the public work for the purposes of paragraph [(b)] (c) of subsection 1.~~

~~3. Not earlier than 30 days after a construction manager at risk has been selected pursuant to NRS 338.1693 and not later than 10 working days before the date by which an application must be submitted, the construction manager at risk shall advertise for applications from subcontractors in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed. If no qualified newspaper is published in the county where the public work will be performed, the advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county. The construction manager at risk may accept an application from a subcontractor before advertising for applications pursuant to this subsection.~~

~~4. The criteria to be used by the construction manager at risk when determining whether an applicant is qualified to submit a proposal for the provision of labor, materials or equipment must include, and must be limited to:~~

~~—(a) The monetary limit placed on the license of the applicant by the State Contractors' Board pursuant to NRS 624.220;~~

~~—(b) The financial ability of the applicant to provide the labor, materials or equipment required on the public work;~~

~~—(c) Whether the applicant has the ability to obtain the necessary bonding for the work required by the public body;~~

- ~~— (d) The safety programs established and the safety records accumulated by the applicant;~~
- ~~— (e) Whether the applicant has breached any contracts with a public body or person in this State or any other state during the 5 years immediately preceding the application;~~
- ~~— (f) Whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for conduct that relates to the ability of the applicant to perform the public work;~~
- ~~— (g) The performance history of the applicant concerning other recent, similar public or private contracts, if any, completed by the applicant in Nevada;~~
- ~~— (h) The principal personnel of the applicant;~~
- ~~— (i) Whether the applicant has been disqualified from the award of any contract pursuant to NRS 338.017 or 338.13895; and~~
- ~~— (j) The truthfulness and completeness of the application.~~
- ~~— 5. The public body or its authorized representative shall ensure that each determination made pursuant to subsection 2 is made subject to the provisions of subsection 4.~~
- ~~— 6. The construction manager at risk shall notify each applicant and the public body in writing of [a determination made pursuant to subsection 2.] **whether an applicant is eligible to provide labor, materials or equipment on the public work**~~
- ~~— 7. A determination [made pursuant to subsection 2 that an applicant is not qualified] **of whether an applicant is eligible to provide labor, materials or equipment on the public work** may be appealed pursuant to NRS 338.1381 to the public body with whom the construction manager at risk has entered into a contract for the construction of the public work.~~ **(Deleted by amendment.)**

Sec. 14. NRS 338.16995 is hereby amended to read as follows:

338.16995 1. If a public body enters into a contract with a construction manager at risk for the construction of a public work pursuant to NRS 338.1696, the construction manager at risk may enter into a subcontract for the provision of labor, materials and equipment necessary for the construction of the public work only as provided in this section.

2. The provisions of this section apply only to a subcontract for which the estimated value is at least 1 percent of the total cost of the public work or \$50,000, whichever is greater.

3. After the design and schedule for the construction of the public work is sufficiently detailed and complete to allow a subcontractor to submit a meaningful and responsive proposal, and not later than 21 days before the date by which a proposal for the provision of labor, materials or equipment by a subcontractor must be submitted, the construction manager at risk shall notify in writing each subcontractor who was determined pursuant to NRS 338.16991 to be qualified to submit such a proposal of a request for such

proposals. A copy of the notice required pursuant to this subsection must be provided to the public body.

4. The notice required pursuant to subsection 3 must include, without limitation:

(a) A description of the design for the public work and a statement indicating where a copy of the documents relating to that design may be obtained;

(b) A description of the type and scope of labor, equipment and materials for which subcontractor proposals are being sought;

(c) The dates on which it is anticipated that construction of the public work will begin and end;

(d) If a preproposal meeting regarding the scope of the work to be performed by the subcontractor is to be held, the date, time and place at which the preproposal meeting will be held;

(e) The date and time by which proposals must be received, and to whom they must be submitted;

(f) The date, time and place at which proposals will be opened for evaluation;

(g) A description of the bonding and insurance requirements for subcontractors;

(h) Any other information reasonably necessary for a subcontractor to submit a responsive proposal; and

(i) A statement in substantially the following form:

Notice: For a proposal for a subcontract on the public work to be considered:

1. The subcontractor must be licensed pursuant to chapter 624 of NRS;

2. The proposal must be timely received;

3. If a preproposal meeting regarding the scope of the work to be performed by the subcontractor is held, the subcontractor must attend the preproposal meeting; and

4. The subcontractor may not modify the proposal after the date and time the proposal is received.

5. A subcontractor may not modify a proposal after the date and time the proposal is received.

6. To be considered responsive, a proposal must:

(a) Be timely received by the construction manager at risk; and

(b) Substantially and materially conform to the details and requirements included in the proposal instructions and for the finalized bid package for the public work, including, without limitation, details and requirements affecting price and performance.

7. The opening of the proposals must be attended by an authorized representative of the public body. The public body may require the architect or engineer responsible for the design of the public work to attend the

opening of the proposals. The opening of the proposals is not otherwise open to the public.

8. At the time the proposals are opened, the construction manager at risk shall compile and provide to the public body or its authorized representative a list that includes, without limitation, the name and contact information of each subcontractor who submits a timely proposal.

9. Not more than 10 working days after opening the proposals and before the construction manager at risk submits a guaranteed maximum price ~~to a fixed price or a fixed price plus reimbursement~~ pursuant to NRS 338.1696, the construction manager at risk shall:

(a) Evaluate the proposals and determine which proposals are responsive.

(b) Select the subcontractor who submits the proposal that the construction manager at risk determines is the best proposal. Subject to the provisions of subparagraphs (1), (2) and (3), if only one subcontractor submits a proposal, the construction manager at risk may select that subcontractor. The subcontractor must be selected from among those:

(1) Who attended the preproposal meeting regarding the scope of the work to be performed by the subcontractor, if such a preproposal meeting was held;

(2) Who submitted a responsive proposal; and

(3) Whose names are included on the list compiled and provided to the public body or its authorized representative pursuant to subsection 8.

(c) Inform the public body or its authorized representative which subcontractor has been selected.

10. The public body or its authorized representative shall ensure that the evaluation of proposals and selection of subcontractors are done pursuant to the provisions of this section and regulations adopted by the State Public Works Board.

11. A subcontractor selected pursuant to subsection 9 need not be selected by the construction manager at risk solely on the basis of lowest price.

12. Except as otherwise provided in subsections 13 and 15, the construction manager at risk shall enter into a subcontract with a subcontractor selected pursuant to subsection 9 to provide the labor, materials or equipment described in the request for proposals.

13. A construction manager at risk shall not substitute a subcontractor for any subcontractor selected pursuant to subsection 9 unless:

(a) The public body or its authorized representative objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change; or

(b) The substitution is approved by the public body after the selected subcontractor:

(1) Files for bankruptcy or becomes insolvent;

(2) After having a reasonable opportunity, fails or refuses to execute a written contract with the construction manager at risk which was offered to

the selected subcontractor with the same general terms that all other subcontractors on the project were offered;

(3) Fails or refuses to perform the subcontract within a reasonable time;

(4) Is unable to furnish a performance bond and payment bond pursuant to NRS 339.025, if required for the public work; or

(5) Is not properly licensed to provide that labor or portion of the work.

14. If a construction manager at risk substitutes a subcontractor for any subcontractor selected pursuant to subsection 9 without complying with the provisions of subsection 13, the construction manager at risk shall forfeit, as a penalty to the public body, an amount equal to 1 percent of the total amount of the contract.

15. If a construction manager at risk does not select a subcontractor pursuant to subsection 9 to perform a portion of work on a public work, the construction manager at risk shall notify the public body that the construction manager at risk intends to perform that portion of work. If, after providing such notification, the construction manager at risk substitutes a subcontractor to perform the work, the construction manager at risk shall forfeit, as a penalty to the public body, the lesser of, and excluding any amount of the contract that is attributable to change orders:

(a) An amount equal to 2.5 percent of the total amount of the contract; or

(b) An amount equal to 35 percent of the estimate by the engineer of the cost of the work the construction manager at risk selected himself or herself to perform on the public work.

16. The construction manager at risk shall make available to the public the name of each subcontractor who submits a proposal.

17. If a public work is being constructed in phases, and a construction manager at risk selects a subcontractor pursuant to subsection 9 for the provision of labor, materials or equipment for any phase of that construction, the construction manager at risk may select that subcontractor for the provision of labor, materials or equipment for any other phase of the construction without following the requirements of subsections 3 to 11, inclusive.

18. As used in this section, "general terms" has the meaning ascribed to it in NRS 338.141.

Sec. 15. NRS 244A.058 is hereby amended to read as follows:

244A.058 1. A board that has adopted an ordinance imposing a fee pursuant to NRS 244A.810 may, on behalf of the county and in its name:

(a) Acquire, lease, improve, equip, operate and maintain within the county a minor league baseball stadium project.

(b) Subject to the provisions of chapter 350 of NRS, issue revenue bonds of the county to acquire, lease, improve or equip, or any combination thereof, within the county a minor league baseball stadium project.

2. Bonds issued pursuant to this section must be payable from the proceeds of the fee imposed by the county pursuant to NRS 244A.810 and may be additionally secured by and payable from the gross or net revenues of

the minor league baseball stadium project, including, without limitation, amounts received from any minor league baseball team pursuant to a contract with that team, fees, rates and charges for the use of the stadium by a minor league baseball team or any other uses of the stadium, and related uses, including, without limitation, parking and concessions, surcharges on tickets in an amount approved by the board, grants, whether conditional or unconditional, made for the payment of debt service or otherwise for the purposes of the minor league baseball stadium project, and any and all other sources of revenue attributable to the minor league baseball stadium project as provided by the board in the ordinance authorizing the issuance of bonds or any instrument supplemental or appertaining thereto.

3. The provisions of chapters 332, 338 and 339 of NRS do not apply to a contract entered into by a county and a private developer pursuant to which the private developer constructs a minor league baseball stadium project, except that the contract must include a provision stating that the requirements of NRS ~~338.010~~ **338.013** to 338.090, inclusive, apply to any construction work to be performed under the contract. ***The board, the private developer and any contractor and subcontractor on the minor league baseball stadium project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the board had undertaken the minor league baseball stadium project or had awarded the contract.***

Sec. 16. NRS 244A.763 is hereby amended to read as follows:

244A.763 1. NRS 244A.669 to 244A.763, inclusive, without reference to other statutes of this State, constitute full authority for the exercise of powers granted in those sections, including, but not limited to, the authorization and issuance of bonds.

2. No other act or law with regard to the authorization or issuance of bonds that provides for an election, requires an approval, or in any way impedes or restricts the carrying out of the acts authorized in NRS 244A.669 to 244A.763, inclusive, to be done, applies to any proceedings taken or acts done pursuant to those sections, except for laws to which reference is expressly made in those sections or by necessary implication of those sections.

3. The provisions of no other law, either general or local, except as provided in NRS 244A.669 to 244A.763, inclusive, apply to the doing of the things authorized in those sections to be done, and no board, agency, bureau, commission or official not designated in those sections has any authority or jurisdiction over the doing of any of the acts authorized in those sections to be done, except:

(a) As otherwise provided in those sections.

(b) That a project for the generation and transmission of electricity is subject to review and approval by the state regulatory agencies which have jurisdiction of the matters involved, including, without limitation, the Public Utilities Commission of Nevada, the State Environmental Commission and the State Department of Conservation and Natural Resources.

4. No notice, consent or approval by any public body or officer thereof may be required as a prerequisite to the sale or issuance of any bonds, the making of any contract or lease, or the exercise of any other power under NRS 244A.669 to 244A.763, inclusive, except as provided in those sections.

5. A project is not subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this State or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property of the counties is not applicable to any action taken pursuant to NRS 244A.669 to 244A.763, inclusive, except that the provisions of NRS ~~338.010~~ **338.013** to 338.090, inclusive, apply to any contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after January 1, 1992, by the county for work to be done in a project. ***The board of county commissioners, the lessee, purchaser or obligor or designee thereof, any contractor who is awarded a contract or entered into an agreement to perform the construction, repair or reconstruction and any subcontractor who performs any portion of the construction, repair or reconstruction shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the board of county commissioners had undertaken the project or had awarded the contract.***

6. Any bank or trust company located within or without this State may be appointed and act as a trustee with respect to bonds issued and projects financed pursuant to NRS 244A.669 to 244A.763, inclusive, without the necessity of associating with any other person or entity as cofiduciary except that such association is not prohibited.

7. The powers conferred by NRS 244A.669 to 244A.763, inclusive, are in addition and supplemental to, and not in substitution for, and the limitations imposed by those sections do not affect the powers conferred by any other law.

8. No part of NRS 244A.669 to 244A.763, inclusive, repeals or affects any other law or part thereof, except to the extent that those sections are inconsistent with any other law, it being intended that those sections provide a separate method of accomplishing its objectives, and not an exclusive one.

Sec. 17. NRS 268.568 is hereby amended to read as follows:

268.568 1. NRS 268.512 to 268.568, inclusive, without reference to other statutes of the State, constitute full authority for the exercise of powers granted in those sections, including, but not limited to, the authorization and issuance of bonds.

2. No other act or law with regard to the authorization or issuance of bonds that provides for an election, requires an approval, or in any way impedes or restricts the carrying out of the acts authorized in NRS 268.512 to 268.568, inclusive, to be done, including, without limitation, the charter of any city, applies to any proceedings taken or acts done pursuant to those

sections, except for laws to which reference is expressly made in those sections.

3. The provisions of no other law, either general or local, except as provided in NRS 268.512 to 268.568, inclusive, apply to the doing of the things authorized in NRS 268.512 to 268.568, inclusive, to be done, and no board, agency, bureau, commission or official not designated in those sections has any authority or jurisdiction over the doing of any of the acts authorized in those sections to be done, except as otherwise provided in those sections.

4. No notice, consent or approval by any public body or officer thereof may be required as a prerequisite to the sale or issuance of any bonds, the making of any contract or lease, or the exercise of any other power under NRS 268.512 to 268.568, inclusive, except as provided in those sections.

5. A project is not subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this state or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property of the cities is not applicable to any action taken pursuant to NRS 268.512 to 268.568, inclusive, except that the provisions of ~~NRS 338.010~~ **NRS 338.013** to 338.090, inclusive, apply to any contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after January 1, 1992, by the city for work to be done in a project. ***The governing body, the lessee, purchaser or obligor or designee thereof, any contractor who is awarded a contract or enters into an agreement to perform the construction, repair or reconstruction in a project and any subcontractor who performs any portion of the construction, repair or reconstruction in a project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body had undertaken the project or had awarded the contract.***

6. Notwithstanding the provisions of NRS 662.245 or any other specific statute to the contrary, any bank or trust company located within or without this state may be appointed and act as a trustee with respect to bonds issued and projects financed pursuant to NRS 268.512 to 268.568, inclusive, without meeting the qualifications set forth in NRS 662.245.

7. The powers conferred by NRS 268.512 to 268.568, inclusive, are in addition and supplemental to, and not in substitution for, and the limitations imposed by those sections do not affect the powers conferred by, any other law.

8. No part of NRS 268.512 to 268.568, inclusive, repeals or affects any other law or part thereof, except to the extent that those sections are inconsistent with any other law, it being intended that those sections provide a separate method of accomplishing its objectives, and not an exclusive one.

Sec. 18. NRS 271.710 is hereby amended to read as follows:

271.710 1. A governing body may adopt an ordinance pursuant to NRS 271.325 creating a district and ordering a project to be acquired or improved and may contract with a person to construct or improve a project, issue bonds or otherwise finance the cost of the project and levy assessments, without complying with the provisions of NRS 271.305 to 271.320, inclusive, 271.330 to 271.345, inclusive, 271.380 and 271.385 and, except as otherwise provided in this section, the provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, works or improvements, including, without limitation, chapters 332, 338 and 339 of NRS, if the governing body has entered into a written agreement with the owners of all of the assessable property within the district which states that:

(a) The governing body agrees to enter into a contract for the acquisition, construction or improvement of the project or projects in the district which includes:

(1) A provision stating that the requirements of NRS ~~338.010~~ **338.013** to 338.090, inclusive, apply to any construction work to be performed under the contract; and

(2) The price, stated as a lump sum or as unit prices, which the governing body agrees to pay for the project if the project meets all requirements and specifications in the contract.

(b) The owners of the assessable property agree that if the rate of interest on any assessment levied for the district is determined from time to time as provided in NRS 271.487, the owners will provide written notice to the governing body in a timely manner when a parcel of the assessable property in the district is sold to a person who intends to occupy a dwelling unit on the parcel as his or her residence.

(c) The owners of the assessable property agree that the governing body may create the district, levy the assessments and for all other purposes relating to the district proceed pursuant to the provisions of this section.

2. If an ordinance is adopted and the agreement entered into pursuant to subsection 1 so states:

(a) The governing body may amend the ordinance creating the district, change the assessment roll and redistribute the assessments required by NRS 271.390 in the same manner in which these actions were originally taken to add additional property to the district. The assessments may be redistributed between the assessable property originally in the district and the additional assessable property if:

(1) The owners of additional assessable property also consent in writing to inclusion of their property in the district and to the amount of the assessment against their property; and

(2) The redistribution of the assessments is not prohibited by any covenants made for the benefit of the owners of any bonds or interim warrants issued for the district.

(b) The governing body may amend the ordinance creating the district, change the assessment roll and redistribute the assessments required by NRS 271.390 in the same manner in which these actions were originally taken to remove assessable property from the district. The assessments may be redistributed among the assessable property remaining in the district if:

(1) The owners of the remaining assessable property consent in writing to the amount of the revised assessment on their property; and

(2) The redistribution of the assessments is not prohibited by any covenants made for the benefit of the owners of any bonds or interim warrants issued for the district.

(c) The governing body may adopt any ordinance pertaining to the district including the ordinance creating the district required by NRS 271.325, the ordinance authorizing interim warrants required by NRS 271.355, the ordinance levying assessments required by NRS 271.390, the ordinance authorizing bonds required by NRS 271.475 or any ordinance amending those ordinances after a single reading and without holding a hearing thereon, as if an emergency exists, upon an affirmative vote of not less than two-thirds of all voting members of the governing body, excluding from any computation any vacancy on the governing body and any members thereon who may vote to break a tie vote, and provide that the ordinances become effective at the time an emergency ordinance would have become effective. The provisions of NRS 271.308 do not apply to any such ordinance.

(d) The governing body may provide for a reserve fund, letter of credit, surety bond or other collateral for payment of any interim warrants or bonds issued for the district and include all or any portion of the costs thereof in the amounts assessed against the property in the district and in the amount of bonds issued for the district. The governing body may provide for the disposition of interest earned on the reserve fund and other bond proceeds, for the disposition of unexpended bond proceeds after completion of the project and for the disposition of the unexpended balance in the reserve fund after payment in full of the bonds for the district.

3. If the governing body of a municipality forms a district pursuant to the provisions of this section, the governing body:

(a) Is not required to adopt the resolutions required pursuant to the provisions of NRS 271.280, 271.310, 271.360 and 271.390.

(b) Shall be deemed to have adopted the resolution required pursuant to the provisions of NRS 271.325 if the plans and specifications are sufficiently specific to allow a competent contractor with the assistance of a competent engineer to estimate the cost of constructing the project and to construct the project.

4. The governing body, the owners of the assessable property, any contractor who is awarded a contract or enters into an agreement to perform the construction work on a project pursuant to this section, and any subcontractor who performs any portion of the construction work on the project shall comply with the provisions of NRS 338.013 to 338.090,

inclusive, in the same manner as if the governing body had undertaken the project or had awarded the contract.

Sec. 19. NRS 271.800 is hereby amended to read as follows:

271.800 1. A governing body may, pursuant to NRS 271.275 or 271.710, establish a district to finance an underground conversion project. Before the governing body may adopt an ordinance pursuant to NRS 271.325 to establish such a district, each service provider that owns the overhead service facilities to be converted to underground facilities must submit its written approval of the project to the governing body. The governing body shall not establish a district to finance an underground conversion project without receiving the written approval of each such service provider pursuant to this subsection.

2. Before initiating the establishment of a district pursuant to this section, the governing body must request in writing and receive from each service provider that owns the overhead service facilities to be converted in the proposed improvement district a written estimate of the cost to convert those facilities to underground facilities. The service provider shall provide its estimate of the cost of the conversion to the governing body not later than 120 days after the service provider receives the request from the governing body.

3. If a district already exists for the location for which the underground conversion project is proposed, the governing body may, pursuant to NRS 271.295, combine the underground conversion project with other projects in that district.

4. An underground conversion project must be constructed by one or more of the service providers that own the overhead service facilities to be converted, pursuant to a written agreement between the governing body and each service provider that will engage in the construction. Such a project must be constructed in accordance with the standard underground practices and procedures approved by the Public Utilities Commission of Nevada.

5. The provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, works or improvements, including, without limitation, the provisions of chapters 332, 338 and 339 of NRS, do not apply to a contract entered into by a municipality and a service provider pursuant to this section, except that the contract must include a provision stating that the requirements of NRS ~~{338.010}~~ 338.013 to 338.090, inclusive, apply to any construction work to be performed under the contract. ***The governing body, the service provider, any contractor who is awarded a contract or enters into an agreement to perform the construction work on an underground conversion project, and any subcontractor who performs any portion of the construction work on an underground conversion project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body had undertaken the underground conversion project or had awarded the contract.***

6. Construction on an underground conversion project approved pursuant to this chapter may not commence until:

- (a) An ordinance creating a district is adopted pursuant to NRS 271.325;
- (b) The time for filing an appeal pursuant to NRS 271.315 has expired, or if such an appeal has been timely filed, a final, nonappealable judgment upholding the validity of the ordinance has been rendered;
- (c) Arrangements for the financing of the construction have been completed through the issuance of bonds or interim warrants; and
- (d) The service provider has obtained all applicable permits, easements and licenses necessary to convert the facilities.

Sec. 20. NRS 278C.240 is hereby amended to read as follows:

278C.240 The provisions of NRS ~~{338.010}~~ **338.013** to 338.090, inclusive, apply to any construction work to be performed under any contract or other agreement related to an undertaking ordered by a governing body pursuant to this chapter. ***The governing body, the developer, any contractor who is awarded the contract or enters into the agreement to perform the construction work and any subcontractor who performs any portion of the construction work related to such an undertaking shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body had undertaken the undertaking or had awarded the contract.***

Sec. 21. NRS 279.500 is hereby amended to read as follows:

279.500 1. The provisions of NRS ~~{338.010}~~ **338.013** to 338.090, inclusive, apply to any contract for new construction, repair or reconstruction which is awarded on or after October 1, 1991, by an agency for work to be done in a project.

2. If an agency:

- (a) Provides property for development at less than the fair market value of the property;
- (b) Provides a loan to a small business pursuant to NRS 279.700 to 279.740, inclusive; or
- (c) Provides financial incentives to a developer with a value of more than \$100,000, ~~{25,000}~~

➡ regardless of whether the project is publicly or privately owned, the agency must provide in the loan agreement with the small business or the agreement with the developer, as applicable, that the development project is subject to the provisions of NRS ~~{338.010}~~ **338.013** to 338.090, inclusive, to the same extent as if the agency had awarded the contract for the project. ***The agency, the small business or the developer, as applicable, any contractor who is awarded the contract or enters into the agreement to perform the project, and any subcontractor who performs any portion of the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the agency had undertaken the project or had awarded the contract.*** This subsection applies only to the project covered by the loan agreement between the agency and the small business or the

agreement between the agency and the developer, as applicable. This subsection does not apply to future development of the property unless an additional loan, or additional financial incentives with a value of more than \$100,000, ~~\$25,000,~~ are provided to the small business or developer, as applicable.

Sec. 22. NRS 318.140 is hereby amended to read as follows:

318.140 In the case of a district created wholly or in part for acquiring sanitary sewer improvements:

1. The board may:

(a) Construct, reconstruct, improve or extend the sanitary sewer system or any part thereof, including, without limitation, mains, laterals, wyes, tees, meters and collection, treatment and disposal plants.

(b) Sell any product or by-product thereof and acquire the appropriate outlets within or without the district and extend the sewer lines of the district thereto.

(c) Enter into and perform, without any election, contracts or agreements for a term not to exceed 50 years with any person or a public agency, to provide the services, equipment or supplies necessary or appropriate to conduct tests of the discharge of pollutants into the state's water and to report the results of those tests as required by chapter 445A of NRS or the regulations adopted thereunder. For the purposes of this paragraph, "public agency" has the meaning ascribed to it in NRS 277.100.

2. The provisions of chapters 332 and 339 of NRS do not apply to a contract under which a private developer extends a sewer main to his or her development or installs any appurtenances to that extension. Except as otherwise provided in this subsection, the provisions of chapter 338 of NRS do not apply to such a contract. If the developer does not pay all of the initial construction costs of the extension, the provisions of NRS 338.013 to 338.090, inclusive, apply to the contract. ***The board, the developer, any contractor who is awarded a contract or enters into an agreement to perform the extension or installation of appurtenances to the extension, and any subcontractor who performs any portion of the extension or installation of appurtenances to the extension shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the board had undertaken the extension or had awarded the contract.***

Sec. 23. NRS 318.144 is hereby amended to read as follows:

318.144 1. The board may acquire, construct, reconstruct, improve, extend or better a works, system or facilities for the supply, storage and distribution of water for private and public purposes.

2. The provisions of chapters 332 and 339 of NRS do not apply to a contract under which a private developer constructs water facilities for his or her development. Except as otherwise provided in this subsection, the provisions of chapter 338 of NRS do not apply to such a contract. If the developer does not pay all of the initial construction costs of the facility, the provisions of NRS 338.013 to 338.090, inclusive, apply to the contract. ***The***

board, the developer, any contractor who is awarded a contract or enters into an agreement to perform the construction of the facility, and any subcontractor who performs any portion of the construction of the facility shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the board had undertaken the construction or had awarded the contract.

Sec. 24. NRS 332.390 is hereby amended to read as follows:

332.390 1. If a performance contract entered into pursuant to NRS 332.300 to 332.440, inclusive, requires the employment of skilled mechanics, skilled workers, semiskilled mechanics, semiskilled workers or unskilled labor to perform the performance contract, the performance contract must include a provision relating to the prevailing wage as required pursuant to NRS ~~{338.020}~~ 338.013 to 338.090, inclusive. ***The local government, the qualified service company, any contractor who is awarded a contract or enters into an agreement to perform the work for the performance contract, and any subcontractor who performs any portion of that work shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the local government had undertaken the work or had awarded the contract.***

2. Before a qualified service company enters into a performance contract pursuant to NRS 332.300 to 332.440, inclusive, that exceeds \$100,000, the qualified service company must furnish to the contracting body any bonds required pursuant to NRS 339.025. The provisions of chapter 339 of NRS apply to any performance contract described in this subsection.

Sec. 25. NRS 333A.120 is hereby amended to read as follows:

333A.120 If a performance contract entered into pursuant to this chapter requires the employment of skilled mechanics, skilled workers, semiskilled mechanics, semiskilled workers or unskilled labor to perform the performance contract, the performance contract must include a provision relating to the prevailing wage as required pursuant to NRS ~~{338.020}~~ 338.013 to 338.090, inclusive. ***The using agency, the qualified service company, any contractor who is awarded a contract or enters into an agreement to perform the work for the performance contract, and any subcontractor who performs any portion of that work shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the using agency had undertaken the work or had awarded the contract.***

Sec. 26. NRS 349.670 is hereby amended to read as follows:

349.670 1. NRS 349.400 to 349.670, inclusive, without reference to other statutes of the State, constitute full authority for the exercise of powers granted in those sections, including but not limited to the authorization and issuance of bonds.

2. No other act or law with regard to the authorization or issuance of bonds that provides for an election, requires an approval, or in any way impedes or restricts the carrying out of the acts authorized in NRS 349.400 to 349.670, inclusive, to be done, applies to any proceedings taken or acts done

pursuant to those sections, except for laws to which reference is expressly made in those sections or by necessary implication of those sections.

3. The provisions of no other law, either general or local, except as provided in NRS 349.400 to 349.670, inclusive, apply to the doing of the things authorized in those sections to be done, and no board, agency, bureau, commission or official not designated in those sections has any authority or jurisdiction over the doing of any of the acts authorized in those sections to be done, except as otherwise provided in those sections.

4. A project is not subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this state or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property is not applicable to any action taken pursuant to NRS 349.400 to 349.670, inclusive, except that the provisions of NRS ~~338.010~~ **338.013** to 338.090, inclusive, apply to any contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after January 1, 1992, by the Director for work to be done in a project. ***The Director, the lessee, purchaser, obligor or other enterprise, any contractor who is awarded a contract or enters into an agreement to perform the construction, repair or reconstruction for a project, and any subcontractor who performs any portion of such construction, repair or reconstruction shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if a public body had undertaken the project or had awarded the contract.***

5. Any bank or trust company located within or without this state may be appointed and act as a trustee with respect to bonds issued and projects financed pursuant to NRS 349.400 to 349.670, inclusive, without the necessity of associating with any other person or entity as cofiduciary, but such an association is not prohibited.

6. The powers conferred by NRS 349.400 to 349.670, inclusive, are in addition and supplemental to, and not in substitution for, and the limitations imposed by those sections do not affect the powers conferred by any other law.

7. No part of NRS 349.400 to 349.670, inclusive, repeals or affects any other law or part thereof, except to the extent that those sections are inconsistent with any other law, it being intended that those sections provide a separate method of accomplishing its objectives, and not an exclusive one.

8. The Director or a person designated by the Director may take any actions and execute and deliver any instruments, contracts, certificates and other documents, including the bonds, necessary or appropriate for the sale and issuance of the bonds or accomplishing the purposes of NRS 349.400 to 349.670, inclusive, without the assistance or intervention of any other officer.

Sec. 27. NRS 349.956 is hereby amended to read as follows:

349.956 A water project is not subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this state or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property is not applicable to any action taken pursuant to NRS 349.935 to 349.961, inclusive, except that the provisions of NRS ~~338.010~~ **338.013** to 338.090, inclusive, apply to any contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after January 1, 1992, by the Director or a municipality for work to be done in a water project. ***The Director or municipality, the lessee, purchaser or other obligor, any contractor who is awarded a contract or enters into an agreement to perform the construction, repair or reconstruction for a water project, and any subcontractor who performs any portion of such construction, repair or reconstruction shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if a public body had undertaken the water project or had awarded the contract.***

Sec. 28. NRS 388A.635 is hereby amended to read as follows:

388A.635 1. NRS 388A.550 to 388A.695, inclusive, without reference to other statutes of this State, constitute full authority for the exercise of powers granted in those sections, including, without limitation, the authorization and issuance of bonds.

2. No other act or law with regard to the authorization or issuance of bonds that provides for an election, requires an approval, or in any way impedes or restricts the carrying out of the acts authorized by NRS 388A.550 to 388A.695, inclusive, to be done, applies to any proceedings taken or acts done pursuant to those sections, except for laws to which reference is expressly made in those sections or by necessary implication of those sections.

3. The provisions of no other law, either general or local, except as provided in NRS 388A.550 to 388A.695, inclusive, apply to the doing of the things authorized in those sections to be done, and no board, agency, bureau, commission or official not designated in those sections has any authority or jurisdiction over the doing of any of the acts authorized in those sections to be done, except as otherwise provided in those sections.

4. A project is not subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this State or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property is not applicable to any action taken pursuant to NRS 388A.550 to 388A.695, inclusive ~~+~~, ***except that the provisions of NRS 338.013 to 338.090, inclusive, apply to any***

contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after July 1, 2017, by the Director of the Department of Business and Industry. The Director, the lessee, purchaser or other obligor, any contractor who is awarded a contract or enters into an agreement to perform the construction, repair or reconstruction for the project, and any subcontractor who performs any portion of such construction, repair or reconstruction shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if a public body had undertaken the project or had awarded the contract.

5. Any bank or trust company located within or without this State may be appointed and act as a trustee with respect to bonds issued and projects financed pursuant to NRS 388A.550 to 388A.695, inclusive, without the necessity of associating with any other person or entity as cofiduciary, but such an association is not prohibited.

6. The powers conferred by NRS 388A.550 to 388A.695, inclusive, are in addition and supplemental to, and not in substitution for, and the limitations imposed by those sections do not affect, the powers conferred by any other law.

7. No part of NRS 388A.550 to 388A.695, inclusive, repeals or affects any other law or part thereof, except to the extent that those sections are inconsistent with any other law, it being intended that those sections provide a separate method of accomplishing its objectives, and not an exclusive one.

8. The Director of the Department of Business and Industry or a person designated by the Director of the Department of Business and Industry may take any actions and execute and deliver any instruments, contracts, certificates and other documents, including the bonds, necessary or appropriate for the sale and issuance of the bonds or accomplishing the purposes of NRS 388A.550 to 388A.695, inclusive, without the assistance or intervention of any other officer.

Sec. 29. NRS 408.3886 is hereby amended to read as follows:

408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the Department shall provide to each finalist a request for final proposals for the project. The request for final proposals must:

(a) Set forth the factors that the Department will use to select a design-build team to design and construct the project, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the Department.

2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of 5 percent to the design-build team's possession of both a certificate of eligibility to receive a preference in bidding on public works by the prime contractor on the design-build team, if the design-build team submits a signed affidavit that meets the requirements of subsection 1 of NRS

338.0117, and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team, and a relative weight of at least 30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular project because of the provisions of this subsection relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.

3. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly, be responsive to the criteria that the Department will use to select a design-build team to design and construct the project described in subsection 1 and comply with the provisions of NRS 338.141.

4. After receiving the final proposals for the project, the Department shall:

- (a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;
- (b) Reject all the final proposals; or
- (c) Request best and final offers from all finalists in accordance with subsection 5.

5. If the Department determines that no final proposal received is cost-effective or responsive and the Department further determines that requesting best and final offers pursuant to this subsection will likely result in the submission of a satisfactory offer, the Department may prepare and provide to each finalist a request for best and final offers for the project. In conjunction with preparing a request for best and final offers pursuant to this subsection, the Department may alter the scope of the project, revise the estimates of the costs of designing and constructing the project, and revise the selection factors and relative weights described in paragraph (a) of subsection 1. A request for best and final offers prepared pursuant to this subsection must set forth the date by which best and final offers must be submitted to the Department. After receiving the best and final offers, the Department shall:

- (a) Select the most cost-effective and responsive best and final offer, using the criteria set forth in the request for best and final offers; or
- (b) Reject all the best and final offers.

6. If the Department selects a final proposal pursuant to paragraph (a) of subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection 5, the Department shall hold a public meeting to:

- (a) Review and ratify the selection.
- (b) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to

paragraph (f) of subsection 3 of NRS 408.3883. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(c) Make available to the public a summary setting forth the factors used by the Department to select the successful design-build team and the ranking of the design-build teams who submitted final proposals and, if applicable, best and final offers. The Department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

7. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS ~~{338.020}~~ **338.013** to 338.090, inclusive; and

(b) Must specify:

(1) An amount that is the maximum amount that the Department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the Department will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

8. ***The Department, the design-build team, any contractor who is awarded a contract or enters into an agreement to perform work on the project, and any subcontractor who performs work on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the Department had undertaken the project or had awarded the contract.***

9. A design-build team to whom a contract is awarded pursuant to this section shall:

(a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and

(b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the project.

Sec. 30. NRS 543.545 is hereby amended to read as follows:

543.545 **1.** Except as otherwise provided in ~~subsection 3,~~ **this section**, the provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, works or improvements, including, without limitation, the provisions of chapters 332, 338 and 339 of NRS, do not apply to any contract entered into by a flood control district for the construction of a flood control facility pursuant to the master plan, if a majority of the construction costs are paid by a private developer and the written agreement:

~~{1-}~~ **(a)** Complies with the requirements of subsection 1 of NRS 543.360;

~~{2-}~~ (b) Clearly sets forth the computation of the construction costs, and includes the terms and conditions of the contract; and

~~{3-}~~ (c) Contains a provision stating that the requirements of NRS ~~{338.010}~~ 338.013 to 338.090, inclusive, apply to any construction work performed pursuant to the contract.

2. The board, the developer, any contractor who is awarded a contract or enters into an agreement to perform the construction work, and any subcontractor who performs any portion of the construction work shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the board had undertaken the construction work or had awarded the contract.

Sec. 31. NRS 701B.265 is hereby amended to read as follows:

701B.265 1. The installation of a solar energy system on property owned or occupied by a public body pursuant to NRS 701B.010 to 701B.290, inclusive, shall be deemed to be a public work for the purposes of chapters 338 and 341 of NRS, regardless of whether the installation of the solar energy system is financed in whole or in part by public money. ***The public body, the utility, any contractor who is awarded a contract or entered into an agreement to perform the installation and any subcontractor who performs any portion of the installation shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the public body had undertaken the installation or had awarded the contract.***

2. The amount of any incentive issued by a utility relating to the installation of a solar energy system on property owned or occupied by a public body may not be used to reduce the cost of the project to an amount which would exempt the project from the requirements of NRS ~~{338.020}~~ 338.013 to 338.090, inclusive.

3. As used in this section, “public body” means the State or a county, city, town, school district or any public agency of this State or its political subdivisions.

Sec. 32. NRS 701B.625 is hereby amended to read as follows:

701B.625 1. The installation of a wind energy system on property owned or occupied by a public body pursuant to NRS 701B.400 to 701B.650, inclusive, shall be deemed to be a public work for the purposes of chapters 338 and 341 of NRS, regardless of whether the installation of the wind energy system is financed in whole or in part by public money. ***The public body, the utility, any contractor who is awarded a contract or entered into an agreement to perform the installation and any subcontractor who performs any portion of the installation shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the public body had undertaken the installation or had awarded the contract.***

2. The amount of any incentive issued by a utility relating to the installation of a wind energy system on property owned or occupied by a public body may not be used to reduce the cost of the project to an amount

which would exempt the project from the requirements of NRS ~~{338.020}~~ **338.013** to 338.090, inclusive.

3. As used in this section, “public body” means the State or a county, city, town, school district or any public agency of this State or its political subdivisions.

Sec. 33. Section 9.5 of the Reno-Tahoe Airport Authority Act, being chapter 474, Statutes of Nevada 1977, as last amended by chapter 98, Statutes of Nevada 2013, at page 335, is hereby amended to read as follows:

Sec. 9.5. 1. Except as otherwise determined by the Board or provided in subsection 2, the provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, acquisition, works or improvements, including, without limitation, the provisions of chapters 332, 338 and 339 of NRS, do not apply to any contract entered into by the Board if the Board:

(a) Complies with the provisions of subsection 3; and

(b) Finances the contract, project, acquisition, works or improvement by means of:

(1) Revenue bonds issued by the Authority; or

(2) An installment obligation of the Authority in a transaction in which:

(I) The Authority acquires real or personal property and another person acquires or retains a security interest in that or other property; and

(II) The obligation by its terms is extinguished by failure of the Board to appropriate money for the ensuing fiscal year for payment of the amounts then due.

2. A contract entered into by the Board pursuant to this section must:

(a) Contain a provision stating that the requirements of NRS ~~{338.010}~~ **338.013** to 338.090, inclusive, apply to any construction work performed pursuant to the contract; and

(b) If the contract is with a design professional who is not a member of a design-build team, comply with the provisions of NRS 338.155. As used in this paragraph, “design professional” has the meaning ascribed to it in subsection 7 of NRS 338.010.

3. For contracts entered into pursuant to this section that are exempt from the provisions of chapters 332, 338 and 339 of NRS pursuant to subsection 1, the Board shall adopt regulations pursuant to subsection ~~{4}~~ **5** which establish:

(a) One or more competitive procurement processes for letting such a contract; and

(b) A method by which a bid on such a contract will be adjusted to give a 5 percent preference to a contractor who would qualify for a preference pursuant to NRS 338.147, if:

(1) The estimated cost of the contract exceeds \$250,000; and

(2) Price is a factor in determining the successful bid on the contract.

4. ***The Board, any contractor who is awarded a contract or enters into an agreement to perform the construction work, and any subcontractor who performs any portion of the construction work shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the Board had undertaken the construction work or had awarded the contract.***

5. The Board:

(a) Shall, before adopting, amending or repealing a permanent or temporary regulation pursuant to subsection 3, give at least 30 days' notice of its intended action. The notice must:

(1) Include:

(I) A statement of the need for and purpose of the proposed regulation.

(II) Either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

(III) The estimated cost to the Board for enforcement of the proposed regulation.

(IV) The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

(V) A statement indicating whether the regulation establishes a new fee or increases an existing fee.

(2) State each address at which the text of the proposed regulation may be inspected and copied.

(3) Be mailed to all persons who have requested in writing that they be placed upon a mailing list, which must be kept by the Authority for that purpose.

(b) May adopt, if it has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this subsection, after providing a second notice and the opportunity for a hearing, a permanent regulation.

(c) Shall, in addition to distributing the notice to each recipient of the Board's regulations, solicit comment generally from the public and from businesses to be affected by the proposed regulation.

(d) Shall, before conducting a workshop pursuant to paragraph (g), determine whether the proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business. If the Board determines that such an impact is likely to occur, the Board shall:

(1) Insofar as practicable, consult with owners and officers of small businesses that are likely to be affected by the proposed regulation.

(2) Consider methods to reduce the impact of the proposed regulation on small businesses.

(3) Prepare a small business impact statement and make copies of the statement available to the public at the workshop conducted pursuant to paragraph (g) and the public hearing held pursuant to paragraph (h).

(e) Shall ensure that a small business impact statement prepared pursuant to subparagraph (3) of paragraph (d) sets forth the following information:

(1) A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

(2) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

(I) Both adverse and beneficial effects; and

(II) Both direct and indirect effects.

(3) A description of the methods that the Board considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the Board actually used any of those methods.

(4) The estimated cost to the Board for enforcement of the proposed regulation.

(5) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the Board expects to collect and the manner in which the money will be used.

(f) Shall afford a reasonable opportunity for all interested persons to submit data, views or arguments upon the proposed regulation, orally or in writing.

(g) Shall, before holding a public hearing pursuant to paragraph (h), conduct at least one workshop to solicit comments from interested persons on the proposed regulation. Not less than 15 days before the workshop, the Board shall provide notice of the time and place set for the workshop:

(1) In writing to each person who has requested to be placed on a mailing list; and

(2) In any other manner reasonably calculated to provide such notice to the general public and any business that may be affected by a proposed regulation which addresses the general topics to be considered at the workshop.

(h) Shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposed regulation and requests an oral hearing, the Board may proceed immediately to act upon any written submissions. The Board shall consider fully all written and oral submissions respecting the proposed regulation.

(i) Shall keep, retain and make available for public inspection written minutes of each public hearing held pursuant to paragraph (h) in the

manner provided in subsections 1 and 2 of NRS 241.035. A copy of the minutes must be made available to a member of the public upon request at no charge pursuant to NRS 241.035.

(j) May record each public hearing held pursuant to paragraph (h) and make those recordings available for public inspection in the manner provided in subsection 4 of NRS 241.035. A copy of the audio recordings must be made available to a member of the public upon request at no charge pursuant to NRS 241.035.

(k) Shall ensure that a small business which is aggrieved by a regulation adopted pursuant to this subsection may object to all or a part of the regulation by filing a petition with the Board within 90 days after the date on which the regulation was adopted. Such petition may be based on the following:

(1) The Board failed to prepare a small business impact statement as required pursuant to subparagraph (3) of paragraph (d); or

(2) The small business impact statement prepared by the Board did not consider or significantly underestimated the economic effect of the regulation on small businesses.

➡ After receiving a petition pursuant to this paragraph, the Board shall determine whether the petition has merit. If the Board determines that the petition has merit, the Board may, pursuant to this subsection, take action to amend the regulation to which the small business objected.

~~§ 5.1~~ 6. The determinations made by the Board pursuant to this section are conclusive unless it is shown that the Board acted with fraud or a gross abuse of discretion.

Sec. 33.5. Section 14.5 of chapter 487, Statutes of Nevada 2013, at page 2985, is hereby amended to read as follows:

Sec. 14.5. 1. On or before January 1 of each year, each public body that enters into a contract during the immediately preceding year with a construction manager at risk pursuant to NRS 338.169 to 338.16995, inclusive, for preconstruction services for or to construct a public work shall submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, or to the Legislative Commission if the report is submitted during an odd-numbered year.

2. The report required by subsection 1 must include, for each public work for which the public body enters into a contract with a construction manager at risk:

(a) A description of the public work;

(b) **The name of the applicants who submitted proposals for the public work that were selected for interviews pursuant to subsection 4 of NRS 338.1693;**

(c) The name of the **applicant who was selected as the** construction manager at risk;

~~—(e)—~~ **for the public work;**

(d) Whether the construction manager at risk substituted a different employee of the construction manager at risk for any employee whose resume was submitted pursuant to paragraph (f) of subsection 3 of NRS 338.1692, and, if so, the reason for the substitution;

(e) If the public work has not been completed at the time the report is submitted, a report on the progress of the public work; and

~~(c)~~ (f) If the public work has been completed at the time the report is submitted, and:

(1) An explanation of whether ~~the public body is satisfied with~~ the public work ~~and with~~ **was completed in accordance with the contractual arrangement with the construction manager at risk ~~it~~, including, without limitation, if the public work was completed on time; and**

(2) A statement of the guaranteed maximum price for the public work and the actual price at which the public work was completed.

3. As used in this section:

(a) “Public body” has the meaning ascribed to it in subsection 16 of NRS 338.010, as amended by section 2 of this act.

(b) “Public work” has the meaning ascribed to it in subsection 17 of NRS 338.010, as amended by section 2 of this act.

Sec. 34. Section 15 of chapter 487, Statutes of Nevada 2013, at page 2986, is hereby amended to read as follows:

Sec. 15. 1. This section and sections 1, 2, 3, 4, 5, 6, 7.5 to 13, inclusive, 14, 14.3 and 14.5 of this act become effective on July 1, 2013.

2. Section 1 of this act expires by limitation on June 30, ~~2017,~~ **2021.**

3. Sections 2.3, 2.5, 3.5, 4.5, 5.3, 5.5, 5.7, 6.5, 13.5, 14.1 and 14.7 of this act become effective on July 1, ~~2017,~~ **2021.**

Sec. 35. Section 9 of chapter 123, Statutes of Nevada 2015, at page 457, is hereby amended to read as follows:

Sec. 9. 1. This act becomes effective upon passage and approval.

2. Sections 6 and 7.5 of this act expire by limitation on June 30, ~~2017,~~ **2021.**

Sec. 35.5. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 36. NRS 338.018, 338.075 and 338.1405 are hereby repealed.

Sec. 37. 1. This section and sections ~~33.5, 34, and~~ **33.5, 34, and 35.5** of this act become effective upon passage and approval.

2. Sections 1 to 33, inclusive, and 36 of this act become effective on July 1, 2017.

3. Sections 1 and 9 to 14, inclusive, of this act expire by limitation on June 30, 2021.

4. Sections 31 and 32 of this act expire by limitation on December 31, 2025.

TEXT OF REPEALED SECTIONS

338.018 Applicability to certain contracts for construction work of Nevada System of Higher Education. The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$250,000 even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.

338.075 Applicability to certain contracts for construction work of Nevada System of Higher Education. The provisions of NRS 338.020 to 338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$250,000 even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.

338.1405 Requirements regarding agreements with labor organizations prohibited; exceptions.

1. The Legislature hereby finds and declares that the provisions of this section prohibiting requirements for certain terms in contracts entered into by a public body for a public work or entered into by the awardee of a grant, tax abatement, tax credit or tax exemption from a public body are:

(a) Intended to provide:

(1) More economical, nondiscriminatory, neutral and efficient contracts for public works by public bodies in this State as market participants; and

(2) Fair and open competition in awarding contracts, grants, tax abatements, tax credits and tax exemptions.

(b) The best method for effectuating the intent of paragraph (a).

2. Except as otherwise provided in subsection 5 or 6, a public body, in any advertisement, solicitation, specification, contract or any other document related to a contract for a public work, shall not:

(a) Require or prohibit an eligible bidder, contractor or subcontractor from entering into or adhering to an agreement with one or more labor organizations in regard to the public work or any construction project integrated into the public work.

(b) Discriminate against an eligible bidder, contractor or subcontractor for becoming or remaining or refusing to become or remain a signatory to, or for adhering or refusing to adhere to, an agreement with one or more labor organizations in regard to the public work or any construction project integrated into the public work.

3. Except as otherwise provided in subsection 5 or 6, a public body shall not award a grant, tax abatement, tax credit or tax exemption that is conditioned upon a requirement that the awardee include a term described in paragraph (a) or (b) of subsection 2 in a contract for any construction, improvement, maintenance or renovation to real property that is the subject of the grant, tax abatement, tax credit or tax exemption.

4. The provisions of subsections 2 and 3 do not:

(a) Prohibit a public body from awarding a contract for a public work or a grant, tax abatement, tax credit or tax exemption to an owner who is not a public body, an eligible bidder, a contractor or a subcontractor who enters into, who is a party to or who adheres to an agreement with a labor organization if:

(1) Entering into, being or becoming a party to or adhering to an agreement with a labor organization is not a condition for awarding the contract, grant, tax abatement, tax credit or tax exemption; and

(2) The public body does not discriminate against an owner who is not a public body, an eligible bidder, a contractor or a subcontractor in the awarding of the contract, grant, tax abatement, tax credit or tax exemption based upon the status of entering into, being or becoming a party to or adhering to an agreement with a labor organization;

(b) Prohibit an eligible bidder, contractor or subcontractor from voluntarily entering into or complying with an agreement entered into with one or more labor organizations in regard to a contract:

(1) With a public body for a public work; or

(2) Funded in whole or in part by a grant, tax abatement, tax credit or tax exemption from a public body;

(c) Prohibit employers or other parties from entering into agreements or engaging in any other activity protected by the Labor Management Relations Act of 1947, 29 U.S.C. §§ 151 et seq.;

(d) Interfere with labor relations of parties that are left unregulated by the Labor Management Relations Act of 1947, 29 U.S.C. §§ 151 et seq.; or

(e) Affect any provision of NRS 338.020 to 338.090, inclusive.

5. A public body may exempt a particular public work or a grant, tax abatement, tax credit or tax exemption from the provisions of subsection 2 if the public body makes a finding, after notice and a hearing, that a special circumstance requires such an exemption to avert an imminent threat to the public health or safety. A finding of a special circumstance pursuant to this subsection must not be based on the possibility or presence of a labor dispute concerning:

(a) The use of a contractor or subcontractor who is not a signatory to or does not adhere to an agreement with one or more labor organizations; or

(b) Employees on the public work who are not members of or affiliated with a labor organization.

6. A public body may exempt a particular public work or a grant, tax abatement, tax credit or tax exemption from the provisions of subsection 2 if the public body makes a finding, after notice and a hearing, that the public work or construction, improvement, maintenance or renovation to real property that is the subject of the grant, tax abatement, tax credit or tax exemption, as applicable, is a part of critical infrastructure for:

(a) An airport, including, without limitation, a runway, taxiway, air traffic control tower or project to improve airport security; or

(b) A water system.

7. As used in this section, “labor organization” means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 407.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 472.

AN ACT relating to cooperative extension programs; establishing geographical regions of the State for the purposes of such programs; **requiring the creation of an advisory board on cooperative extension education in each county of the State; requiring certain entities to enter into cooperative extension memorandums of understanding or agreement for cooperative extension programs;** placing the operation of the programs in the respective regions under the control of the Presidents of the University of Nevada, Reno, and the University of Nevada, Las Vegas, or their designees; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Section 8 of Article 11 of the Nevada Constitution designates certain proceeds from public lands to be used for certain colleges in this State. Section 1 of this bill designates the University of Nevada, Las Vegas, the University of Nevada, Reno and the Desert Research Institute as the state land grant institutions. Existing law provides for certain educational, research, outreach and service programs pertaining to agriculture, community development, health and nutrition, horticulture, personal and family development, and natural resources in this State, conducted in accordance with cooperative agreements between the boards of county commissioners of participating counties and the Director of the Agricultural Extension Department of the Public Service Division of the Nevada System of Higher Education. The money for such programs is provided, in part, by property taxes levied in each participating county and legislative appropriations. (NRS 549.010, 549.020, 549.040) ~~[This]~~ **Section 1.3 of this** bill establishes Northern and Southern Regions of this State and provides that the budgets and expenditures of those programs must be approved and directed in the respective regions of this State by the President, or a person designated by the President, of the University of Nevada, Reno, in the Northern region of the State, and **of the University of Nevada, Las Vegas, in the Southern region of the State** ~~[]~~ **pursuant to a cooperative extension memorandum of understanding or agreement with each county.**

Section 1.5 of this bill requires the creation of an advisory board on cooperative extension in each county in this State which enters into a cooperative extension memorandum of understanding or agreement. The advisory board is required to provide advice to the board of county commissioners of the county in which it is created concerning certain issues relating to such cooperative extension memorandums of understanding or agreements.

Sections 2-5 of this bill transfer certain responsibilities related to cooperative extension programs from the Director of the Agricultural Extension Department of the Public Service Division of the Nevada System of Higher Education to the Northern and Southern Directors of Cooperative Extension of the state land grant institution of the University of Nevada. Section 2 of this bill further requires the Northern and Southern Directors to enter into cooperative extension memorandums of understanding or agreements and activities with the counties.

Section 5.5 of this bill requires the Northern and Southern Directors of Cooperative Extension of the state land grant institution of the University of Nevada to prepare and transmit a report to the Legislature on or before December 1, 2018, which describes in detail the programs and services provided in their respective regions pursuant to a cooperative extension memorandum of understanding or agreement.

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

Section 1. Chapter 549 of NRS is hereby amended by adding thereto ~~to a new section to read as follows:~~ the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. 1. The state land grant institutions of the University of Nevada are the University of Nevada, Las Vegas, the University of Nevada, Reno and the Desert Research Institute.

2. Except as prohibited by federal law, the proceeds of the tax collected pursuant to NRS 549.020 in each participating county in the relevant region of this State, any money appropriated pursuant to NRS 549.020 and any other money available from any source to carry out the provisions of this chapter must be expended as directed for the relevant region of this State in accordance with subsection ~~(2 or 3),~~ 3 or 4, as applicable.

~~(2 or 3)~~ **3.** For any cooperative extension work performed in a participating county in the Northern Region of this State, consisting of Carson City, Churchill County, Douglas County, Elko County, Esmeralda County, Eureka County, Humboldt County, Lander County, Lyon County, Mineral County, Pershing County, Storey County, Washoe County and White Pine County, the money described in subsection ~~(1) 2~~ must be expended as directed by the President of the University of Nevada, Reno, or a person designated by the President ~~(1) as the designee to be the Northern~~

Director of Cooperative Extension of the state land grant institution of the University of Nevada, pursuant to a cooperative extension memorandum of understanding or agreement entered into with each county.

~~§ 4.~~ 4. For any cooperative extension work performed in a participating county in the Southern Region of this State, consisting of Clark County, Lincoln County and Nye County, the money described in subsection ~~44~~ 2 must be expended as directed by the President of the University of Nevada, Las Vegas, or a person designated by the President ~~44~~ as the designee to be the Southern Director of Cooperative Extension of the state land grant institution of the University of Nevada, pursuant to a cooperative extension memorandum of understanding or agreement entered into with each county.

Sec. 1.5. 1. An advisory board on cooperative extension education must be created for each county in this State which enters into a cooperative extension memorandum of understanding or agreement pursuant to section 1.3 of this act.

Each advisory board shall provide advice to the board of county commissioners of the county in which the advisory board is created concerning:

(a) The scope of the cooperative extension memorandums of understanding or agreements and the services provided pursuant thereto to serve the communities and businesses within the county; and

(b) The budget for services to be provided pursuant to such a cooperative extension memorandum of understanding or agreement.

2. An advisory committee created pursuant to subsection 1 must consist of:

(a) Seven members appointed by the board of county commissioners for the county in which the advisory board is created. Such members may be members of the county who benefit from cooperative extension programs, members of the business community or chamber of commerce, members of a nonprofit entity, teachers or other educational personnel, administrators of county government or any other person whose experience the board deems appropriate; and

(b) One member of a research institution listed in subsection 1 of section 1.3 of this act which serves the county for which the advisory board is created who is appointed by the president of the research institution.

3. Each member of an advisory board serves for a term of 2 years and may be reappointed. A vacancy on the board must be filled in the same manner as the original appointment.

4. At the first meeting of an advisory board, the members of the advisory board shall elect a Chair and Vice Chair by majority vote. After the initial elections, the Chair and Vice Chair hold office for a term of 1 year beginning on July 1 of each year. If the position of Chair or Vice Chair becomes vacant, the members of the advisory board shall elect a

Chair or Vice Chair, as appropriate, from among its members to serve for the balance of the term.

5. The members of an advisory board:

(a) Serve without compensation; and

(b) May, upon written request, receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the business of the advisory board.

6. A member of the advisory board who is an officer or employee of this State or a political subdivision of this State must be relieved from duties without loss of regular compensation so that the officer or employee may prepare for and attend meetings of the advisory board and perform any work necessary to carry out the duties of the advisory board in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the advisory board to make up the time the officer or employee is absent from work to carry out duties as a member of the advisory board or use annual vacation or compensatory time for the absence.

Sec. 2. NRS 549.010 is hereby amended to read as follows:

549.010 To provide for continued educational, research, outreach and service programs pertaining to agriculture, community development, health and nutrition, horticulture, personal and family development, and natural resources in the rural and urban communities in the State of Nevada, the ~~{Director of the Agricultural Extension Department of the Public Service Division of the Nevada System of Higher Education}~~ Northern Director of Cooperative Extension of the state land grant institution of the University of Nevada and the Southern Director of Cooperative Extension of the state land grant institution of the University of Nevada who are designated pursuant to section 1.3 of this act and the boards of county commissioners of any or all of the respective counties of the State of Nevada ~~{may}~~ shall enter into cooperative extension memorandums of understanding or agreements and activities subject to the provisions of this chapter. ~~{Any such agreement must be approved by the President, or a person designated by the President, of the University of Nevada, Reno, or the University of Nevada, Las Vegas, for the applicable region of this State as described in section 1 of this act.}~~

Sec. 3. NRS 549.020 is hereby amended to read as follows:

549.020 1. ~~{The Director of the Agricultural Extension Department of the Public Service Division of the Nevada System of Higher Education}~~ The Northern Director of Cooperative Extension of the state land grant institution of the University of Nevada and the Southern Director of Cooperative Extension of the state land grant institution of the University of Nevada who are designated pursuant to section 1.3 of this act shall prepare and submit to the board of county commissioners, for each county participating, an annual financial budget covering ~~for~~

~~—(a) Approved by the President, or a person designated by the President, of the University of Nevada, Reno, or the University of Nevada, Las Vegas, for the applicable region of this State as described in section 1 of this act.~~

~~—(b) Covering~~ the county, state and federal funds cooperating in the cost of educational, research, outreach and service programs pertaining to agriculture, community development, health and nutrition, horticulture, personal and family development, and natural resources in the rural and urban communities in the State of Nevada.

2. The budget must be adopted by the board of county commissioners and certified as a part of the annual county budget, and the county tax levy provided for agricultural extension work in the annual county budget must include a levy of not less than 1 cent on each \$100 of taxable property. If the proceeds of the county tax levy of 1 cent are insufficient to meet the county's share of the cooperative agricultural extension work, as provided in the combined annual financial budget, the board of county commissioners may, by unanimous vote, levy an additional tax so that the total in no instance exceeds 5 cents on each \$100 of the county tax rate.

3. The proceeds of such a tax must be placed in the agricultural extension fund in each county treasury and must be paid out on claims drawn by the agricultural extension agent of the county as ~~designated by the Director of the Agricultural Extension Department of the Public Service Division of the Nevada System of Higher Education, when approved by the Director and directed by the President, or a person designated by the President, of the University of Nevada, Reno, or the University of Nevada, Las Vegas, for the applicable region of this State as described in section 1 of this act, and~~ directed by the cooperative extension memorandum of understanding or agreement entered into pursuant to NRS 549.010 and countersigned by the Treasurer of the Nevada System of Higher Education.

4. A record of all such claims approved and paid, segregated by counties, must be kept by the Treasurer of the Nevada System of Higher Education. The cost of maintaining the record must be paid from state funds provided for by this chapter.

5. The State's cooperative share of the cost of such agricultural extension work, as entered in the budget described in this section, must not be more than a sum equal to the proceeds of 1 cent of such county tax rate; but when the proceeds of a 1-cent tax rate are insufficient to carry out the provisions of the budget previously adopted, the ~~Director of the Agricultural Extension Department of the Public Service Division of the Nevada System of Higher Education is~~ Northern Director of Cooperative Extension of the state land grant institution of the University of Nevada and the Southern Director of Cooperative Extension of the state land grant institution of the University of Nevada who are designated pursuant to section 1.3 of this act are authorized to supplement the State's cooperative share from the funds as may be made available in the Public Service Division Fund of the Nevada System of Higher Education.

Sec. 4. NRS 549.030 is hereby amended to read as follows:

549.030 1. ~~{A}~~ ***Within 10 days after its approval by the board of county commissioners, a*** certified copy of the county extension work budget as adopted and approved pursuant to NRS 549.020 must be filed with ~~{the}~~ :

(a) The President, or a person designated by the President, of the University of Nevada, Reno, or the University of Nevada, Las Vegas, for the applicable region of this State as described in section ~~##~~ 1.3 of this act; and

(b) The Treasurer of the Nevada System of Higher Education . ~~{within 10 days after its approval by the board of county commissioners.}~~

2. Necessary modifications thereof, involving county and state funds, resulting from leaves of absence without pay, resignations, changes in salary, dismissals or employment of any cooperative agent, variations in expense accounts or otherwise, not involving an increase in the total expenditures provided to be paid from the funds and consistent with the purposes of this chapter, may be made by filing with the ~~##~~ county, at the request of:

(a) The President, or a person designated by the President, of the University of Nevada, Reno, or the University of Nevada, Las Vegas, for the applicable region of this State as described in section ~~##~~ 1.3 of this act;

(b) The Treasurer of the Nevada System of Higher Education ; and ~~{the}~~

(c) The board of county commissioners ,

↪ a revised budget, approved by the ~~{Director of the Agricultural Extension Department of the Public Service Division of the Nevada System of Higher Education ***President, or a person designated by the President, of the University of Nevada, Reno, or the University of Nevada, Las Vegas, for the applicable region of this State as described in section 1 of this act,***~~ ***Northern Director of Cooperative Extension of the state land grant institution of the University of Nevada and the Southern Director of Cooperative Extension of the state land grant institution of the University of Nevada who are designated pursuant to section 1.3 of this act*** and countersigned by the Treasurer of the Nevada System of Higher Education.

Sec. 5. NRS 549.050 is hereby amended to read as follows:

549.050 All moneys appropriated pursuant to NRS 549.040 must be expended ~~{under the direction of the Director of the Agricultural Extension Department of the Public Service Division of the Nevada System of Higher Education}~~ ***as provided in section ~~##~~ 1.3 of this act*** to the extent of the financial budget for cooperation between the State and the respective counties provided for in NRS 549.020.

Sec. 5.5. The Northern Director of Cooperative Extension of the state land grant institution of the University of Nevada and the Southern Director of Cooperative Extension of the state land grant institution of the University of Nevada who are designated pursuant to section 1.3 of this act shall each prepare and transmit a report to the Legislature on or before December 1, 2018, which describes in detail the programs and services being provided in their respective regions pursuant to a

cooperative extension memorandum of understanding or agreement entered into pursuant to NRS 549.010.

Sec. 6. This act becomes effective on July 1, 2017.

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 409.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 471.

AN ACT relating to education; ~~removing~~ **revising** the requirement that certain pupils enrolled in grade 3 must be retained in grade 3; revising provisions relating to plans to improve the literacy of pupils; revising provisions relating to teachers who teach ~~kindergarten or grades 1 to 5, inclusive;~~ **in a public elementary school;** revising provisions relating to reports concerning pupil performance in the subject area of reading; revising provisions relating to notices concerning pupils who exhibit a deficiency in the subject area of reading; requiring certain interventions and services for pupils who exhibit a deficiency in the subject area of reading and the parent or legal guardian of such a pupil; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law, to become effective on July 1, 2019, provides that a pupil enrolled in grade 3 must be retained in grade 3 rather than promoted to grade 4 if the pupil does not obtain the score prescribed by the State Board of Education on the criterion-referenced examination in reading. (NRS 388A.487, 392.760) ~~Section 1.3 of this bill removes this requirement. Sections 1 and 2 of this bill make conforming changes.~~ **and instead provides that a pupil must be retained in grade 3 if the pupil does not obtain the score prescribed by the State Board on the criterion-referenced examination in reading and his or her parent or legal guardian decides, in consultation with the teacher of the pupil and the principal of the school, that the pupil must be retained. Sections 5.5 and 6.5 of this bill make conforming changes.**

Existing law requires the board of trustees of each school district or the governing body of a charter school to prepare a plan to improve the literacy of pupils enrolled in kindergarten and grades 1, 2 and 3. (NRS 388.157) **Section 3** of this bill additionally requires this plan to address pupils enrolled in ~~grades 4 and 5;~~ **elementary school.**

Existing law requires that a plan to improve the literacy of pupils include a program to provide intensive instruction to pupils who have been identified as deficient in the subject area of reading to ensure that those pupils achieve adequate proficiency in that subject area. (NRS 388.157) **Section 3** of this bill provides that in order to achieve adequate proficiency in reading, a pupil

must perform at a level considered by the school district or charter school to be within the average range for a pupil enrolled in the same grade level in which the pupil is enrolled.

Existing law authorizes a school district or charter school to provide additional compensation to a teacher who teaches kindergarten or grade 1, 2, 3 or 4 whose overall performance is determined to be highly effective. Existing law also requires a teacher who teaches kindergarten or grade 1, 2, 3 or 4 to complete certain professional development in the subject area of reading. (NRS 388.159) **Section 4** of this bill instead provides that only licensed teachers who teach in ~~kindergarten or grade 1, 2, 3, 4 or 5;~~ a public elementary school: (1) may receive additional compensation; and (2) are required to complete professional development in the subject area of reading.

Existing law, also to become effective on July 1, 2019, requires the board of trustees of each school district and the governing body of a charter school to prepare a report concerning the number and percentage of pupils who are retained in grade 3 for a deficiency in reading. (NRS 388A.487, 392.775) **Sections 5 and 10** of this bill ~~instead~~ additionally require the board of trustees of each school district and the governing body of a charter school to prepare a report containing certain information concerning pupils who received educational programs or services in the subject area of reading. Those sections become effective on July 1, 2017.

Section 6 of this bill requires that the notice provided to the parent or guardian of a pupil who exhibits a deficiency in the subject area of reading explain that the school will: (1) monitor the progress of the pupil towards obtaining proficiency in the subject area of reading; and (2) analyze and regularly adjust the programs and services provided to the pupil.

Section 7 of this bill requires that the plan to assess the proficiency of a pupil who is deficient in the subject area of reading be established by a licensed teacher. **Section 7** also removes the requirement that a school assess the proficiency of a pupil in the subject area of reading at the beginning of the year and instead requires the school frequently to assess the progress of the pupil in any areas of deficiency in the subject area of reading.

Existing law requires the principal of a school to offer the parent or legal guardian of a pupil who is retained in grade 3 certain additional instructional options. (NRS 392.770) **Section 9** of this bill ~~removes the reference to retention and instead~~ additionally requires the principal of a school to offer these options to the parent or legal guardian of a pupil who exhibits a deficiency in the subject area of reading.

Existing law requires the Department of Education to distribute money that is appropriated to the Other State Education Programs Account through a competitive grants program. (Section 15 of chapter 334, Statutes of Nevada 2015, p. 1867) **Section 11** of this bill revises the program to require schools that receive a grant of money to use the money for literacy programs in ~~kindergarten and grades 1 to 5, inclusive,~~ elementary school to support

school-based efforts to ensure that all pupils are proficient in reading by the end of ~~the fifth grade,~~ **elementary school.**

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

Section 1. ~~{NRS 385A.240 is hereby amended to read as follows:~~

~~385A.240 1. The annual report of accountability prepared pursuant to NRS 385A.070 must include information on the attendance, truancy and transiency of pupils, including, without limitation:~~

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

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

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

~~—(b) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 [,] or 392.125 , [or 392.760,] for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.~~

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

~~—(d) The number of habitual truants reported for each school in the district and for the district as a whole, including, without limitation, the number who are:~~

~~—(1) Reported to an attendance officer, a school police officer or a local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144;~~

~~—(2) Referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144; and~~

~~—(3) Referred for the imposition of administrative sanctions pursuant to paragraph (c) of subsection 2 of NRS 392.144.~~

~~2. On or before September 30 of each year:~~

~~— (a) The board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required by paragraph (a) of subsection 1.~~

~~— (b) The State Public Charter School Authority, the Achievement School District and each college or university within the Nevada System of Higher Education that sponsors a charter school shall submit to each advisory board to review school attendance created in a county pursuant to NRS 392.126 the information regarding the records of the attendance and truancy of pupils enrolled in the charter school located in that county, if any, in accordance with the regulations prescribed by the Department pursuant to subsection 3 of NRS 385A.070. **(Deleted by amendment.)**~~

Sec. 2. ~~[NRS 385A.450 is hereby amended to read as follows:~~

~~385A.450 The annual report of accountability prepared by the State Board pursuant to NRS 395A.400 must include information on the attendance, truancy and transiency of pupils, including, without limitation:~~

~~1. For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.~~

~~2. The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 [,] or 392.125 , [or 392.760,] reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.~~

~~3. The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. For the purposes of this subsection, a pupil is not a transient if the pupil is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.~~

~~4. The number of habitual truants reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, including, without limitation, the number who are:~~

~~— (a) Reported to an attendance officer, a school police officer or a local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144;~~

~~— (b) Referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144; and~~

~~— (c) Referred for the imposition of administrative sanctions pursuant to paragraph (c) of subsection 2 of NRS 392.144. **(Deleted by amendment.)**~~

Sec. 3. NRS 388.157 is hereby amended to read as follows:

388.157 1. The board of trustees of each school district and the governing body of each charter school shall prepare a plan to improve the literacy of pupils enrolled in ~~kindergarten and grades 1, 2 and 3. to 5, inclusive,~~ **an elementary school.** Such a plan must include, without limitation:

(a) A program to provide intensive instruction to pupils who have been identified as deficient in the subject area of reading to ensure that those pupils achieve adequate proficiency in ~~{that subject area.}~~ ***the requisite reading skills and reading comprehension skills necessary to perform at a level considered by the school district or charter school to be within the average range for a pupil enrolled in the same grade level in which the pupil is enrolled.*** Such a program must include, without limitation, regularly scheduled reading sessions in small groups and specific instruction ~~{on}~~ ***designed to target any area in which the pupil demonstrates a deficiency, including, without limitation,*** phonological and phonemic awareness, decoding skills , ~~{and}~~ reading fluency ~~{,}~~ , ***vocabulary and reading comprehension strategies;***

(b) Procedures for assessing a pupil's proficiency in the subject area of reading using valid and reliable ***curriculum-based*** assessments that have been approved by the State Board by regulation:

(1) Within the first 30 days of school after the pupil enters kindergarten or upon enrollment in kindergarten if the pupil enrolls after that period; and

(2) During ~~{grades 1, 2 and 3; to 5, inclusive;}~~ ***each grade level in elementary school;***

(c) A program to improve the proficiency in reading of pupils who are limited English proficient; and

(d) Procedures for facilitating collaboration between learning strategists and classroom teachers.

2. The board of trustees of each school district or the governing body of a charter school, as applicable, shall:

(a) Submit its plan to the Department for approval on or before the date prescribed by the Department on a form prescribed by the Department; and

(b) Make such revisions to the plan as the Department determines are necessary.

Sec. 4. NRS 388.159 is hereby amended to read as follows:

388.159 1. The principal of a public elementary school, including, without limitation, a charter school, shall designate a licensed teacher employed by the school who has demonstrated leadership abilities to serve as a learning strategist to train and assist teachers at the school to provide intensive instruction to pupils who have been identified as deficient in the subject area of reading.

2. A school district or charter school may provide additional compensation to:

(a) A licensed teacher designated as a learning strategist pursuant to this section; or

(b) A ***licensed*** teacher who is employed by a school district or charter school to teach ~~{kindergarten or grade 1, 2, 3, or 4 or 5}~~ ***in an elementary school*** whose overall performance is determined to be highly effective under the statewide performance evaluation system established by the State Board pursuant to NRS 391.465.

3. Each **licensed** teacher employed by a school district or charter school to teach ~~Kindergarten or grade 1, 2, 3, or 4 or 5~~ **in an elementary school** shall complete professional development provided by a learning strategist designated pursuant to subsection 1 in the subject area of reading.

4. The State Board shall prescribe by regulation:

(a) Any training or professional development that a learning strategist is required to successfully complete;

(b) Any professional development that a **licensed** teacher employed by a school district or charter school to teach ~~Kindergarten or grade 1, 2, 3, or 4 or 5~~ **in an elementary school** is required to receive from a learning strategist in the subject area of reading; and

(c) The duties and responsibilities of a learning strategist.

Sec. 5. Chapter 388A of NRS is hereby amended by adding thereto a new section to read as follows:

On or before September 1 of each year, the governing body of a charter school that operates as an elementary school shall:

1. Prepare a report concerning the number and percentage of pupils at the charter school who received educational programs and services identified pursuant to subsection 1 of NRS 392.750 at each grade level and whose proficiency in the subject area of reading:

(a) Did not improve at a rate prescribed by the governing body of the charter school, indicating a need for more intensive or different interventions;

(b) Improved at a rate prescribed by the governing body of the charter school, indicating the pupils are making progress toward performing at a level considered by the charter school to be within the average range for pupils enrolled in the same grade level in which the pupils are enrolled; and

(c) Is considered by the charter school to be within the average range for pupils enrolled in the same grade level in which the pupils are enrolled.

2. Submit a copy of the report to the Department.

3. Post the report on the Internet website maintained by the charter school and otherwise make the report available to the parents and legal guardians of pupils enrolled in the charter school and the general public.

Sec. 5.5. NRS 388A.487 is hereby amended to read as follows:

388A.487 1. The governing body of a charter school shall adopt rules for the academic retention of pupils who are enrolled in the charter school that are consistent with NRS 392.750, 392.760 and 392.765. The rules must:

(a) Prescribe the conditions under which a pupil may be retained in the same grade rather than promoted to the next higher grade for the immediately succeeding school year.

(b) Require a pupil enrolled in grade 3 to be retained in the same grade rather than promoted to grade 4 when required pursuant to NRS 392.760.

2. On or before September 1 of each year, the governing body of each charter school shall:

(a) Prepare a report concerning the number and percentage of pupils at the charter school who were ~~1.~~

~~(1) Retained~~ **retained** in grade 3 pursuant to NRS 392.760 for a deficiency in the subject area of reading, including whether or not any such pupils were previously retained in kindergarten or grade 1 or 2; ~~1.~~ and

~~(2) Not retained in grade 3 because a good cause exemption was approved pursuant to NRS 392.760 but who were previously retained in kindergarten or grade 1 or 2 for a total of 2 years;~~

(b) Submit a copy of the report to the Department; and

(c) Post the report on the Internet website maintained by the charter school and otherwise make the report available to the parents and legal guardians of pupils enrolled in the charter school and the general public.

Sec. 6. NRS 392.750 is hereby amended to read as follows:

392.750 If a pupil enrolled at a public elementary school ~~in kindergarten or grade 1, 2, or 3, 4 or 5~~ exhibits a deficiency in the subject area of reading based upon state or local **curriculum-based** assessments and the observations of the pupil's teacher, the principal of the school must provide written notice of the deficiency to the parent or legal guardian of the pupil within 30 days after the date on which the deficiency is discovered. The written notice must, without limitation:

1. Identify the educational programs and services that the pupil will receive to improve the pupil's proficiency in the subject area of reading, including, without limitation, the programs and services included in the plan to improve the literacy of pupils enrolled in ~~Kindergarten and grades 1, 2 and 3 to 5, inclusive;~~ **elementary school** that has been approved by the Department pursuant to NRS 388.157;

2. *Explain that the school will frequently monitor the progress of the pupil toward obtaining proficiency in the subject area of reading using curriculum-based assessments and periodically update the parent or legal guardian of the pupil regarding the progress of the pupil;*

3. *Explain that the school will analyze and regularly adjust the programs and services identified pursuant to subsection 1 based upon the data collected relating to the progress of the pupil in the subject area of reading until the pupil performs at a level considered by the school district or charter school to be within the average range for a pupil enrolled in the same grade level in which the pupil is enrolled;*

4. Describe, explain and, if appropriate, demonstrate the strategies which the parent or legal guardian may use at home to help improve the proficiency of the pupil in the subject area of reading;

~~3.~~ 5. Include information regarding the English literacy development of a pupil who is limited English proficient; and

~~4.~~ 6. Describe, explain and, if appropriate, demonstrate the strategies which the parent or legal guardian may use at home to help improve the English literacy of a pupil who is limited English proficient.

Sec. 6.5. NRS 392.750 is hereby amended to read as follows:

392.750 If a pupil enrolled at a public elementary school ~~in kindergarten or grade 1, 2 or 3~~ exhibits a deficiency in the subject area of reading based upon state or local assessments and the observations of the pupil's teacher, the principal of the school must provide written notice of the deficiency to the parent or legal guardian of the pupil within 30 days after the date on which the deficiency is discovered. The written notice must, without limitation:

1. Identify the educational programs and services that the pupil will receive to improve the pupil's proficiency in the subject area of reading, including, without limitation, the programs and services included in the plan to improve the literacy of pupils enrolled in ~~kindergarten and grades 1, 2 and 3~~ **elementary school** that has been approved by the Department pursuant to NRS 388.157;

2. ~~Explain that if the pupil does not achieve adequate proficiency in the subject area of reading before the completion of grade 3, the pupil will be retained in grade 3 rather than promoted to grade 4, unless the pupil receives a good cause exemption pursuant to NRS 392.760;~~

~~3.~~ Describe, explain and, if appropriate, demonstrate the strategies which the parent or legal guardian may use at home to help improve the proficiency of the pupil in the subject area of reading;

~~4.~~ ~~Explain that the criterion referenced examination in the subject area of reading administered pursuant to NRS 390.105 is not the only factor used to determine whether the pupil will be retained in grade 3 and that other options are available for the pupil to demonstrate proficiency if the pupil is eligible for a good cause exemption pursuant to NRS 392.760;~~

~~5.~~ **3.** Describe the policy and specific criteria adopted by the board of trustees of the school district or governing body of a charter school, as applicable, pursuant to NRS 392.765 regarding the promotion of a pupil to grade 4 at any time during the school year if the pupil is retained in grade 3 pursuant to NRS 392.760;

~~6.~~ **4.** Include information regarding the English literacy development of a pupil who is limited English proficient; and

~~7.~~ **5.** Describe, explain and, if appropriate, demonstrate the strategies which the parent or legal guardian may use at home to help improve the English literacy of a pupil who is limited English proficient.

Sec. 7. NRS 392.755 is hereby amended to read as follows:

392.755 1. A public elementary school that has notified the parent or legal guardian of a pupil that, based upon the results of state or local assessments, it has been determined that the pupil has a deficiency in the subject area of reading pursuant to NRS 392.750 shall, within 30 days after providing such notice, establish a plan to monitor the progress of the pupil in the subject area of reading.

2. A plan to monitor the progress of a pupil in the subject area of reading must be established by the teacher of the pupil, **if the teacher of the pupil is a licensed teacher, or a licensed teacher, if the teacher of the pupil is not a**

licensed teacher, and any other relevant school personnel and approved by the principal of the school and the parent or legal guardian of the pupil. The plan must include a description of any intervention services that will be provided to the pupil to correct the **area of** deficiency and must include that the pupil will receive intensive instruction in reading ~~{to ensure}~~ **until** the pupil ~~{achieves adequate proficiency in reading.}~~ **achieves adequate proficiency in the requisite reading skills and reading comprehension skills necessary to perform at a level considered by the school district or charter school to be within the average range for a pupil enrolled in the same grade level in which the pupil is enrolled.** Such instruction must include, without limitation, the programs and services included in the plan to improve the literacy of pupils enrolled in ~~{kindergarten and grades 1, 2 and 3 to 5, inclusive,}~~ **elementary school** approved by the Department pursuant to NRS 388.157.

3. A school that establishes a plan to monitor the progress of a pupil in the subject area of reading shall **frequently** assess the ~~{proficiency}~~ **progress** of the pupil ~~{in the subject area of reading at the beginning of the next school year after the plan is established pursuant to this section.}~~ **in any area of deficiency in the subject area of reading to ensure that the programs and services provided to the pupil pursuant to subsection 1 of NRS 392.750 will continue to increase the proficiency of the pupil in the subject area of reading until the pupil performs at a level considered by the school district or charter school to be within the average range for a pupil enrolled in the same grade level in which the pupil is enrolled.**

Sec. 8. ~~{Section 8 of chapter 234, Statutes of Nevada 2015, at page 1862, is hereby amended to read as follows:~~

~~— Sec. 8. If a pupil enrolled at a public elementary school in kindergarten or grade 1, 2 or 3 exhibits a deficiency in the subject area of reading based upon state or local assessments and the observations of the pupil's teacher, the principal of the school must provide written notice of the deficiency to the parent or legal guardian of the pupil within 30 days after the date on which the deficiency is discovered. The written notice must, without limitation:~~

~~— 1. Identify the educational programs and services that the pupil will receive to improve the pupil's proficiency in the subject area of reading, including, without limitation, the programs and services included in the plan to improve the literacy of pupils enrolled in kindergarten and grades 1, 2 and 3 that has been approved by the Department pursuant to section 5 of this act;~~

~~— 2. Explain that if the pupil does not achieve adequate proficiency in the subject area of reading before the completion of grade 3, the pupil will be retained in grade 3 rather than promoted to grade 4, unless the pupil receives a good cause exemption pursuant to section 10 of this act;~~

~~3.] Describe, explain and, if appropriate, demonstrate the strategies which the parent or legal guardian may use at home to help improve the proficiency of the pupil in the subject area of reading;~~

~~[4. Explain that the criterion referenced examination in the subject area of reading administered pursuant to NRS 389.550 is not the only factor used to determine whether the pupil will be retained in grade 3 and that other options are available for the pupil to demonstrate proficiency if the pupil is eligible for a good cause exemption pursuant to section 10 of this act;~~

~~5. Describe the policy and specific criteria adopted by the board of trustees of the school district or governing body of a charter school, as applicable, pursuant to section 11 of this act regarding the promotion of a pupil to grade 4 at any time during the school year if the pupil is retained in grade 3 pursuant to section 10 of this act;~~

~~6.] 3. Include information regarding the English literacy development of a pupil who is limited English proficient; and~~

~~[7. 4. Describe, explain and, if appropriate, demonstrate the strategies which the parent or legal guardian may use at home to help improve the English literacy of a pupil who is limited English proficient.~~

~~‡ (Deleted by amendment.)~~

Sec. 8.3. Section 10 of chapter 334, Statutes of Nevada 2015, at page 1863, is hereby amended to read as follows:

Sec. 10. 1. Except as otherwise provided in this section, a pupil enrolled in grade 3 must be retained in grade 3 rather than promoted to grade 4 if the ~~{pupil}~~ :

(a) Pupil does not obtain a score in the subject area of reading on the criterion-referenced examination administered pursuant to NRS [389.550] 390.105 that meets the passing score prescribed by the State Board pursuant to subsection ~~17-1~~ 2; and

(b) Parent or legal guardian of the pupil decides, in consultation with the teacher of the pupil and principal of the school, that the pupil must be retained.

2. ~~{The superintendent of schools of a school district or the governing body of a charter school, as applicable, may authorize the promotion of a pupil to grade 4 who would otherwise be retained in grade 3 only if the superintendent or governing body, as applicable, approves a good cause exemption for the pupil upon a determination by the principal of the school pursuant to subsection 4 that the pupil is eligible for such an exemption.~~

~~3. A good cause exemption must be approved for a pupil who previously was retained in grade 3. Any other pupil is eligible for a good cause exemption if the pupil:~~

~~(a) Demonstrates an acceptable level of proficiency in reading on an alternative standardized reading assessment approved by the State Board;~~

~~—(b) Demonstrates, through a portfolio of the pupil's work, proficiency in reading at grade level, as evidenced by demonstration of mastery of the academic standards in reading beyond the retention level;~~

~~—(c) Is limited English proficient and has received less than 2 years of instruction in a program of instruction that teaches English as a second language;~~

~~—(d) Received intensive remediation in the subject area of reading for 2 or more years but still demonstrates a deficiency in reading and was previously retained in kindergarten or grade 1 or 2 for a total of 2 years;~~

~~—(e) Is a pupil with a disability and his or her individualized education program indicates that the pupil's participation in the criterion-referenced examinations administered pursuant to NRS 389.550 is not appropriate; or~~

~~—(f) Is a pupil with a disability and:~~

~~—(1) He or she participates in the criterion-referenced examinations administered pursuant to NRS 389.550;~~

~~—(2) His or her individualized education program or plan developed in accordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, documents that the pupil has received intensive remediation in reading for more than 2 years, but he or she still demonstrates a deficiency in reading; and~~

~~—(3) He or she was previously retained in kindergarten or grade 1, 2 or 3.~~

~~—4. The principal of a school in which a pupil who may be retained in grade 3 pursuant to subsection 1 is enrolled shall consider the factors set forth in subsection 3 and determine whether the pupil is eligible for a good cause exemption. In making the determination, the principal must consider documentation provided by the pupil's teacher indicating whether the promotion of the pupil is appropriate based upon the record of the pupil. Such documentation must only consist of the existing plan for monitoring the progress of the pupil, the pupil's individualized education program, if applicable, and the pupil's plan in accordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, if applicable. If the principal determines that promotion of the pupil to grade 4 is appropriate, the principal must submit a written recommendation to the superintendent of schools of the school district or to the governing body of the charter school, as applicable. The superintendent of schools or the governing body of the charter school, as applicable, shall approve or deny the recommendation of the principal and provide written notice of the approval or denial to the principal.~~

~~—5. A principal who determines that a pupil is eligible for a good cause exemption shall notify the parent or legal guardian of the pupil whether the superintendent of schools of the school district or the governing body of the charter school, as applicable, approves the good cause exemption.~~

~~6. The principal of a school in which a pupil for whom a good cause exemption is approved and who is promoted to grade 4 must ensure that the pupil continues to receive intensive instruction in the subject area of reading. Such instruction must include, without limitation, strategies based upon scientifically based research that will improve proficiency in the subject area of reading.~~

~~7. The State Board shall prescribe by regulation:~~

~~(a) The the score which a pupil enrolled in grade 3 must obtain in the subject area of reading on the criterion-referenced examination administered pursuant to NRS ~~{389.550}~~ **390.105** to be ~~{promoted}~~ **automatically promoted** to grade 4, ~~{without a good cause exemption, and~~~~

~~(b) An alternate examination for administration to pupils enrolled in grade 3 who do not obtain the passing score in the subject area of reading on the criterion-referenced examination administered pursuant to NRS 389.550 and the passing score such a pupil must obtain on the alternate examination to be promoted to grade 4 without a good cause exemption.~~

~~8. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).}~~

Sec. 8.7. Section 11 of chapter 334, Statutes of Nevada 2015, at page 1864, is hereby amended to read as follows:

Sec. 11. 1. If a pupil will be retained in grade 3 pursuant to section 10 of this act, the principal of the school must:

(a) Provide written notice to the parent or legal guardian of the pupil **confirming** that the pupil will be retained in grade 3. The written notice must include, without limitation, a description of the intensive instructional services in the subject area of reading that the pupil will receive to improve the proficiency of the pupil in that subject area.

(b) Develop a plan to monitor the progress of the pupil in the subject area of reading.

(c) Require the teacher of the pupil to develop a portfolio of the pupil's work in the subject area of reading, which must be updated as necessary to reflect progress made by the pupil.

(d) Ensure that the pupil receives intensive instructional services in the subject area of reading that are designed to improve the pupil's proficiency in the subject area of reading, including, without limitation:

(1) Programs and services included in the plan to improve the literacy of pupils enrolled in ~~{kindergarten and grades 1, 2 and 3}~~ **elementary school** approved by the Department pursuant to section 5 of this act;

(2) Instruction for at least 90 minutes each school day based upon scientifically based reading instruction research; and

(3) Intensive instructional services prescribed by the board of trustees of the school district pursuant to subsection 2, as determined appropriate for the pupil.

2. The board of trustees of each school district or the governing body of a charter school, as applicable, shall:

(a) Review and evaluate the plans for monitoring the progress of pupils developed pursuant to subsection 1.

(b) Prescribe the intensive instructional services in the subject area of reading which the principal of a school must implement as determined appropriate for a pupil who is retained in grade 3 pursuant to section 10 of this act, which may include, without limitation:

(1) Instruction that is provided in small groups;

(2) Instruction provided in classes with reduced pupil-teacher ratios;

(3) A timeline for frequently monitoring the progress of the pupil;

(4) Tutoring and mentoring;

(5) Classes which are designed to increase the ability of pupils to transition from grade 3 to grade 4;

(6) Instruction provided through an extended school day, school week or school year;

(7) Programs to improve a pupil's proficiency in reading which are offered during the summer; or

(8) Any combination of the services set forth in subparagraphs (1) to (7), inclusive.

3. Except as otherwise provided in subsection 4, the intensive instructional services in the subject area of reading required by this section must be provided to the pupil by a teacher:

(a) Who is different than the teacher who provided instructional services to the pupil during the immediately preceding school year; and

(b) Who has been determined to be highly effective, as demonstrated by pupil performance data and performance evaluations.

4. The intensive instructional services in the subject area of reading required by this section may be provided to the pupil by the same teacher who provided instructional services to the pupil during the immediately preceding school year if a different teacher who meets the requirements of paragraph (b) of subsection 3 is not reasonably available and the pupil:

(a) Has an individualized education program; or

(b) Is enrolled in a school district in a county whose population is less than 100,000.

5. The board of trustees of each school district and the governing body of a charter school, as applicable, shall develop a policy by which the principal of a school may promote a pupil who is retained in grade 3 pursuant to section 10 of this act to grade 4 at any time during the school year if the pupil demonstrates adequate proficiency in the subject area of

reading. The policy must include the specific criteria a pupil must satisfy to be eligible for promotion, including, without limitation, a reasonable expectation that the pupil's progress will allow him or her to sufficiently master the requirements for a fourth-grade reading level. If a pupil is promoted after November 1 of a school year, he or she must demonstrate proficiency in reading at a level prescribed by the State Board.

6. If a principal of a school determines that a pupil is not academically ready for promotion to grade 4 after being retained in grade 3 and the pupil received intensive instructional services pursuant to this section, the school district in which the pupil is enrolled must allow the parent or legal guardian of the pupil to decide, in consultation with the principal of the school, whether to place the pupil in a transitional instructional setting which is designed to produce learning gains sufficient for the pupil to meet the performance standards required for grade 4 while continuing to receive remediation in the subject area of reading.

7. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

Sec. 9. Section 12 of chapter 334, Statutes of Nevada 2015, at page 1866, is hereby amended to read as follows:

Sec. 12. In addition to the intensive instructional services provided to a pupil who is retained in grade 3 pursuant to section 10 of this act, **or exhibits a deficiency in the subject area of reading that is identified in subsection 1 of NRS 392.750,** the principal of the school must offer the parent or legal guardian of the pupil at least one of the following instructional options:

1. Supplemental tutoring which is based upon scientifically based research concerning reading instruction;

2. Providing the parent or legal guardian with a plan for reading with the pupil at home and participating in any workshops that may be available in the school district to assist the parent or guardian with reading with his or her child at home, as set forth in an agreement with the parent or legal guardian; or

3. Providing the pupil with a mentor or tutor who has received specialized training in teaching pupils how to read.

Sec. 10. Section 13 of chapter 334, Statutes of Nevada 2015, at page 1866, is hereby amended to read as follows:

Sec. 13. On or before September 1 of each year, the board of trustees of each school district shall:

1. Prepare a report concerning the number and percentage of pupils at each public **elementary** school within the school district who ~~;~~ ~~were:~~

(a) ~~Retained~~ **Were retained** in grade 3 pursuant to section 10 of this act for a deficiency in the subject area of reading, including whether or not any such pupils were previously retained in kindergarten or grade 1 or 2; and

~~(b) [Not retained in grade 3 because a good cause exemption was approved pursuant to section 10 of this act but who were previously retained in kindergarten or grade 1 or 2 for a total of 2 years. **received**]~~
Received educational programs or services identified pursuant to subsection 1 of NRS 392.750 at each grade level and whose proficiency in the subject area of reading:

~~[(a)]~~ **(1) Did not improve at a rate prescribed by the board of trustees of the school district, indicating a need for more intensive or different interventions;**

~~[(b)]~~ **(2) Improved at a rate prescribed by the board of trustees of the school district, indicating the pupils are making progress toward performing at a level considered by the school district to be within the average range for pupils enrolled in the same grade level in which the pupils are enrolled; and**

~~[(c)]~~ **(3) Is considered by the school district to be within the average range for pupils enrolled in the same grade level in which the pupils are enrolled.**

2. Submit a copy of the report to the Department.

3. Post the report on the Internet website maintained by the school district and otherwise make the report available to the parents and legal guardians of pupils enrolled in the school district and the general public.

Sec. 11. Section 15 of chapter 334, Statutes of Nevada 2015, at page 1867, is hereby amended to read as follows:

Sec. 15. 1. The Department of Education shall distribute the money that is appropriated to the Other State Education Programs Account in the State General Fund to carry out the purposes of sections 1 to 14, inclusive, of this act through a competitive grants program. Grants must be awarded by the Department based on the demonstrated needs of the school districts and charter schools and will be awarded to school districts and to charter schools that have been approved by the State Public Charter School Authority. Grants must be used for literacy programs for pupils enrolled in ~~Kindergarten and grades 1, 2 and 3 to 5, inclusive,~~ **elementary school** established pursuant to ~~NRS 388.157, as amended by section 5-3 of this act,~~ and to support other school-based efforts to ensure that all pupils are ~~proficient in the subject area of reading by the end of the third grade,~~ **performing at a level considered by the school district or charter school to be within the average range for pupils enrolled in each grade level.** Such school-based efforts may include, without limitation:

(a) Hiring or training learning strategists;

(b) Entering into contracts with vendors for the purchase of reading assessments, textbooks, computer software or other materials;

(c) Providing professional development for school personnel;

(d) Providing programs to pupils before and after school and during intercessions or summer school; and

(e) Providing other evidence-based literacy initiatives for pupils enrolled in ~~kindergarten and grades 1, 2 and 3, to 5, inclusive,~~ **elementary school.**

2. The board of trustees of a school district or the governing body of a charter school that receives a grant of money pursuant to subsection 1 shall:

(a) Set measurable performance objectives based on aggregated pupil achievement data; and

(b) Prepare and submit to the Department of Education, on or before July 1, ~~{2016,}~~ **2018**, a report that includes, without limitation:

(1) A description of the programs or services for which the money was used by each school; and

(2) The number of pupils who participated in a program or received services.

3. The Department of Education shall, to the extent that money is available for that purpose, hire an independent consultant to evaluate the programs or services paid for by a grant of money received by a school district or charter school pursuant to subsection 1.

4. The Department of Education shall prepare a report that includes, without limitation:

(a) Identification of the schools that received an allocation of money by the school district or grant of money from the Department, as applicable;

(b) The amount of money received by each school;

(c) A description of the programs or services for which the money was used by each school;

(d) The number of pupils who participated in a program or received services;

(e) The average expenditure per pupil for each program or service;

(f) An evaluation of the effectiveness of the program or service, including, without limitation, data regarding the academic and linguistic achievement and proficiency of pupils who participated in such a program or received such services; and

(g) Any recommendations for legislation, including, without limitation, legislation to continue or expand programs or services that are identified as effective in improving the reading proficiency of pupils in kindergarten through grade ~~{3-}~~ **5.**

5. On or before August 31, ~~{2016,}~~ **2018**, the Department of Education shall submit a preliminary report prepared pursuant to subsection 4 to the State Board of Education and the Legislative Committee on Education. On or before November 15, ~~{2016,}~~ **2018**, the Department shall submit the final report prepared pursuant to subsection 4 and any recommendations made by the State Board or the Legislative Committee on Education to the Governor and to the Director of the

Legislative Counsel Bureau for transmittal to the ~~[79th]~~ **80th** Session of the Nevada Legislature.

6. Any money awarded to a school district or charter school from the money appropriated to the Other State Education Programs Account in the State General Fund pursuant to subsection 1:

(a) Must be accounted for separately from any other money received by the school districts or charter school, as applicable, and used only for the purposes specified in this section.

(b) May not be used to settle or arbitrate disputes between a recognized organization representing employees of a school district and the school district, or to settle any negotiations.

(c) May not be used to adjust the district-wide schedules of salaries and benefits of the employees of a school district.

Sec. 12. ~~[Section 16 of chapter 334, Statutes of Nevada 2015, at page 1868, is hereby amended to read as follows:~~

~~—Sec. 16. 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 for all other purposes;~~

~~—1. This section [,] and sections 4 to 9, inclusive, and 15 of this act become effective on July 1, 2015.~~

~~—2. Sections 1, 2, [3 and 10 to 14, inclusive,] 12 and 13 of this act become effective on July 1, [2019.] 2017. (Deleted by amendment.)~~

Sec. 13. ~~[Sections 3, 10, 11 and 14 of chapter 334, Statutes of Nevada 2015, at pages 1860, 1863, 1864 and 1866 are hereby repealed.] (Deleted by amendment.)~~

Sec. 14. 1. This section and section 8 of this act become effective upon passage and approval.

2. Sections 1 to ~~[7, inclusive, and 9 to 13,]~~ **5, inclusive, 6, 7, 11, 12 and 13** of this act become effective:

(a) 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) On July 1, 2017, for all other purposes.

3. Sections 5.5, 6.5 and 8.3 to 10, inclusive, of this act become effective on July 1, 2019.

†

~~TEXT OF REPEALED SECTIONS~~

~~—Section 3 of chapter 334, Statutes of Nevada 2015:~~

~~—Sec. 3. NRS 386.583 is hereby amended to read as follows:~~

~~—386.583 1. The governing body of a charter school shall adopt rules for the academic retention of pupils who are enrolled in the charter school [,] that are consistent with sections 8, 10 and 11 of this act. The rules must [prescribe].~~

~~—(a) Prescribe the conditions under which a pupil may be retained in the same grade rather than promoted to the next higher grade for the immediately succeeding school year.~~

~~—(b) Require a pupil enrolled in grade 3 to be retained in the same grade rather than promoted to grade 4 when required pursuant to section 10 of this act.~~

~~—2. On or before September 1 of each year, the governing body of each charter school shall:~~

~~—(a) Prepare a report concerning the number and percentage of pupils at the charter school who were:~~

~~—(1) Retained in grade 3 pursuant to section 10 of this act for a deficiency in the subject area of reading, including whether or not any such pupils were previously retained in kindergarten or grade 1 or 2; and~~

~~—(2) Not retained in grade 3 because a good cause exemption was approved pursuant to section 10 of this act but who were previously retained in kindergarten or grade 1 or 2 for a total of 2 years;~~

~~—(b) Submit a copy of the report to the Department; and~~

~~—(c) Post the report on the Internet website maintained by the charter school and otherwise make the report available to the parents and legal guardians of pupils enrolled in the charter school and the general public.~~

~~—Section 10 of chapter 334, Statutes of Nevada 2015:~~

~~—Sec. 10. 1. Except as otherwise provided in this section, a pupil enrolled in grade 3 must be retained in grade 3 rather than promoted to grade 4 if the pupil does not obtain a score in the subject area of reading on the criterion referenced examination administered pursuant to NRS 389.550 that meets the passing score prescribed by the State Board pursuant to subsection 7.~~

~~—2. The superintendent of schools of a school district or the governing body of a charter school, as applicable, may authorize the promotion of a pupil to grade 4 who would otherwise be retained in grade 3 only if the superintendent or governing body, as applicable, approves a good cause exemption for the pupil upon a determination by the principal of the school pursuant to subsection 4 that the pupil is eligible for such an exemption.~~

~~—3. A good cause exemption must be approved for a pupil who previously was retained in grade 3. Any other pupil is eligible for a good cause exemption if the pupil:~~

~~—(a) Demonstrates an acceptable level of proficiency in reading on an alternative standardized reading assessment approved by the State Board;~~

~~—(b) Demonstrates, through a portfolio of the pupil's work, proficiency in reading at grade level, as evidenced by demonstration of mastery of the academic standards in reading beyond the retention level;~~

~~—(c) Is limited English proficient and has received less than 2 years of instruction in a program of instruction that teaches English as a second language;~~

~~—(d) Received intensive remediation in the subject area of reading for 2 or more years but still demonstrates a deficiency in reading and was previously retained in kindergarten or grade 1 or 2 for a total of 2 years;~~

~~—(e) Is a pupil with a disability and his or her individualized education program indicates that the pupil's participation in the criterion-referenced examinations administered pursuant to NRS 389.550 is not appropriate; or~~

~~—(f) Is a pupil with a disability and:~~

~~—(1) He or she participates in the criterion-referenced examinations administered pursuant to NRS 389.550;~~

~~—(2) His or her individualized education program or plan developed in accordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, documents that the pupil has received intensive remediation in reading for more than 2 years, but he or she still demonstrates a deficiency in reading; and~~

~~—(3) He or she was previously retained in kindergarten or grade 1, 2 or 3.~~

~~—4. The principal of a school in which a pupil who may be retained in grade 3 pursuant to subsection 1 is enrolled shall consider the factors set forth in subsection 3 and determine whether the pupil is eligible for a good cause exemption. In making the determination, the principal must consider documentation provided by the pupil's teacher indicating whether the promotion of the pupil is appropriate based upon the record of the pupil. Such documentation must only consist of the existing plan for monitoring the progress of the pupil, the pupil's individualized education program, if applicable, and the pupil's plan in accordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, if applicable. If the principal determines that promotion of the pupil to grade 4 is appropriate, the principal must submit a written recommendation to the superintendent of schools of the school district or to the governing body of the charter school, as applicable. The superintendent of schools or the governing body of the charter school, as applicable, shall approve or deny the recommendation of the principal and provide written notice of the approval or denial to the principal.~~

~~—5. A principal who determines that a pupil is eligible for a good cause exemption shall notify the parent or legal guardian of the pupil whether the superintendent of schools of the school district or the governing body of the charter school, as applicable, approves the good cause exemption.~~

~~—6. The principal of a school in which a pupil for whom a good cause exemption is approved and who is promoted to grade 4 must ensure that the pupil continues to receive intensive instruction in the subject area of~~

~~reading. Such instruction must include, without limitation, strategies based upon scientifically based research that will improve proficiency in the subject area of reading.~~

~~7. The State Board shall prescribe by regulation:~~

~~(a) The score which a pupil enrolled in grade 3 must obtain in the subject area of reading on the criterion referenced examination administered pursuant to NRS 389.550 to be promoted to grade 4 without a good cause exemption; and~~

~~(b) An alternate examination for administration to pupils enrolled in grade 3 who do not obtain the passing score in the subject area of reading on the criterion referenced examination administered pursuant to NRS 389.550 and the passing score such a pupil must obtain on the alternate examination to be promoted to grade 4 without a good cause exemption.~~

~~8. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).~~

~~Section 11 of chapter 334, Statutes of Nevada 2015:~~

~~Sec. 11. 1. If a pupil will be retained in grade 3 pursuant to section 10 of this act, the principal of the school must:~~

~~(a) Provide written notice to the parent or legal guardian of the pupil that the pupil will be retained in grade 3. The written notice must include, without limitation, a description of the intensive instructional services in the subject area of reading that the pupil will receive to improve the proficiency of the pupil in that subject area.~~

~~(b) Develop a plan to monitor the progress of the pupil in the subject area of reading.~~

~~(c) Require the teacher of the pupil to develop a portfolio of the pupil's work in the subject area of reading, which must be updated as necessary to reflect progress made by the pupil.~~

~~(d) Ensure that the pupil receives intensive instructional services in the subject area of reading that are designed to improve the pupil's proficiency in the subject area of reading, including, without limitation:~~

~~(1) Programs and services included in the plan to improve the literacy of pupils enrolled in kindergarten and grades 1, 2 and 3 approved by the Department pursuant to section 5 of this act;~~

~~(2) Instruction for at least 90 minutes each school day based upon scientifically based reading instruction research; and~~

~~(3) Intensive instructional services prescribed by the board of trustees of the school district pursuant to subsection 2, as determined appropriate for the pupil.~~

~~2. The board of trustees of each school district or the governing body of a charter school, as applicable, shall:~~

~~(a) Review and evaluate the plans for monitoring the progress of pupils developed pursuant to subsection 1.~~

~~(b) Prescribe the intensive instructional services in the subject area of reading which the principal of a school must implement as determined appropriate for a pupil who is retained in grade 3 pursuant to section 10 of this act, which may include, without limitation:~~

~~— (1) Instruction that is provided in small groups;~~

~~— (2) Instruction provided in classes with reduced pupil teacher ratios;~~

~~— (3) A timeline for frequently monitoring the progress of the pupil;~~

~~— (4) Tutoring and mentoring;~~

~~— (5) Classes which are designed to increase the ability of pupils to transition from grade 3 to grade 4;~~

~~— (6) Instruction provided through an extended school day, school week or school year;~~

~~— (7) Programs to improve a pupil's proficiency in reading which are offered during the summer; or~~

~~— (8) Any combination of the services set forth in subparagraphs (1) to (7), inclusive;~~

~~3. Except as otherwise provided in subsection 4, the intensive instructional services in the subject area of reading required by this section must be provided to the pupil by a teacher:~~

~~— (a) Who is different than the teacher who provided instructional services to the pupil during the immediately preceding school year; and~~

~~— (b) Who has been determined to be highly effective, as demonstrated by pupil performance data and performance evaluations.~~

~~4. The intensive instructional services in the subject area of reading required by this section may be provided to the pupil by the same teacher who provided instructional services to the pupil during the immediately preceding school year if a different teacher who meets the requirements of paragraph (b) of subsection 3 is not reasonably available and the pupil:~~

~~— (a) Has an individualized education program; or~~

~~— (b) Is enrolled in a school district in a county whose population is less than 100,000.~~

~~5. The board of trustees of each school district and the governing body of a charter school, as applicable, shall develop a policy by which the principal of a school may promote a pupil who is retained in grade 3 pursuant to section 10 of this act to grade 4 at any time during the school year if the pupil demonstrates adequate proficiency in the subject area of reading. The policy must include the specific criteria a pupil must satisfy to be eligible for promotion, including, without limitation, a reasonable expectation that the pupil's progress will allow him or her to sufficiently master the requirements for a fourth grade reading level. If a pupil is promoted after November 1 of a school year, he or she must demonstrate proficiency in reading at a level prescribed by the State Board.~~

~~6. If a principal of a school determines that a pupil is not academically ready for promotion to grade 4 after being retained in grade 3 and the pupil received intensive instructional services pursuant to this section, the school district in which the pupil is enrolled must allow the parent or legal guardian of the pupil to decide, in consultation with the principal of the school, whether to place the pupil in a transitional instructional setting which is designed to produce learning gains sufficient for the pupil to meet the performance standards required for grade 4 while continuing to receive remediation in the subject area of reading.~~

~~7. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).~~

~~Section 14 of chapter 234, Statutes of Nevada 2015:~~

~~Sec. 14. NRS 392.125 is hereby amended to read as follows:~~

~~392.125 1. Except as otherwise provided in subsection 4, before any pupil enrolled in a public school may be retained in the same grade rather than promoted to the next higher grade for the succeeding school year, the pupil's teacher and principal must make a reasonable effort to arrange a meeting and to meet with the pupil's parents or guardian to discuss the reasons and circumstances.~~

~~2. [The] Except as otherwise provided in section 10 of this act, the teacher and the principal in joint agreement have the final authority to retain a pupil in the same grade for the succeeding school year.~~

~~3. Except as otherwise provided in subsection 2 of NRS 392.033 for the promotion of a pupil to high school, no pupil may be retained more than one time in the same grade.~~

~~4. [This] Except as otherwise provided in NRS 386.583, this section does not apply to the academic retention of pupils who are enrolled in a charter school.]~~

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 413.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 415.

AN ACT relating to electronic documents; establishing provisions relating to electronic wills and trusts; revising provisions governing electronic notaries public; authorizing electronic notaries public to perform authorized electronic notarial acts remotely using audio-video communication; increasing the amount of the fees authorized to be charged by an electronic notary public for the performance of certain electronic notarial acts and

authorizing the collection of a fee to recover certain costs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes provisions relating to electronic wills. (NRS 132.119, 133.085, 136.185) **Sections 10-17** of this bill establish various other provisions relating to electronic wills. **Sections 8 and 19** of this bill revise the description of an electronic will and **section 10** establishes the circumstances in which an electronic will is self-proving. **Sections 11 and 12** establish the qualifications and duties of a qualified custodian of an electronic will, who is required to store ~~(an) electronic (record containing an)~~ records of electronic ~~(will in accordance with)~~ wills in a system ~~(for ensuring the safekeeping of)~~ that protects electronic records ~~(-)- from destruction, alteration or unauthorized access and detects any change to an electronic record.~~ **Sections 13 and 14** set forth the circumstances in which a qualified custodian is authorized to cease serving in such a capacity. **Section 15** establishes provisions concerning affidavits ~~(by a qualified custodian who creates)~~ relating to the creation of a certified paper original of an electronic will, which **section 3** of this bill generally defines as a tangible document containing the text of an electronic will. **Section 16** sets forth provisions relating to the ability of an electronic notary public or other notarial officer to perform certain notarial acts. **Section 17** establishes various provisions for purposes relating to the execution and filing of any document with a court in any proceeding relating to an electronic will and for certain other purposes.

Section 18 of this bill establishes requirements relating to a declaration or affidavit of a witness to an electronic will. **Section 20** of this bill provides the methods by which an electronic will may be revoked. **Section 21** of this bill sets forth provisions relating to the jurisdiction in which an electronic will may be proved and the admittance of a certified paper original of an electronic will to probate.

Sections 23-28 of this bill revise provisions relating to trusts. **Section 24** provides that a video recording or other electronic record may be admissible in court as evidence of certain issues relating to a trust, and **section 28** revises the description of an electronic trust.

Existing law establishes the Electronic Notary Public Authorization Act pursuant to which an electronic notary public appointed by the Secretary of State is authorized to perform electronic notarial acts. (NRS 240.181-240.206) **Section 39** of this bill renames the act as the Remote Notarization Enabling Act and **section 45** of this bill requires electronic notaries public to register with, instead of be appointed by, the Secretary of State. **Section 35** of this bill: (1) authorizes an electronic notary public to perform authorized electronic notarial acts remotely using audio-video communication, which **section 30** of this bill defines as communication by which a person is able to see, hear and communicate with another person in real time using electronic means; and (2) sets forth certain requirements relating to such electronic

notarial acts. **Section 36** of this bill generally provides that an authorized electronic notarial act performed using audio-video communication shall be deemed to have been performed in this State and must be governed by the laws of this State, regardless of whether the person for whom the act is performed is physically located in another jurisdiction.

Section 37 of this bill requires an electronic notary public to arrange for a recording to be made of each electronic notarial act performed using audio-video communication and to give all participating persons advance notice of the recording. **Section 37** also requires the recording to be kept for not less than 5 years. **Section 51** of this bill requires an electronic notary public to keep an electronic journal of each notarial act which he or she performs and to maintain and protect the electronic journal at all times.

Section 38 of this bill establishes provisions relating to the confirmation of the identity of a person for whom an electronic notarial act is performed using audio-video communication. **Section 50** of this bill requires an electronic notary public to render an electronic document that is the subject of an electronic notarial act tamper-evident.

Section 48 of this bill increases the amount of fees which an electronic notary public may charge for performing certain electronic notarial acts and authorizes an electronic notary public to charge a reasonable fee to recover any cost of providing a copy of an entry or a recording of an audio-video communication in the electronic journal maintained by the electronic notary public. **Section 48 also prohibits an electronic notary public who is an officer or employee of the State or a local government from charging a fee for an electronic notarial act that the electronic notary public performs within the scope of such employment.**

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

Section 1. Chapter 132 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *Except as otherwise specifically provided in this title, the provisions of this title must be construed in a manner consistent with the provisions of chapter 719 of NRS.*

Sec. 3. *“Certified paper original” means a tangible document that contains the text of an electronic will and, if applicable, a self-proving affidavit concerning the electronic will.*

Sec. 4. *“Electronic notary public” has the meaning ascribed to it in NRS 240.186.*

Sec. 5. *“Qualified custodian” means a person who meets the requirements of section 11 of this act.*

Sec. 6. NRS 132.025 is hereby amended to read as follows:

132.025 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 132.030 to 132.370, inclusive, **and sections 3, 4 and 5 of this act** have the meanings ascribed to them in those sections.

Sec. 7. NRS 132.117 is hereby amended to read as follows:

132.117 “Electronic record” means a record created, generated, *sent, communicated, received* or stored by electronic means.

Sec. 8. NRS 132.119 is hereby amended to read as follows:

132.119 “Electronic will” means ~~“a testamentary document that complies~~ *an instrument, including, without limitation, a codicil, that is executed by a person in accordance* with the requirements of NRS 133.085 ~~” and which disposes of the property of the person upon or after his or her death.”~~

Sec. 9. Chapter 133 of NRS is hereby amended by adding thereto the provisions set forth as sections 10 to 17, inclusive, of this act.

Sec. 10. 1. *An electronic will is self-proving if:*

(a) *The declarations or affidavits of the attesting witnesses are incorporated as part of, attached to or logically associated with the electronic will, as described in NRS 133.050;*

(b) *The electronic will designates a qualified custodian to maintain custody of the electronic record of the electronic will; and*

(c) *Before being ~~admitted to~~ offered for probate or being reduced to a certified paper original that is admitted to probate, the electronic will was at all times under the custody of a qualified custodian.*

2. *A declaration or affidavit of an attesting witness made pursuant to NRS 133.050 and an affidavit of a ~~qualified custodian~~ person made pursuant to section 15 of this act must be accepted by a court as if made before the court.*

Sec. 11. A qualified custodian of an electronic will:

1. *Must not be an heir of the testator or a beneficiary or devisee under the electronic will.*

2. *Shall consistently employ, and store electronic records of electronic wills in, a system ~~for ensuring the safekeeping of~~ that protects electronic records ~~and store~~ from destruction, alteration or unauthorized access and detects any change to an electronic ~~records containing electronic wills in accordance with such a system.~~ record.*

3. *Shall store in the electronic record of an electronic will each of the following:*

(a) *A photograph or other visual record of the testator and the attesting witnesses that was taken contemporaneously with the execution of the electronic will;*

(b) *A photocopy, photograph, facsimile or other visual record of any documentation that was taken contemporaneously with the execution of the electronic will and provides satisfactory evidence of the identities of the testator and the attesting witnesses, including, without limitation, documentation of the methods of identification used pursuant to subsection 4 of NRS 240.1655; and*

(c) *An audio and video recording of the testator, attesting witnesses and notary public, as applicable, ~~performing the actions described in~~ taken at*

the time the testator, each attesting witness and notary public, as applicable, placed his or her electronic signature on the electronic will, as required pursuant to paragraph (b) of subsection 1 of NRS 133.085.

4. Shall provide to any court that is hearing a matter involving an electronic will which is currently or was previously stored by the qualified custodian any information requested by the court pertaining to the qualifications of the qualified custodian and the policies and practices of the qualified custodian concerning the maintenance, storage and production of electronic wills.

Sec. 12. 1. With regard to an electronic record of an electronic will, a qualified custodian:

(a) Shall provide access to or information concerning the electronic will or the certified paper original of the electronic will only to:

(1) The testator or another person as directed by the written instructions of the testator; and

(2) After the death of the testator, the nominated personal representative of the testator or any interested person; and

(b) May, in the absolute discretion of the qualified custodian, destroy the electronic record at any time:

(1) Five or more years after the admission of any will of the testator to probate;

(2) Five or more years after the revocation of the electronic will;

(3) Five or more years after ceasing to serve as the qualified custodian of the electronic record of the electronic will pursuant to section 13 of this act;

(4) Ten or more years after the death of the testator; or

(5) One hundred and fifty years after the execution of the electronic will.

2. At the direction of a testator in a writing executed with the same formalities required for the execution of an electronic will, a qualified custodian shall cancel, render unreadable or obliterate the electronic record.

Sec. 13. 1. A qualified custodian may cease serving in such a capacity by:

(a) If not designating a successor qualified custodian, providing to the testator : for, if the testator is deceased, to the personal representative of the testator or an interested person;

(1) Thirty days' written notice that the qualified custodian has decided to cease serving in such a capacity; and

(2) The certified paper original of, and all records concerning, the electronic will.

(b) If designating a successor qualified custodian:

(1) Providing 30 days' written notice that the qualified custodian has decided to cease serving in such a capacity to:

~~(I) The testator or, if the testator is deceased, to the personal representative of the testator; and~~

(II) The designated successor qualified custodian; and

(2) Providing to the successor qualified custodian the electronic record of the electronic will and an affidavit which states:

(I) That the qualified custodian ceasing to act in such a capacity is eligible to act as a qualified custodian in this State and is the qualified custodian designated by the testator in the electronic will or was designated to act in such a capacity by another qualified custodian pursuant to this paragraph;

(II) That an electronic record was created at the time the testator executed the electronic will;

(III) That the electronic record has been in the custody of one or more qualified custodians since the execution of the electronic will and has not been altered since the time it was created; and

(IV) The identity of all qualified custodians who have had custody of the electronic record since the execution of the electronic will.

2. For purposes of making the affidavit pursuant to subparagraph (2) of paragraph (b) of subsection 1, a qualified custodian is entitled to rely conclusively on any affidavits provided by a predecessor qualified custodian if all such affidavits are provided to the successor qualified custodian.

3. Subject to the provisions of section 14 of this act, if the testator designates a successor qualified custodian in a writing executed with the same formalities required for the execution of an electronic will, a qualified custodian shall cease serving in such a capacity and provide to the designated successor qualified custodian:

(a) The electronic record; and

(b) The affidavit described in subparagraph (2) of paragraph (b) of subsection 1.

4. If a qualified custodian is an entity, an affidavit of a duly authorized officer or agent of such entity constitutes the affidavit of the qualified custodian.

Sec. 14. 1. A person must execute a written statement affirmatively agreeing to serve as the qualified custodian of an electronic will before he or she may serve in such a capacity.

2. Except as otherwise provided in paragraph (a) of subsection 1 of section 13 of this act, a qualified custodian may not cease serving in such a capacity until a successor qualified custodian executes the written statement required by subsection 1.

Sec. 15. 1. ~~[A qualified custodian who creates]~~ Upon the creation of a certified paper original [shall sign an affidavit that satisfies the following requirements] of an electronic will:

(a) If the electronic will has always been in the custody of a qualified custodian, the designated qualified custodian shall state in an affidavit : ~~{must state:}~~

(1) That the qualified custodian is eligible to act as a qualified custodian in this State;

(2) That the qualified custodian is the qualified custodian designated by the testator in the electronic will or was designated to act in such a capacity pursuant to paragraph (b) of subsection 1 of section 13 of this act;

(3) That an electronic record was created at the time the testator executed the electronic will;

(4) That the electronic record has been in the custody of one or more qualified custodians since the execution of the electronic will, and has not been altered since the time it was created;

(5) The identity of all qualified custodians who have had custody of the electronic record since the execution of the electronic will;

(6) That the certified paper original is a true, correct and complete tangible manifestation of the electronic will; and

(7) That the records described in subsection 3 of section 11 of this act are in the custody of the qualified custodian.

(b) If the electronic will has not always been under the custody of a qualified custodian, the person who discovered the electronic will and the person who reduced the electronic will to the certified paper original shall each state in an affidavit the following information, to the best of their knowledge:

(1) When the electronic will was created, if not indicated in the electronic will;

(2) When, how and by whom the electronic will was discovered;

(3) The identities of each person who has had access to the electronic will;

(4) The method in which the electronic will was stored and the safeguards in place to prevent alterations to the electronic will;

(5) Whether the electronic will has been altered since its execution; and

(6) That the certified paper original is a true, correct and complete tangible manifestation of the electronic will.

2. For purposes of making an affidavit pursuant to paragraph (a) of subsection 1, the qualified custodian may rely conclusively on any affidavits delivered by a predecessor qualified custodian.

Sec. 16. 1. Notwithstanding any other provision of law, an electronic notary public or other notarial officer may, for purposes of this title, including, without limitation, all purposes relating to the execution and filing of any document with the court in any proceeding relating to an electronic will:

(a) Notarize the signature or electronic signature of a person, as applicable, who is not in the physical presence of the electronic notary

public or other notarial officer if the person is in his or her presence within the meaning of section 17 of this act; and

(b) Notarize any document relating to a will, codicil or testamentary trust.

2. This section must be liberally construed and applied to promote the purposes of NRS 133.085 and sections 10 to 17, inclusive, of this act.

Sec. 17. 1. For purposes of this title, including, without limitation, any declaration or affidavit made by an attesting witnesses as described in NRS 133.050, for all purposes relating to the execution and filing of any document with the court in any proceeding relating to an electronic will and for purposes of executing a power of attorney pursuant to NRS 162A.220, an advance directive or any document relating to an advance directive:

(a) A person shall be deemed to be in the presence of or appearing before another person if such persons are in:

(1) The same physical location; or

(2) Different physical locations but can communicate with each other by means of audio-video communication ~~. in accordance with NRS 240.181 to 240.206, inclusive, and sections 30 to 38, inclusive, of this act.~~

(b) An electronic notary public may electronically notarize electronic documents, including, without limitation, documents constituting or relating to an electronic will, in accordance with NRS 240.181 to 240.206, inclusive, and sections 30 to 38, inclusive, of this act.

(c) Any requirement that a document be signed may be satisfied by an electronic signature.

(d) If a provision of law requires a written record, an electronic record satisfies such a provision.

(e) If a document is executed electronically, the document shall be deemed to be executed in this State if:

(1) The person executing the document states that he or she understands that he or she is executing, and that he or she intends to execute, the document in and pursuant to the laws of this State;

(2) The document states that the validity and effect of its execution are governed by the laws of this State;

(3) Any attesting witnesses or an electronic notary public whose electronic signatures are contained in the document were physically located within this State at the time the document was executed in accordance with this section; or

(4) In the case of a self-proving electronic will, the electronic will designates a qualified custodian who, at the time of execution:

(I) If a natural person, is domiciled in this State; or

(II) If an entity, is organized under the laws of this State or whose principal place of business is located in this State.

2. As used in this section:

(a) "Advance directive" has the meaning ascribed to it in NRS 449.905.

(b) “Audio-video communication” has the meaning ascribed to it in section 30 of this act.

Sec. 18. NRS 133.050 is hereby amended to read as follows:

133.050 1. Any attesting witness to a will , **including, without limitation, an electronic will**, may sign a declaration under penalty of perjury or an affidavit before any person authorized to administer oaths in or out of the State, stating such facts as the witness would be required to testify to in court to prove the will. The declaration or affidavit must be written on the will or, if that is impracticable, on some paper attached thereto. **If the will is an electronic will, the declaration or affidavit must be in a record incorporated as part of, attached to or logically associated with the electronic will.** The sworn statement of any witness so taken must be accepted by the court as if it had been taken before the court.

2. The affidavit described in subsection 1 may be in substantially the following form:

State of Nevada }
 }ss.
County of.....}

(Date).....

Then and there personally appeared and, who, being duly sworn, depose and say: That they witnessed the execution of the foregoing will of the testator, ...; that the testator subscribed the will and declared it to be his or her last will and testament in their presence; that they thereafter subscribed the will as witnesses in the presence of the testator and in the presence of each other and at the request of the testator; and that the testator at the time of the execution of the will appeared to them to be of full age and of sound mind and memory.

.....
Affiant
.....
Affiant

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

.....
Notary Public

3. The declaration described in subsection 1 may be in substantially the following form:

Under penalty of perjury pursuant to the law of the State of Nevada, the undersigned, ... and, declare that the following is

true of their own knowledge: That they witnessed the execution of the foregoing will of the testator, ...; that the testator subscribed the will and declared it to be his or her last will and testament in their presence; that they thereafter subscribed the will as witnesses in the presence of the testator and in the presence of each other and at the request of the testator; and that the testator at the time of the execution of the will appeared to them to be of full age and of sound mind and memory.

Dated this day of, ...

..... Declarant

..... Declarant

Sec. 19. NRS 133.085 is hereby amended to read as follows:

133.085 1. An electronic will is a will of a testator that:

(a) Is ~~written,~~ created and ~~stored~~ ***maintained*** in an electronic record;
and

(b) Contains the date and the electronic signature of the testator and which includes, without limitation, at least one ***of the following:***

(1) An authentication characteristic of the testator; and

~~—(c) Is created and stored in such a manner that:~~

~~—(1) Only one authoritative copy exists;~~

(2) The ~~authoritative copy is maintained and controlled by the testator or a custodian designated by the testator in the~~ electronic ~~will;~~ ***signature and electronic seal of an electronic notary public, placed thereon in the presence of the testator and in whose presence the testator placed his or her electronic signature thereon; or***

(3) ~~Any attempted alteration of the authoritative copy is readily identifiable; and~~

~~—(4) Each copy of the authoritative copy is readily identifiable as a copy that is not the authoritative copy.~~ ***The electronic signatures of two or more attesting witnesses, placed thereon in the presence of the testator and in whose presence the testator placed his or her electronic signature thereon.***

2. Every person of sound mind over the age of 18 years may, by last electronic will, dispose of all of his or her estate, real and personal, but the estate is chargeable with the payment of the testator's debts.

3. ~~{An electronic will that meets the requirements of this section is subject to no other form, and may be made in or out of this State. An electronic will is valid and has the same force and effect as if formally executed.~~

~~4. An electronic will shall be deemed to be executed in this State if the authoritative copy of the electronic will is:~~

~~—(a) Transmitted to and maintained by a custodian designated in the electronic will at the custodian's place of business in this State or at the custodian's residence in this State; or~~

~~—(b) Maintained by the testator at the testator's place of business in this State or at the testator's residence in this State.~~

~~—5.1~~ *Except as otherwise provided in this section and sections 10 to 17, inclusive, of this act, all questions relating to the force, effect, validity and interpretation of an electronic will that complies with the provisions of this section and sections 10 to 17, inclusive, of this act must be determined in the same manner as a will executed in accordance with NRS 133.040.*

4. The provisions of this section do not apply to a trust other than a trust contained in an electronic will.

~~6.1~~ 5. As used in this section:

(a) “Authentication characteristic” means a characteristic of a certain person that is unique to that person and that is capable of measurement and recognition in an electronic record as a biological aspect of or physical act performed by that person. Such a characteristic may consist of a fingerprint, a retinal scan, voice recognition, facial recognition, **video recording**, a digitized signature or other **commercially reasonable** authentication using a unique characteristic of the person.

(b) ~~“Authoritative copy” means the original, unique, identifiable and unalterable electronic record of an electronic will.~~

~~—(c)1~~ “Digitized signature” means a graphical image of a handwritten signature that is created, generated or stored by electronic means.

(c) *“Electronic seal” has the meaning ascribed to it in NRS 240.187.*

Sec. 20. NRS 133.120 is hereby amended to read as follows:

133.120 1. A written will **other than an electronic will** may only be revoked by:

(a) Burning, tearing, cancelling or obliterating the will, with the intention of revoking it, by the testator, or by some person in the presence and at the direction of the testator; ~~or~~

(b) Another will or codicil in writing, executed as prescribed in this chapter ~~11~~; or

(c) *An electronic will, executed as prescribed in this chapter.*

2. *An electronic will may only be revoked by:*

(a) *Another will, codicil, electronic will or other writing, executed as prescribed in this chapter; or*

(b) *Cancelling, rendering unreadable or obliterating the will with the intention of revoking it, by:*

(1) *The testator or a person in the presence and at the direction of the testator; or*

(2) *If the will is in the custody of a qualified custodian, the qualified custodian at the direction of a testator in an electronic will.*

3. This section does not prevent the revocation implied by law from subsequent changes in the condition or circumstances of the testator.

Sec. 21. NRS 136.185 is hereby amended to read as follows:

136.185 1. An electronic will **deemed to be executed in this State** may be proved ~~by authentication satisfactory to the court.~~ **and letters granted in the county in which the decedent was a resident at the time of his or her death or the domicile or registered office of the qualified custodian exists.**

2. *A certified paper original of an electronic will may be offered for and admitted to probate in the same manner as if it were a will executed in accordance with NRS 133.040.*

3. *A certified paper original of an electronic will that is self-proving pursuant to section 10 of this act is presumed to be valid and, absent any objection, must be admitted to probate expeditiously without requiring any further proof of validity.*

4. *An electronic will that is executed or deemed executed in another state in accordance with the laws of the other state or of this State is a valid electronic will in this State.*

Sec. 22. Chapter 163 of NRS is hereby amended by adding thereto the provisions set forth as sections 23 and 24 of this act.

Sec. 23. *As used in this chapter, unless the context otherwise requires, when the terms “execute” or “sign” are used in reference to a will, trust or instrument to convey property, the terms include the use of an electronic signature.*

Sec. 24. *Subject to the provisions of any applicable court rules, a video recording or other electronic record may be admissible as evidence of:*

1. *The proper execution of a trust.*

2. *The intentions of a settlor.*

3. *The mental state or capacity of a settlor.*

4. *The authenticity of a trust.*

5. *Matters that are determined by a court to be relevant to the administration of a trust.*

Sec. 25. NRS 163.0016 is hereby amended to read as follows:

163.0016 “Nontestamentary trust” means a trust , ***including, without limitation, an electronic trust,*** that is created and takes effect during the lifetime of the settlor.

Sec. 26. NRS 163.0018 is hereby amended to read as follows:

163.0018 “Testamentary trust” means a trust that is created by the terms of the will , ***including, without limitation, the electronic will,*** of a person.

Sec. 27. NRS 163.00185 is hereby amended to read as follows:

163.00185 “Trust instrument” means a will, trust agreement, declaration, or other instrument , ***including, without limitation, an electronic trust,*** that creates or defines the duties and powers of a trustee and shall include a court order or any instrument that modifies a trust instrument or, in effect, alters the duties and powers of a trustee or other terms of a trust instrument.

Sec. 28. NRS 163.0095 is hereby amended to read as follows:

163.0095 1. An electronic trust is a trust instrument that:

(a) Is ~~written,~~ created and ~~stored,~~ ***maintained*** in an electronic record ~~that~~ ***in such a manner that any alteration thereto is detectable;***

(b) Contains the electronic signature of the settlor ~~that~~ and ***the date and time thereof;***

(c) ***Includes, without limitation, an authentication method which is attached to or logically associated with the trust instrument to identify the***

settlor or is electronically notarized in accordance with all applicable provisions of law;

(d) Is subject to the provisions of chapter 719 of NRS; and

(e) Meets the requirements set forth in this chapter for a valid trust.

2. An electronic trust shall be deemed to be executed in this State if the electronic trust is:

(a) Transmitted to and maintained by a custodian designated in the trust instrument at the custodian's place of business in this State or at the custodian's residence in this State; or

(b) Maintained by the settlor at the settlor's place of business in this State or at the settlor's residence in this State, or by the trustee at the trustee's place of business in this State or at the trustee's residence in this State.

3. The provisions of this section do not apply to a testamentary trust.

4. *As used in this section:*

(a) "Authentication characteristic" has the meaning ascribed to it in NRS 133.085.

(b) "Authentication method" means a method of identification using:

(1) A copy of the valid driver's license, passport or other government-issued identification card of a settlor; and

(2) A dynamic knowledge-based authentication assessment, a digital certificate using a public key or a physical device, including, without limitation, a smart card, flash drive or other type of token, an authentication characteristic or another commercially reasonable method.

(c) "Dynamic knowledge-based authentication assessment" has the meaning ascribed to it in section 32 of this act.

(d) "Public key" has the meaning ascribed to it in NRS 720.110.

Sec. 29. Chapter 240 of NRS is hereby amended by adding thereto the provisions set forth as sections 30 to 38, inclusive, of this act.

Sec. 30. *"Audio-video communication" means communication by which a person is able to see, hear and communicate with another person in real time using electronic means.*

Sec. 31. *"Credential" means a tangible record evidencing the identity of a person.*

Sec. 32. *"Dynamic knowledge-based authentication assessment" means an identity assessment that is based on a set of questions formulated from public or private data sources for which the person taking the assessment has not previously provided an answer.*

Sec. 33. *"Electronic" means of or relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.*

Sec. 34. ~~["Presence"]~~ *"In the presence of" or "appear before" means*
~~*[personal appearance by]*~~ *being:*

1. *In the same physical location as another person and close enough to see, hear, communicate with and exchange credentials with that person; or*

2. In a different physical location from another person but able to see, hear and communicate with the person by means of audio-video communication.

Sec. 35. 1. An electronic notary public may perform any of the acts set forth in NRS 240.196 using audio-video communication in accordance with NRS 240.181 to 240.206, inclusive, and sections 30 to 38, inclusive, of this act and any regulations adopted by the Secretary of State.

2. Before an electronic notary public performs electronic notarial acts using audio-video communication, he or she must register with the Secretary of State pursuant to NRS 240.196 and identify the technology that the electronic notary public intends to use, which must conform to any standards established by regulation by the Secretary of State. The Secretary of State shall approve the use of the technology if it conforms to such standards.

3. If an electronic notarial act is performed using audio-video communication:

(a) The technology used must allow the persons communicating to see and speak to each other simultaneously; and

(b) The signal transmission must be in real time.

Sec. 36. 1. An electronic notary public may perform an electronic notarial act using audio-video communication in accordance with NRS 240.181 to 240.206, inclusive, and sections 30 to 38, inclusive, of this act and any regulations adopted by the Secretary of State for a person who is physically located:

(a) In this State;

(b) Outside this State but within the United States; or

(c) Outside the United States if:

(1) The electronic notary public has no knowledge of the electronic notarial act being prohibited in the jurisdiction in which the person is physically located; and

(2) The person placing his or her electronic signature on the electronic document confirms to the electronic notary public that the requested electronic notarial act and the electronic document:

(I) ~~Has~~ Are part of or ~~pertain~~ pertain to a matter that is to be filed with or is currently before a court, governmental entity or other entity in the United States;

(II) ~~Relates~~ Relate to property located in the United States; or

(III) ~~Relates~~ Relate to a transaction substantially connected to a territorial jurisdiction of the United States.

2. Subject to the provisions of section 17 of this act, an electronic notarial act performed by an electronic notary public who is physically present in this State using audio-video communication in accordance with NRS 240.181 to 240.206, inclusive, and sections 30 to 38, inclusive, of this act and any regulations adopted by the Secretary of State shall be deemed to have been performed in this State and must be governed by the laws of

this State, regardless of whether the person who placed the electronic signature on the electronic document is physically located in another jurisdiction at the time of the electronic notarial act.

Sec. 37. 1. An electronic notary public shall arrange for a recording to be made of each electronic notarial act performed using audio-video communication. Before performing any electronic notarial act using audio-video communication, the electronic notary public must inform all participating persons that the electronic notarization will be electronically recorded.

2. If the person for whom the electronic notarial act is being performed is identified by personal knowledge, the recording of the electronic notarial act must include an explanation by the electronic notary public as to how he or she knows the person and how long he or she has known the person.

3. If the person for whom the electronic notarial act is being performed is identified by a credible witness:

(a) The credible witness must appear before the electronic notary public; and

(b) The recording of the electronic notarial act must include:

(1) A statement by the electronic notary public as to whether he or she identified the credible witness by personal knowledge or satisfactory evidence; and

(2) An explanation by the credible witness as to how he or she knows the person for whom the electronic notarial act is being performed and how long he or she has known the person.

4. An electronic notary public shall keep a recording made pursuant to this section for not less than 5 years, regardless of whether the electronic notarial act was actually completed.

Sec. 38. For the purposes of performing an electronic notarial act for a person using audio-video communication, an electronic notary public has satisfactory or documentary evidence of the identity of the person if the electronic notary public confirms the identity of the person by:

1. Personal knowledge;

2. The successful completion by the person of a dynamic knowledge-based authentication assessment that is combined with at least one of the following:

(a) The use of software that relies on high resolution imaging and record classification by which to perform a forensic analysis of an unexpired government-issued credential of the person that contains a photograph;

(b) Visual inspection by the electronic notary public of a high resolution image of an unexpired government-issued credential of the person that contains a photograph and comparison, to the satisfaction of the electronic notary public, of the information thereon to the person appearing before the electronic notary public and to the identity of the person as established through the dynamic knowledge-based authentication assessment; or

(c) *Any other method that complies with any regulations adopted by the Secretary of State; or*

3. *A valid certificate that complies with any regulations adopted by the Secretary of State. As used in this subsection, “certificate” has the meaning ascribed to it in NRS 720.030.*

Sec. 39. NRS 240.181 is hereby amended to read as follows:

240.181 NRS 240.181 to 240.206, inclusive, **and sections 30 to 38, inclusive, of this act** may be cited as the ~~{Electronic Notary Public Authorization}~~ **Remote Notarization Enabling Act**.

Sec. 40. NRS 240.182 is hereby amended to read as follows:

240.182 As used in NRS 240.181 to 240.206, inclusive, **and sections 30 to 38, inclusive, of this act**, unless the context otherwise requires, the words and terms defined in NRS 240.183 to 240.188, inclusive, **and sections 30 to 34, inclusive, of this act**, have the meanings ascribed to them in those sections.

Sec. 41. NRS 240.186 is hereby amended to read as follows:

240.186 “Electronic notary public” means a person ~~{appointed by}~~ **registered with** the Secretary of State pursuant to NRS 240.181 to 240.206, inclusive, **and sections 30 to 38, inclusive, of this act** to perform electronic notarial acts.

Sec. 42. NRS 240.187 is hereby amended to read as follows:

240.187 “Electronic seal” means information within a notarized electronic document that includes the name, jurisdiction and expiration date of the ~~{appointment}~~ **registration** of an electronic notary public and generally includes the information required to be set forth in a mechanical stamp pursuant to NRS 240.040.

Sec. 43. NRS 240.189 is hereby amended to read as follows:

240.189 An electronic notary public shall comply with those provisions of NRS 240.001 to 240.169, inclusive, which are not inconsistent with NRS 240.181 to 240.206, inclusive ~~{ }~~, **and sections 30 to 38, inclusive, of this act**. To the extent that the provisions of NRS 240.001 to 240.169, inclusive, conflict with the provisions of NRS 240.181 to 240.206, inclusive, **and sections 30 to 38, inclusive, of this act**, the provisions of NRS 240.181 to 240.206, inclusive, **and sections 30 to 38, inclusive, of this act** control.

Sec. 44. NRS 240.191 is hereby amended to read as follows:

240.191 1. ~~{The Secretary of State may appoint electronic notaries public in this State.~~

~~— 2. The Secretary of State shall not appoint as an electronic notary public a person who submits an application containing a substantial and material misstatement or omission of fact.~~

~~— 3. An electronic notary public may cancel his or her appointment by submitting a written notice to the Secretary of State.~~

~~— 4. }~~ It is unlawful for a person to:

(a) Represent himself or herself as an electronic notary public ~~{appointed pursuant to this section}~~ if the person has not ~~{received a certificate of~~

~~appointment from~~ **registered with** the Secretary of State pursuant to NRS 240.192.

(b) Submit an application for ~~appointment~~ **registration** as an electronic notary public that contains a substantial and material misstatement or omission of fact.

~~5.1~~ **2.** The Secretary of State may request that the Attorney General bring an action to enjoin any violation of paragraph (a) of subsection ~~4.1~~ **1.**

Sec. 45. NRS 240.192 is hereby amended to read as follows:

240.192 1. Each person applying for ~~appointment~~ **registration** as an electronic notary public must:

(a) At the time of application, be a notarial officer in this State, ~~and~~ have been a notarial officer in this State for not less than 4 years ~~;~~ **and comply with all applicable notarial requirements set forth in this chapter, including, without limitation, the bond requirements set forth in NRS 240.030 and 240.033;**

(b) ~~Submit to~~ **Register with** the Secretary of State **by submitting** an electronic application pursuant to subsection 2; **and**

(c) Pay to the Secretary of State an application fee of \$50 ~~;~~

~~—(d) Take and subscribe to the oath set forth in Section 2 of Article 15 of the Constitution of the State of Nevada as if the applicant were a public officer;~~

~~—(e) Submit to the Secretary of State proof satisfactory to the Secretary of State that the applicant has successfully completed a course of study provided pursuant to NRS 240.195; and~~

~~—(f) Enter into a bond to the State of Nevada in the sum of \$10,000, to be filed with the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. The applicant must submit to the Secretary of State a certificate issued by the appropriate county clerk which indicates that the applicant filed the bond required pursuant to this paragraph.~~ **in addition to the application fee required pursuant to NRS 240.030 to be a notarial officer in this State.**

2. The application for ~~an appointment~~ **registration** as an electronic notary public must be submitted as an electronic document and must contain, without limitation, the following information:

(a) ~~The applicant's full legal name, and the name to be used for appointment, if different.~~ **All information required to be included in an application for appointment as a notary public pursuant to NRS 240.030.**

(b) ~~The county in which the applicant resides.~~

~~—(c) The electronic mail address of the applicant.~~

~~—(d) A description of the technology or device approved by the Secretary of State,~~ **that the applicant intends to use to create his or her electronic signature in performing electronic notarial acts.**

~~—(e) (c)~~ **The electronic signature of the applicant.**

~~—(f) (d)~~ **Any other information requested by the Secretary of State.**

~~{3. An applicant for appointment as an electronic notary public who resides in an adjoining state, in addition to the requirements set forth in subsections 1 and 2, must submit to the Secretary of State with the application:~~

~~— (a) An affidavit setting forth the adjoining state in which the applicant resides, the applicant's mailing address and the address of the applicant's place of business or employment that is located within the State of Nevada;~~

~~— (b) A copy of the applicant's state business registration issued pursuant to chapter 76 of NRS and any business license required by the local government where the applicant's business is located, if the applicant is self-employed; and~~

~~— (c) Unless the applicant is self employed, a copy of the state business registration of the applicant's employer issued pursuant to chapter 76 of NRS, a copy of any business license of the applicant's employer that is required by the local government where the business is located and an affidavit from the applicant's employer setting forth the facts which show that the employer regularly employs the applicant at an office, business or facility which is located within the State of Nevada.~~

~~— 4. In completing an application, bond, oath or other document necessary to apply for appointment as an electronic notary public, an applicant must not be required to disclose his or her residential address or telephone number on any such document which will become available to the public.~~

~~— 5. The bond, together with the oath, must be filed and recorded in the office of the county clerk of the county in which the applicant resides when the applicant applies for appointment or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. On a form provided by the Secretary of State, the county clerk shall immediately certify to the Secretary of State that the required bond and oath have been filed and recorded. Upon receipt of the application, fee and certification that the required bond and oath have been filed and recorded, the Secretary of State shall issue a certificate of appointment as an electronic notary public to the applicant.~~

~~— 6. The term of an electronic notary public commences on the effective date of the bond required pursuant to paragraph (f) of subsection 1. An electronic notary public shall not perform an electronic notarial act after the effective date of the bond unless the electronic notary public has been issued a certificate of appointment pursuant to subsection 5.~~

~~— 7. Except as otherwise provided in this subsection, the Secretary of State shall charge a fee of \$10 for each duplicate or amended certificate of appointment which is issued to an electronic notary public. If the electronic notary public does not receive an original certificate of appointment, the Secretary of State shall provide a duplicate certificate of appointment without charge if the electronic notary public requests such a duplicate within 60 days after the date on which the original certificate was issued.}~~

Sec. 46. NRS 240.194 is hereby amended to read as follows:

240.194 1. The initial ~~term~~ **period of ~~appointment~~ registration** as an electronic notary public is 2 years. Each ~~term~~ **period of ~~appointment~~ registration** as an electronic notary public subsequent to the initial term is 4 years.

2. The ~~appointment~~ **registration** of an electronic notary public is suspended by operation of law when the electronic notary public is no longer appointed as a notary public in this State. If the appointment of an electronic notary public has expired or been revoked or suspended, the Secretary of State shall immediately notify the electronic notary public in writing that his or her ~~appointment~~ **registration** as an electronic notary public will be suspended by operation of law until he or she is appointed as a notary public in this State.

3. If, at any time ~~during his or her appointment, an~~ **a registered** electronic notary public changes his or her electronic mail address, county of residence, name, electronic signature or the technology or device used to create his or her electronic signature, the electronic notary public shall, within 10 days after making the change, submit to the Secretary of State:

(a) An electronic document, signed with the electronic signature submitted by the electronic notary public pursuant to subsection 2 of NRS 240.192, that includes the change of information; and

(b) A fee of \$10.

Sec. 47. NRS 240.196 is hereby amended to read as follows:

240.196 A person ~~appointed~~ **registered** as an electronic notary public pursuant to NRS 240.181 to 240.206, inclusive, **and sections 30 to 38, inclusive, of this act** may ~~[-, during normal business hours,]~~ perform the following electronic notarial acts for a person who requests the electronic notarial act and tenders ~~the appropriate~~ **any authorized** fee:

1. Taking an acknowledgment;

2. Executing a jurat; ~~and~~

3. Administering an oath or affirmation ~~[-]; and~~

4. Performing such other duties as prescribed by law.

Sec. 48. NRS 240.197 is hereby amended to read as follows:

240.197 1. **Except as otherwise provided in this section:**

~~(a)~~ **(a)** An electronic notary public may charge the following fees : ~~and no more:~~

~~(a)~~ **(1)** For taking an acknowledgment, for each signature~~[\$10]~~ **\$25**
~~(b)~~ **(2)** For executing a jurat, for each signature~~[\$10]~~ **\$25**
~~(c)~~ **(3)** For administering an oath or affirmation
 without a signature.....~~[\$10]~~ **\$25**

~~(2)~~ **(b)** An electronic notary public shall not charge a fee to perform ~~a service~~ **an electronic notarial act** unless he or she is authorized to charge a fee for such ~~a service~~ **an electronic notarial act** pursuant to this section.

~~(3)~~ **(c)** All fees prescribed in this section are payable in advance, if demanded.

~~14.1~~ **(d)** An electronic notary public may charge an additional fee for traveling to perform an electronic notarial act if:

~~14.1~~ **(1)** The person requesting the electronic notarial act asks the electronic notary public to travel;

~~14.1~~ **(2)** The electronic notary public explains to the person requesting the electronic notarial act that the fee for travel is in addition to the fee authorized in ~~subsection 4.1~~ **paragraph (a)** and is not required by law;

~~14.1~~ **(3)** The person requesting the electronic notarial act agrees in advance upon the hourly rate that the electronic notary public will charge for the additional fee for travel; and

~~14.1~~ **(4)** The additional fee for travel does not exceed:

~~14.1~~ **(I)** If the person requesting the electronic notarial act asks the electronic notary public to travel between the hours of 6 a.m. and 7 p.m., \$10 per hour.

~~14.1~~ **(II)** If the person requesting the electronic notarial act asks the electronic notary public to travel between the hours of 7 p.m. and 6 a.m., \$25 per hour.

→ The electronic notary public may charge a minimum of 2 hours for such travel and shall charge on a pro rata basis after the first 2 hours.

~~15.1~~ **(e)** An electronic notary public is entitled to charge the amount of the additional fee for travel agreed to in advance by the person requesting the electronic notarial act pursuant to ~~subsection 4.1~~ **paragraph (d)** if:

~~15.1~~ **(1)** The person requesting the electronic notarial act cancels the request after the electronic notary public begins traveling to perform the requested electronic notarial act.

~~15.1~~ **(2)** The electronic notary public is unable to perform the requested electronic notarial act as a result of the actions of the person who requested the electronic notarial act or any other person who is necessary for the performance of the electronic notarial act.

~~16.1~~ **(f)** For each additional fee for travel that an electronic notary public charges pursuant to ~~subsection 4.1~~ **paragraph (d)**, the electronic notary public shall enter in the **electronic** journal that he or she keeps pursuant to NRS 240.201:

~~16.1~~ **(1)** The amount of the fee; and

~~16.1~~ **(2)** The date and time that the electronic notary public began and ended such travel.

~~17.1~~ **(g)** **An electronic notary public may charge a reasonable fee to recover any cost of providing a copy of an entry or a recording of an audio-video communication in an electronic journal maintained pursuant to NRS 240.201.**

2. A person who employs an electronic notary public may prohibit the electronic notary public from charging a fee for an electronic notarial act that the electronic notary public performs within the scope of the employment. Such a person shall not require the electronic notary public whom the person employs to surrender to the person all or part of a fee charged by the

electronic notary public for an electronic notarial act performed outside the scope of the employment of the electronic notary public.

~~19. An electronic notary public may charge a reasonable fee to recover any cost of providing a copy of an entry or a recording of an audio video communication in an electronic journal maintained pursuant to NRS 240.201.~~

~~9.1~~ **3. An electronic notary public who is an officer or employee of the State or a local government shall not charge a fee for an electronic notarial act that the electronic notary public performs within the scope of such employment.**

4. This section does not apply to any compensation for services provided by an electronic notary public which do not constitute electronic notarial acts or comply with the other requirements of this chapter.

Sec. 49. NRS 240.198 is hereby amended to read as follows:

240.198 ***Except as otherwise specifically provided by law:***

1. An electronic notary public shall not willfully electronically notarize the signature or electronic signature of a person unless the person is in the presence of the electronic notary public at the time of notarization and:

(a) Is known to the electronic notary public; or

(b) If unknown to the electronic notary public, provides a credible witness or documentary evidence of identification to the electronic notary public.

2. A person who:

(a) Violates the provisions of subsection 1; or

(b) Aids and abets an electronic notary public to commit a violation of subsection 1,

↪ is guilty of a gross misdemeanor.

3. An electronic notary public shall not electronically notarize any electronic document related to ~~the following:~~

~~(a) A will, codicil or testamentary trust; and~~

~~(b) Any~~ **any** transaction governed by the Uniform Commercial Code other than NRS 104.1306, 104.2101 to 104.2725, inclusive, and 104A.2101 to 104A.2532, inclusive.

4. ~~Any appointment~~ **Registration** as an electronic notary public pursuant to NRS 240.181 to 240.206, inclusive, **and sections 30 to 38, inclusive, of this act** does not authorize the electronic notary public to perform notarial acts in another state.

Sec. 50. NRS 240.199 is hereby amended to read as follows:

240.199 **1.** An electronic notarial act must be evidenced by the following, which must be attached to or logically associated with the electronic document that is the subject of the electronic notarial act and which must be immediately perceptible and reproducible:

~~1.1~~ **(a)** The electronic signature of the electronic notary public;

~~1.2~~ **(b)** The electronic seal of the electronic notary public; and

~~1.3~~ **(c)** The wording of a notarial certificate pursuant to NRS 240.1655, 240.166 to 240.167, inclusive, 240.1685 or 240.169.

2. Upon the completion of an electronic notarial act in accordance with subsection 1, an electronic notary public shall use technology to render the electronic document tamper-evident.

Sec. 51. NRS 240.201 is hereby amended to read as follows:

240.201 1. An electronic notary public shall keep ~~an~~ **an electronic** journal of each electronic notarial act which includes, without limitation, the requirements of subsections 1 and 5 of NRS 240.120 ~~and~~ **, but does not include the electronic signatures of the person for whom the electronic notarial act was performed and any witnesses.**

2. The Secretary of State may suspend the ~~appointment~~ **registration** of an electronic notary public who fails to produce any **electronic** journal entry within 10 days after receipt of a request from the Secretary of State.

3. Upon ~~resignation~~ **surrender**, revocation or expiration of ~~an appointment~~ **a registration** as an electronic notary public, all notarial records required pursuant to NRS 240.001 to 240.206, inclusive, **and sections 30 to 38, inclusive, of this act** must be delivered to the Secretary of State.

4. An electronic notary public who performs electronic notarial acts shall:

(a) Describe each electronic notarial act in the electronic journal;

(b) Maintain and protect the electronic journal at all times under his or her sole control; and

(c) Provide for lawful inspection and copying of the electronic journal.

5. An electronic notary public may maintain more than one electronic journal to record electronic notarial acts.

6. The fact that the employer or contractor of an electronic notary public keeps a record of electronic notarial acts does not relieve the electronic notary public of the duties required by this section.

7. An electronic journal must:

(a) Enable access by a password or other secure means of authentication; and

(b) Be capable of providing tangible or electronic copies of any entry made therein.

8. As used in this section, “sole control” means being in the direct physical custody of or safeguarded by an electronic notary public with a password or other secure means of authentication.

Sec. 52. NRS 240.202 is hereby amended to read as follows:

240.202 1. The electronic signature and electronic seal of an electronic notary public must be used only for the purposes of performing electronic notarial acts.

2. An electronic notary public shall safeguard his or her electronic signature, the electronic seal and all notarial records maintained by the electronic notary public as follows:

(a) When not in use, the electronic notary public shall keep the electronic signature, electronic seal and all notarial records secure, under the exclusive

control of the electronic notary public and protected by a password where applicable.

(b) An electronic notary public shall not permit his or her electronic signature or electronic seal to be used by any other person.

(c) An electronic notary public shall not surrender or destroy his or her notarial records except as otherwise required by the order of a court or as allowed pursuant to NRS 240.001 to 240.206, inclusive, or any regulations adopted pursuant thereto.

(d) Except as otherwise provided in subsection 3, an electronic notary public, within 10 days after discovering that his or her electronic signature or electronic seal has been stolen, lost, damaged or otherwise rendered incapable of affixing a legible image, shall:

(1) Inform the appropriate law enforcement agency in the case of theft or vandalism; and

(2) Notify the Secretary of State in writing, including, without limitation, a signature using the name ~~on the certificate of appointment issued~~ **under which the electronic notary public is registered** pursuant to ~~subsection 5 of~~ NRS 240.192.

3. An electronic notary public shall take reasonable steps to maintain the technology or device used to create his or her electronic signature, and to ensure that the technology or device has not been recalled, revoked, terminated or otherwise rendered ineffective or unsecure by the entity that created the technology or device. Upon learning that the technology or device used to create his or her electronic signature has been rendered ineffective or unsecure, an electronic notary public shall cease performing electronic notarial acts until:

(a) A new technology or device is acquired; and

(b) The electronic notary public sends an electronic notice to the Secretary of State that includes, without limitation, the information required pursuant to paragraphs ~~(d)~~ **(b)** and ~~(e)~~ **(c)** of subsection 2 of NRS 240.192 relating to the new technology or device.

Sec. 53. NRS 240.203 is hereby amended to read as follows:

240.203 1. Except as otherwise provided in subsection 3, if an electronic notary public dies ~~for resigns~~ during his or her ~~appointment,~~ **period of registration**, or if the ~~appointment~~ **registration** of the electronic notary public is **surrendered or** revoked or expires, the electronic notary public, the executor of his or her estate or an authorized representative of the electronic notary public, as appropriate, shall:

(a) Notify the Secretary of State of the resignation or death; and

(b) Erase, delete, destroy or otherwise render ineffective the technology or device used to create his or her electronic signature.

2. Upon receipt of the notice required by subsection 1, the Secretary of State shall cancel the ~~appointment~~ **registration** of the electronic notary public, effective on the date on which the notice was received.

3. A former electronic notary public whose previous ~~appointment~~ **registration** as an electronic notary public was not revoked and whose previous application for ~~appointment~~ **registration** as an electronic notary public was not denied is not required to erase, delete, destroy or otherwise render ineffective the technology or device used to create his or her electronic signature if the former electronic notary public renews his or her ~~appointment~~ **registration**, using the same electronic signature, within 3 months after the expiration of his or her previous ~~appointment~~ **registration** as an electronic notary public.

Sec. 54. NRS 240.204 is hereby amended to read as follows:

240.204 1. A person who knowingly creates, manufactures or distributes software or hardware for the purpose of allowing a person to act as an electronic notary public without being ~~appointed~~ **registered** in accordance with NRS 240.181 to 240.206, inclusive, **and sections 30 to 38, inclusive, of this act** is guilty of a gross misdemeanor.

2. A person who wrongfully obtains, conceals, damages or destroys the technology or device used to create the electronic signature of an electronic notary public is guilty of a gross misdemeanor.

Sec. 55. NRS 719.200 is hereby amended to read as follows:

719.200 1. Except as otherwise provided in subsection 2, the provisions of this chapter apply to electronic records and electronic signatures relating to a transaction.

2. The provisions of this chapter do not apply to a transaction to the extent it is governed by:

(a) ~~{A}~~ **Except as otherwise specifically provided by law, a** law governing the creation and execution of wills, codicils or testamentary trusts;

(b) The Uniform Commercial Code other than NRS 104.1306, 104.2101 to 104.2725, inclusive, and 104A.2101 to 104A.2532, inclusive; or

(c) The provisions of NRS 439.581 to 439.595, inclusive, and the regulations adopted pursuant thereto.

3. The provisions of this chapter apply to an electronic record or electronic signature otherwise excluded from the application of this chapter under subsection 2 to the extent it is governed by a law other than those specified in subsection 2.

4. A transaction subject to the provisions of this chapter is also subject to other applicable substantive law.

Sec. 56. NRS 240.193 and 240.195 are hereby repealed.

TEXT OF REPEALED SECTIONS

240.193 Requirements for bond; notification of exhaustion of penal sum; release of surety; suspension of appointment; reinstatement of appointment.

1. The bond required to be filed pursuant to NRS 240.192 must be executed by the person applying to become an electronic notary public as principal and by a surety company qualified and authorized to do business in

this State. The bond must be made payable to the State of Nevada and be conditioned to provide indemnification to a person determined to have suffered damage as a result of an act by the electronic notary public which violates a provision of NRS 240.001 to 240.206, inclusive. The surety company shall pay a final, nonappealable judgment of a court of this State that has jurisdiction, upon receipt of written notice of final judgment. The bond may be continuous, but regardless of the duration of the bond, the aggregate liability of the surety does not exceed the penal sum of the bond.

2. If the penal sum of the bond is exhausted, the surety company shall notify the Secretary of State in writing within 30 days after its exhaustion.

3. The surety bond must cover the period of the appointment of the electronic notary public, except when a surety is released.

4. A surety on a bond filed pursuant to NRS 240.192 may be released after the surety gives 30 days' written notice to the Secretary of State and the electronic notary public, but the release does not discharge or otherwise affect a claim filed by a person for damage resulting from an act of the electronic notary public which is alleged to have occurred while the bond was in effect.

5. The appointment of an electronic notary public is suspended by operation of law when the electronic notary public is no longer covered by a surety bond as required by this section and NRS 240.192 or the penal sum of the bond is exhausted. If the Secretary of State receives notice pursuant to subsection 4 that the bond will be released or pursuant to subsection 2 that the penal sum of the bond is exhausted, the Secretary of State shall immediately notify the electronic notary public in writing that his or her appointment will be suspended by operation of law until another surety bond is filed in the same manner and amount as the bond being terminated.

6. The Secretary of State may reinstate the appointment of an electronic notary public whose appointment has been suspended pursuant to subsection 5 if the electronic notary public, before his or her current term of appointment expires:

(a) Submits to the Secretary of State:

(1) An application for an amended certificate of appointment as an electronic notary public; and

(2) A certificate issued by the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, the county in this State in which the applicant maintains a place of business or is employed, which indicates that the applicant filed a new surety bond with the clerk; and

(b) Pays to the Secretary of State a fee of \$10.

240.195 Courses of study required; persons required to successfully complete course of study; fees.

1. Except as otherwise provided in subsection 2, an applicant for appointment as an electronic notary public must successfully:

(a) Complete a course of study that is in accordance with the requirements of subsection 5; and

(b) Pass an examination at the completion of the course.

2. The following persons are required to enroll in and successfully complete a course of study as required pursuant to subsection 1:

(a) A person applying for his or her first appointment as an electronic notary public;

(b) A person renewing his or her appointment as an electronic notary public; and

(c) A person who has committed a violation of this chapter or whose appointment or an electronic notary public has been suspended, and who has been required by the Secretary of State to enroll in a course of study provided pursuant to this section.

3. A course of study required to be completed pursuant to subsection 1 must:

(a) Include at least 3 hours of instruction;

(b) Provide instruction in electronic notarization, including, without limitation, notarial law and ethics, technology and procedures;

(c) Include an examination of the course content;

(d) Comply with the regulations adopted pursuant to NRS 240.206; and

(e) Be approved by the Secretary of State.

4. The Secretary of State may, with respect to a course of study required to be completed pursuant to subsection 1:

(a) Provide such a course of study; and

(b) Charge a reasonable fee to each person who enrolls in such a course of study.

5. A course of study provided pursuant to this section:

(a) Must satisfy the criteria set forth in subsection 3 and comply with the requirements set forth in the regulations adopted pursuant to NRS 240.206.

(b) May be provided in person or online by the Secretary of State or a vendor approved by the Secretary of State.

6. The Secretary of State shall deposit the fees collected pursuant to paragraph (b) of subsection 4 in the Notary Public Training Account created pursuant to NRS 240.018.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 414.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 416.

AN ACT relating to criminal procedure; requiring the electronic recording of interrogations of persons in custody under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires, with certain specified exceptions, that a law enforcement agency make an electronic recording of a custodial interrogation of a person who is suspected of committing homicide or sexual assault. This bill also provides that evidence from an interrogation may be admitted by a court even in the absence of an electronic recording of the interrogation and sets forth the conditions under which a jury must be provided with a cautionary instruction. Finally, this bill requires each law enforcement agency to adopt policies and procedures governing the electronic recording of custodial interrogations.

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

Section 1. Chapter 171 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, each law enforcement agency shall require a law enforcement officer to make an electronic recording of a custodial interrogation which is conducted in a place of detention of a person who is suspected of committing homicide as described in NRS 200.010 to 200.260, inclusive, or sexual assault as defined in NRS 200.366.

2. An electronic recording which is made pursuant to this section must:

(a) Begin recording not later than the time when the person who is being interrogated is advised of his or her rights pursuant to Miranda v. Arizona, 384 U.S. 436 (1966); and

(b) End recording not sooner than the time when the questioning has concluded.

3. An electronic recording is not required to be made pursuant to this section if:

(a) The person to be interrogated requests that the custodial interrogation not be recorded and that request is recorded or in writing;

(b) The custodial interrogation occurs when no law enforcement officer who is conducting the interrogation has knowledge of facts and circumstances which would lead an officer to reasonably believe that the person who is being interrogated may have committed homicide as described in NRS 200.010 to 200.260, inclusive, or sexual assault as defined in NRS 200.366;

(c) The questions which are presented by a law enforcement officer and the responsive statements by the person who is being interrogated are part of a routine processing or booking of that person;

(d) The recording equipment fails or there is an inadvertent error by the operator of the equipment;

(e) Exigent circumstances relating to public safety preclude the recording and are documented; ~~for~~

(f) The custodial interrogation is conducted outside this State ~~for~~; or

(g) The simultaneous conduct of multiple custodial interrogations exceeds the available capacity of recording equipment.

4. The lack of an electronic recording of a custodial interrogation must not be the sole basis for the exclusion of evidence from the interrogation or a confession that is made pursuant thereto. If a law enforcement agency does not make an electronic recording of a custodial interrogation as required by this section, the court may nonetheless admit evidence from the interrogation. If, when offering the evidence from the interrogation, the prosecuting attorney establishes by a preponderance of the evidence that one of the exceptions set forth in subsection 3 applies, the court may admit the evidence without providing the jury with a cautionary instruction. If the prosecuting attorney does not meet this burden of proof, the court shall, after admitting the evidence, provide the jury with a cautionary instruction regarding the failure to record the interrogation as required by law.

5. Each law enforcement agency shall adopt policies and procedures governing the electronic recording of custodial interrogations in accordance with this section.

6. As used in this section:

(a) “Custodial interrogation” means any interrogation of a person while the person is in custody.

(b) “Custody” means the circumstance when:

(1) A person is under formal arrest; or

(2) There is a restraint on a person’s freedom of movement of the degree associated with a formal arrest and a reasonable person, in view of all the circumstances, would have believed that he or she was not free to leave.

(c) “Electronic recording” means:

(1) If audiovisual recording is feasible, an audiovisual recording; or

(2) If audiovisual recording is not feasible, an audio-only recording.

(d) “Interrogation” means questioning which is initiated by a law enforcement officer or any words or actions on the part of a law enforcement officer, other than those which are ordinarily attendant to arrest and custody, that the officer should know are reasonably likely to elicit an incriminating response from the person who is being questioned.

(e) ~~“Place of detention” means any building, structure or place where persons are or may be lawfully held in custody or confinement under the jurisdiction of this State or any political subdivision of this State, including, without limitation, a building which houses the offices,~~ a fixed location under the control of a law enforcement agency ~~in~~ of this State where persons are questioned about alleged crimes.

Sec. 2. 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.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 418.

Bill read second time.

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

Amendment No. 523.

AN ACT relating to elections; providing that a voter may not be compelled to reveal under oath how he or she voted at any election; providing for the inspection during a contested election of certain records printed on paper of ballots voted by using a mechanical recording device; revising the method of counting ballots during a recount of an election; amending provisions specifying grounds upon which any election may be contested; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that a voter may not be compelled to reveal under oath how he or she voted at any election.

Under existing law, voted ballots, rejected ballots, spoiled ballots, challenge lists, certain records printed on paper of ballots voted by using a mechanical recording device and stubs of ballots used must be deposited in the vaults of the county clerk. The voted ballots are not subject to inspection by anyone, except in cases of a contested election, and then only by the judge, body or board before whom the election is being contested or by the parties to the contest, jointly, pursuant to an order of such judge, body or board. (NRS 293.391) **Section 2** of this bill clarifies that records printed on paper of ballots voted by using a mechanical recording device also are not subject to inspection by anyone, except in cases of a contested election, and then only by the judge, body or board before whom the election is being contested or by the parties to the contest, jointly, pursuant to an order of such judge, body or board.

Under existing law, if a recount of an election in a county or city that uses a mechanical voting system is demanded, or if a recount of an election affecting more than one county is demanded, an initial recount is done of ballots from 5 percent of the total number of precincts that voted in the election, or at least three precincts that voted in the election. If the initial recount shows a discrepancy of at least 1 percent or five votes, whichever is greater, a full recount of all ballots at the election for the office or ballot question is done. (NRS 293.404) **Section 3** of this bill deletes the provisions requiring the initial recount of 5 percent, or at least three, of the precincts that voted at the election. **Section 3** provides instead that all recounts must include a count and inspection of all ballots. **Section 3** further provides that ~~if (1) paper ballots must be recounted by hand; and (2) ballots that were originally tabulated by a mechanical recording device~~ **all ballots** must be

~~[retabulated]~~ **recounted** in the same manner ~~[--]~~ **in which the ballots were originally tabulated.**

Section 4 of this bill amends provisions specifying grounds upon which any election may be contested. (NRS 293.410)

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:

No person may be compelled under oath to reveal how he or she voted at any election.

Sec. 2. NRS 293.391 is hereby amended to read as follows:

293.391 1. The voted ballots, rejected ballots, spoiled ballots, challenge lists, records printed on paper of voted ballots collected pursuant to NRS 293B.400, and stubs of the ballots used, enclosed and sealed, must, after canvass of the votes by the board of county commissioners, be deposited in the vaults of the county clerk. The records of voted ballots that are maintained in electronic form must, after canvass of the votes by the board of county commissioners, be sealed and deposited in the vaults of the county clerk. The tally lists collected pursuant to NRS 293B.400 must, after canvass of the votes by the board of county commissioners, be deposited in the vaults of the county clerk without being sealed. All materials described by this subsection must be preserved for at least 22 months, and all such sealed materials must be destroyed immediately after the preservation period. A notice of the destruction must be published by the clerk in at least one newspaper of general circulation in the county not less than 2 weeks before the destruction.

2. Unused ballots, enclosed and sealed, must, after canvass of the votes by the board of county commissioners, be deposited in the vaults of the county clerk and preserved for at least the period during which the election may be contested and adjudicated, after which the unused ballots may be destroyed.

3. The rosters containing the signatures of those persons who voted in the election and the tally lists deposited with the board of county commissioners are subject to the inspection of any elector who may wish to examine them at any time after their deposit with the county clerk.

4. A contestant of an election may inspect all of the material regarding that election which is preserved pursuant to subsection 1 or 2, except the voted ballots.

5. The voted ballots ***and records printed on paper of voted ballots collected pursuant to NRS 293B.400 which are*** deposited with the county clerk are not subject to the inspection of anyone, except in cases of a contested election, and then only by the judge, body or board before whom the election is being contested, or by the parties to the contest, jointly, pursuant to an order of such judge, body or board.

Sec. 3. NRS 293.404 is hereby amended to read as follows:

293.404 1. Where a recount is demanded pursuant to the provisions of NRS 293.403, the:

(a) County clerk of each county affected by the recount shall employ a recount board to conduct the recount in the county, and shall act as chair of the recount board unless the recount is for the office of county clerk, in which case the registrar of voters of the county, if a registrar of voters has been appointed for the county, shall act as chair of the recount board. If a registrar of voters has not been appointed for the county, the chair of the board of county commissioners, if the chair is not a candidate on the ballot, shall act as chair of the recount board. If the recount is for the office of county clerk, a registrar of voters has not been appointed for the county and the chair of the board of county commissioners is a candidate on the ballot, the chair of the board of county commissioners shall appoint another member of the board of county commissioners who is not a candidate on the ballot to act as chair of the recount board. A member of the board of county commissioners who is a candidate on the ballot may not serve as a member of the recount board.

(b) City clerk shall employ a recount board to conduct the recount in the city, and shall act as chair of the recount board unless the recount is for the office of city clerk, in which case the mayor of the city, if the mayor is not a candidate on the ballot, shall act as chair of the recount board. If the recount is for the office of city clerk and the mayor of the city is a candidate on the ballot, the mayor of the city shall appoint another member of the city council who is not a candidate on the ballot to act as chair of the recount board. A member of the city council who is a candidate on the ballot may not serve as a member of the recount board.

2. Each candidate for the office affected by the recount and the voter who demanded the recount, if any, may be present in person or by an authorized representative, but may not be a member of the recount board.

3. ~~{Except in counties or cities using a mechanical voting system, the}~~ **The** recount must include a count and inspection of all ballots, including rejected ballots, and must determine whether ~~{those}~~ **all** ballots are marked as required by law.

~~{4. If a recount is demanded in a county or city—~~ **Paper ballots must be recounted by hand. Ballots which were cast using a mechanical voting system,** the person who demanded the recount shall select the ballots for the office or ballot question affected from 5 percent of the total number of precincts for that particular office or ballot question, but in no case fewer than three precincts, after notification to each candidate for the office or the candidate's authorized representative.

~~—5. The recount board shall examine the selected ballots, including any duplicate or rejected ballots, shall determine whether the ballots have been voted in accordance with this title and shall recount the valid ballots}~~ **All ballots must be recounted** in the same manner in which the ballots were

originally tabulated. ~~If the recount of the selected ballots for all 5 percent of the precincts selected shows a total combined discrepancy of all precincts selected equal to or greater than 1 percent or five votes, whichever is greater, for the candidate demanding the recount or the candidate who won the election according to the original canvass of the returns, or in favor of or against a ballot question, according to the original canvass of the returns, the county or city clerk, as applicable, shall determine whether the person who demanded the recount is entitled to a recount and, if so, shall order a recount of all the ballots for that office or ballot question.~~

~~—6.}~~ 4. The county or city clerk shall unseal and give to the recount board all ballots to be counted.

~~{7. In the case of a demand for a recount affecting more than one county, including, without limitation, a statewide office or a ballot question, the demand must be made to the Secretary of State. The person who demanded the recount shall select the ballots for the statewide office or ballot question affected from 5 percent of the total number of precincts for that particular office or ballot question after notification to each candidate for the office or the candidate's representative. The Secretary of State shall notify the county clerks of the 5 percent of statewide precincts selected by the person who demanded the recount to examine the ballots in accordance with the provisions of this section and to notify the Secretary of State of the results of the recount in their respective precincts. If the separate examinations, when combined, show a total discrepancy equal to or greater than 1 percent for the candidate demanding the recount or the candidate who won the election, according to the original canvass of the returns, or in favor of or against a ballot question, according to the original canvass of the returns, the Secretary of State shall determine whether the person who demanded the recount is entitled to a recount and, if so, shall order the county or city clerk, as applicable, to recount all the ballots for that office or ballot question.~~

~~—8.}~~ 5. The Secretary of State may adopt regulations to carry out the provisions of this section.

Sec. 4. NRS 293.410 is hereby amended to read as follows:

293.410 1. A statement of contest shall not be dismissed by any court for want of form if the grounds of contest are alleged with sufficient certainty to inform the defendant of the charges the defendant is required to meet.

2. An election may be contested upon any of the following grounds:

(a) That the election board or any member thereof was guilty of malfeasance.

(b) That a person who has been declared elected to an office was not at the time of election eligible to that office.

(c) That ~~illegal~~ **illegal** :

(1) Illegal or improper votes were cast and counted ~~for the defendant, which, if taken from the defendant, will reduce the number of the defendant's legal votes below the number necessary to elect~~ :

(2) Legal and proper votes were not counted; or

(3) A combination of the circumstances described in subparagraphs (1) and (2) occurred,

↪ in ~~greater number~~ an amount that is equal to or greater than the margin between the contestant and the defendant ~~[-]~~, or otherwise in an amount sufficient ~~number~~ to raise reasonable doubt as to the outcome of the election.

(d) That the election board, in conducting the election or in canvassing the returns, made errors sufficient to change the result of the election as to any person who has been declared elected.

(e) That the defendant ***or any person acting, either directly or indirectly, on behalf of the defendant*** has given, or offered to give, to any person ~~a bribe~~ ***anything of value*** for the purpose of ~~procuring his or her~~ ***manipulating or altering the outcome of the election.***

(f) That there was a ~~possible~~ malfunction of any voting ***device*** or ***electronic tabulator***, counting device ~~[-]~~ ***or computer in a manner sufficient to raise reasonable doubt as to the outcome of the election.***

Assemblywoman Diaz moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 420.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 417.

AN ACT relating to corrections; authorizing the Director of the Department of Corrections to establish by regulation a charge on the use of videoconference equipment by offenders to conduct certain visits; revising provisions governing the use of electronic devices by offenders for certain purposes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that money received for the benefit of offenders through contributions that is not required to be deposited elsewhere be placed in the Offenders' Store Fund and expended for the welfare and benefit of all offenders sentenced to imprisonment in the state prison. (NRS 209.221)

Section 1 of this bill authorizes the Director of the Department of Corrections, with approval of the Board of State Prison Commissioners, to establish by regulation a charge on the use by offenders of videoconferencing equipment for conducting visits to defray the costs of operating and maintaining such equipment. ~~[Section 1 requires the regulations to be adopted in accordance with the provisions of the Nevada Administrative Procedure Act.]~~

Existing law prohibits offenders from having access to telecommunications devices except under certain circumstances. (NRS 209.417) **Section 2** of this bill authorizes an offender to use an approved telecommunications device to

conduct certain visits and correspondence. **Section 2** also authorizes the Department to enter into an agreement with an offender allowing the offender to use a telecommunications device for certain purposes related to correctional activities and educational, vocational and legal research.

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

Section 1. NRS 209.221 is hereby amended to read as follows:

209.221 1. The Offenders' Store Fund is hereby created as a special revenue fund. All money received for the benefit of offenders through contributions, and from other sources not otherwise required to be deposited in another fund, must be deposited in the Offenders' Store Fund.

2. The Director shall:

- (a) Keep, or cause to be kept, a full and accurate account of the Fund;
- (b) Submit reports to the Board relative to money in the Fund as may be required from time to time; and
- (c) Submit a monthly report to the offenders of the amount of money in the Fund by posting copies of the report at locations accessible to offenders generally or by delivery of copies to the appropriate representatives of the offenders if any are selected.

3. Except as otherwise provided in subsections 4 to ~~9~~ 10, inclusive, money in the Offenders' Store Fund, except interest earned upon it, must be expended for the welfare and benefit of all offenders.

4. If necessary to cover a shortfall of money in the Prisoners' Personal Property Fund, the Director may, after obtaining the approval of the Interim Finance Committee, authorize the State Controller to transfer money from the Offenders' Store Fund to the Prisoners' Personal Property Fund, and the State Controller shall make the transfer.

5. If an offender has insufficient money in his or her individual account in the Prisoners' Personal Property Fund to repay or defray costs assessed to the offender pursuant to NRS 209.246, the Director shall authorize the State Controller to transfer sufficient money from the Offenders' Store Fund to the appropriate account in the State General Fund to pay costs remaining unpaid, and the State Controller shall make the transfer. Any money so transferred must be accounted for separately. The Director shall cause the Offenders' Store Fund to be reimbursed from the offender's individual account in the Prisoners' Personal Property Fund, as money becomes available.

6. If the Department incurs costs related to state property that has been willfully damaged, destroyed or lost or incurs costs related to medical examination, diagnosis or treatment for an injury to an offender, the Director may authorize the State Controller to transfer money from the Offenders' Store Fund to the appropriate account in the State General Fund to repay or defray those costs if:

(a) The Director has reason to believe that an offender caused the damage, destruction, loss or injury; and

(b) The identity of the offender is unknown or cannot be determined by the Director with reasonable certainty.

➡ The State Controller shall make the transfer if authorized by the Director. Any money transferred must be accounted for separately. If the identity of the offender is determined after money has been transferred, the Director shall cause the Offenders' Store Fund to be reimbursed from the offender's individual account in the Prisoners' Personal Property Fund, as money becomes available.

7. The Director may, with approval of the Board, establish by regulation criteria for a reasonable deduction from money credited to the Offenders' Store Fund to repay or defray the costs relating to the operation and maintenance of the offenders' store, coffee shop, gymnasium and correctional officers' salaries for visitation posts where they exist in each facility. Any regulations adopted pursuant to this subsection must be adopted in accordance with the provisions of chapter 233B of NRS.

8. The Director may, with approval of the Board, establish by regulation a charge on the purchase of electronic devices by offenders to defray the costs relating to the operation of the devices. The Director shall utilize the proceeds collected from the charge established for operation of the devices to offset the energy costs of the facilities within the Department. Any regulations adopted pursuant to this subsection must be adopted in accordance with the provisions of chapter 233B of NRS.

9. ***The Director may, with approval of the Board, establish by regulation a charge on the use by offenders of videoconferencing equipment for conducting visits to defray the costs relating to the operation and maintenance of the equipment. The Director shall utilize the proceeds collected from the charge established for the operation and maintenance of the equipment to offset the costs of operating and maintaining the videoconferencing equipment and correctional officers' salaries for posts for conducting visits by videoconference where the posts exist in each facility. [Any regulations adopted pursuant to this subsection must be adopted in accordance with the provisions of chapter 233B of NRS.]***

10. If an offender who has been assigned to a center for the purpose of making restitution is returned to an institution for committing an infraction of the regulations of the Department and the center has not been fully compensated for the cost of providing the offender with housing, transportation, meals, or medical or dental services at the center, the Director may authorize the State Controller to transfer money from the Offenders' Store Fund to the appropriate account in the State General Fund to repay or defray those costs. The State Controller shall make the transfer if authorized by the Director. Any money transferred must be accounted for separately. The Director shall cause the Offenders' Store Fund to be reimbursed from the

offender's individual account in the Prisoners' Personal Property Fund, as money becomes available.

~~{10-}~~ **11.** If an offender has insufficient money in his or her individual account in the Prisoners' Personal Property Fund to repay or defray costs assessed to the offender pursuant to NRS 209.246, the offender shall sign a statement under penalty of perjury concerning his or her financial situation. Such a statement must include, but is not limited to, the following information:

- (a) The value of any interest the offender has in real estate;
- (b) The value of the personal property of the offender;
- (c) The assets in any bank account of the offender; and
- (d) The employment status of the offender.

~~{11-}~~ **12.** The statement required by subsection ~~{10-}~~ **11** must also authorize the Department to access any relevant document, for the purpose of verifying the accuracy of the information provided by the offender pursuant to this section, including, but not limited to, information regarding any bank account of the offender, information regarding any bank account held in trust for the offender and any federal income tax return, report or withholding form of the offender.

~~{12-}~~ **13.** An offender who conceals assets from the Department or provides false or misleading information on a statement prepared pursuant to this section is guilty of a gross misdemeanor.

~~{13-}~~ **14.** A person who aids or encourages an offender to conceal assets from the Department or to provide false or misleading information on a statement prepared pursuant to this section is guilty of a gross misdemeanor.

Sec. 2. NRS 209.417 is hereby amended to read as follows:

209.417 1. Except as otherwise provided in this section, the warden or manager of an institution or facility shall ensure that no offender in the institution or facility, or in a vehicle of the Department, has access to a telecommunications device.

2. An offender may use a telephone or, for the purpose of communicating with his or her child pursuant to NRS 209.42305, any other approved telecommunications device subject to the limitations set forth in NRS 209.419.

3. *An offender may use an approved telecommunications device for the purpose of conducting a visit or correspondence which is authorized pursuant to NRS 209.423, subject to the limitations set forth in NRS 209.419.*

4. The Department may enter into an agreement with ~~an~~ :

(a) *An offender authorizing the offender to use a telecommunications device to facilitate or participate in correctional activities or to perform educational, vocational or legal research, subject to the limitations set forth in NRS 209.419; or*

(b) *An offender who is assigned to transitional housing, a center for the purpose of making restitution pursuant to NRS 209.4827 to 209.4843,*

inclusive, or a specific program of education or vocational training authorizing the offender to use a telecommunications device:

~~[(a)]~~ **(1)** To access a network, including, without limitation, the Internet, for the purpose of:

~~[(1)]~~ **(I)** Obtaining educational or vocational training that is approved by the Department;

~~[(2)]~~ **(II)** Searching for or applying for employment; or

~~[(3)]~~ **(III)** Performing essential job functions.

~~[(b)]~~ **(2)** For any other purpose if a telecommunications device is required by an employer of the offender to perform essential job functions.

~~[4.]~~ **5.** As used in this section, “telecommunications device” means a device, or an apparatus associated with a device, that can enable an offender to communicate with a person outside of the institution or facility at which the offender is incarcerated. The term includes, without limitation, a telephone, a cellular telephone, a personal digital assistant, a transmitting radio or a computer that is connected to a computer network, is capable of connecting to a computer network through the use of wireless technology or is otherwise capable of communicating with a person or device outside of the institution or facility.

Sec. 3. NRS 212.165 is hereby amended to read as follows:

212.165 1. A person shall not, without lawful authorization, knowingly furnish, attempt to furnish, or aid or assist in furnishing or attempting to furnish to a prisoner confined in an institution or a facility of the Department of Corrections, or any other place where prisoners are authorized to be or are assigned by the Director of the Department, a portable telecommunications device. A person who violates this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

2. A person shall not, without lawful authorization, carry into an institution or a facility of the Department, or any other place where prisoners are authorized to be or are assigned by the Director of the Department, a portable telecommunications device. A person who violates this subsection is guilty of a misdemeanor.

3. A prisoner confined in an institution or a facility of the Department, or any other place where prisoners are authorized to be or are assigned by the Director of the Department, shall not, without lawful authorization, possess or have in his or her custody or control a portable telecommunications device. A prisoner who violates this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130.

4. A prisoner confined in a jail or any other place where such prisoners are authorized to be or are assigned by the sheriff, chief of police or other officer responsible for the operation of the jail, shall not, without lawful authorization, possess or have in his or her custody or control a portable telecommunications device. A prisoner who violates this subsection and who is in lawful custody or confinement for a charge, conviction or sentence for:

(a) A felony is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) A gross misdemeanor is guilty of a gross misdemeanor.

(c) A misdemeanor is guilty of a misdemeanor.

5. A sentence imposed upon a prisoner pursuant to subsection 3 or 4:

(a) Is not subject to suspension or the granting of probation; and

(b) Must run consecutively after the prisoner has served any sentences imposed upon the prisoner for the offense or offenses for which the prisoner was in lawful custody or confinement when the prisoner violated the provisions of subsection 3 or 4.

6. A person who was convicted and sentenced pursuant to subsection 4 may file a petition, if the underlying charge for which the person was in lawful custody or confinement has been reduced to a charge for which the penalty is less than the penalty which was imposed upon the person pursuant to subsection 4, with the court of original jurisdiction requesting that the court, for good cause shown:

(a) Order that his or her sentence imposed pursuant to subsection 4 be modified to a sentence equivalent to the penalty imposed for the underlying charge for which the person was convicted; and

(b) Resentence him or her in accordance with the penalties prescribed for the underlying charge for which the person was convicted.

7. A person who was convicted and sentenced pursuant to subsection 4 may file a petition, if the underlying charge for which the person was in lawful custody or confinement has been declined for prosecution or dismissed, with the court of original jurisdiction requesting that the court, for good cause shown:

(a) Order that his or her original sentence pursuant to subsection 4 be reduced to a misdemeanor; and

(b) Resentence him or her in accordance with the penalties prescribed for a misdemeanor.

8. No person has a right to the modification of a sentence pursuant to subsection 6 or 7, and the granting or denial of a petition pursuant to subsection 6 or 7 does not establish a basis for any cause of action against this State, any political subdivision of this State or any agency, board, commission, department, officer, employee or agent of this State or a political subdivision of this State.

9. As used in this section:

(a) “Facility” has the meaning ascribed to it in NRS 209.065.

(b) “Institution” has the meaning ascribed to it in NRS 209.071.

(c) “Jail” means a jail, branch county jail or other local detention facility.

(d) “Telecommunications device” has the meaning ascribed to it in subsection ~~4~~ 5 of NRS 209.417.

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 that are necessary to carry out the provisions of this act; and

2. On January 1, 2018, for all other purposes.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 422.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 274.

SUMMARY—Revises provisions relating to the ~~medical~~ use of marijuana. (BDR 40-983)

AN ACT relating to marijuana; revising various provisions relating to the medical use of marijuana; transferring the program for the medical use of marijuana from the Division of Public and Behavioral Health of the Department of Health and Human Services to the Department of Taxation; revising provisions relating to the registry of persons who are authorized to engage in or assist in the medical use of marijuana; revising provisions relating to the authorization of nonresidents to engage in the medical use of marijuana; prohibiting the Department of Taxation from requiring a medical marijuana dispensary to determine whether a person has exceeded the legal limits for possession of marijuana for medical use; revising provisions relating to medical marijuana establishment agents; **prohibiting the use of a vending machine to dispense marijuana; providing a penalty;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law exempts a person who holds a valid registry identification card or letter of approval from state prosecution for the use, possession, delivery and production of marijuana. (NRS 453A.200, 453A.205) Existing law also exempts a person who holds a valid medical marijuana establishment registration certificate or medical marijuana establishment agent registration card from state prosecution for possession, delivery and production of marijuana and provides for the registration and regulation of such persons and establishments. (NRS 453A.200, 453A.320-453A.370) **Sections 2, 3, 5, 7-9, 11-16, 18-23, 25-48, 51-55 and 66-68** of this bill transfer the responsibility for the regulation of the medical use of marijuana from the Division of Public and Behavioral Health of the Department of Health and Human Services to the Department of Taxation. **Section 38 of this bill prohibits a medical marijuana establishment from dispensing or otherwise selling marijuana using a vending machine. Section 56.5 of this bill establishes a similar prohibition for recreational marijuana establishments after January 1, 2020.**

The Nevada Legislature is required to provide by law for a registry of patients and their attendants who are authorized to use marijuana for a medical purpose. (Nev. Const. Art. 4, § 38) Existing law carries this out by requiring such persons to apply to the Division of Public and Behavioral Health of the Department of Health and Human Services for a registry identification card or letter of approval, as applicable, and granting a holder of such a card or letter an exemption from state prosecution for certain crimes relating to marijuana. (NRS 453A.200, 453A.205) **Sections 4, 5, 10, 13, 16-26, 35, 36, 38-40, 43, 44, 47-51 and 55-65** of this bill replace the requirement to obtain a registry identification card to qualify for the exemption from state prosecution with a requirement to be listed in the medical marijuana registry. **Section 5** of this bill requires the Department of Taxation to maintain the medical marijuana registry. **Section 5** requires a medical marijuana dispensary to list in the medical marijuana registry a person who submits certain documentation to the medical marijuana dispensary. **Section 18** of this bill applies the exemption from state prosecution for certain crimes relating to marijuana to a person who is listed in the medical marijuana registry. **Sections 19-23** of this bill authorize the Department to issue a letter of registration or letter of approval to a person who is listed in the medical marijuana registry which may be presented to show that the person is exempt from state prosecution for engaging in the medical use of marijuana. **Section 55** of this bill eliminates all existing fees relating to applications for and the issuance or renewal of registry identification cards and letters of approval. **Section 65.5 of this bill provides for certain information of persons who hold a registry identification card or letter of approval issued on or before June 30, 2017, to be entered into the medical marijuana registry maintained by the Department.**

Existing law requires a medical marijuana establishment that wishes to retain as a volunteer or employ or contract with a person to provide labor to the medical marijuana establishment to submit an application to register the person as a medical marijuana establishment agent. (NRS 453A.332) **Section 31** of this bill allows such a person to submit an application for registration as a medical marijuana establishment agent on his or her own behalf. **Section 31** also provides for the temporary registration of a person as a medical marijuana establishment agent upon submission of a complete application for registration or renewal of registration. **Finally, section 31 allows an independent contractor or employee of an independent contractor who is registered as a medical marijuana establishment agent to provide labor to any medical marijuana establishment and any other person who is registered as a medical marijuana establishment agent to work or volunteer at any medical marijuana establishment for which the category of the person's medical marijuana establishment agent card is valid.**

Existing law limits the exemption from state prosecution for the medical use of marijuana to the possession of not more than 2.5 ounces of usable marijuana in a 14-day period, 12 marijuana plants and a quantity of edible marijuana products and marijuana-infused products established by regulation. (NRS 453A.200) Existing law also prohibits a medical marijuana dispensary from selling marijuana in excess of these limits to a person. (NRS 453A.358) **Section 41** of this bill instead: (1) prohibits a medical marijuana dispensary from selling more than 1 ounce of marijuana in a transaction; and (2) prohibits the Department of Taxation from requiring a medical marijuana dispensary to track the purchases of a person or determine whether a person has exceeded the legal limits for possession of marijuana for medical use.

Existing law allows a medical marijuana dispensary to recognize a nonresident card for the purpose of dispensing marijuana for medical use if the nonresident card meets certain requirements that make it the functional equivalent of a registry identification card. Existing law also requires, as of April 1, 2018, a nonresident card to be verified by the use of certain databases. (NRS 453A.364) **Section 43** of this bill instead: (1) ~~allows a medical marijuana dispensary to recognize a nonresident authorization for the medical use of marijuana;~~ **deems a nonresident who is authorized to engage in the medical use of marijuana under the laws of his or her state or jurisdiction of residence to be listed in the medical marijuana registry for the purpose of exemption from state prosecution, if the person abides by the legal limits on the possession, delivery and production of marijuana in this State; and** (2) ~~eliminates the requirement that the nonresident authorization have an expiration date and be unexpired; and (3) allows written documentation from a physician to qualify as such authorization in certain circumstances;~~ **authorizes a medical marijuana dispensary to dispense marijuana to such a person if the person presents a document which is valid proof of exemption under the laws of the state or jurisdiction of which the person is a resident.** **Section 69** of this bill eliminates the prospective requirement to verify a nonresident authorization by the use of certain databases.

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

Section 1. Chapter 453A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *“Department” means the Department of Taxation.*

Sec. 3. *“Director” means the Executive Director of the Department of Taxation.*

Sec. 4. *“Medical marijuana registry” means the registry established pursuant to section 5 of this act.*

Sec. 5. 1. *The Department shall establish and maintain a registry of patients and the designated primary caregivers who are authorized to engage in or assist in the medical use of marijuana.*

2. A person who is at least 18 years of age and wishes to be listed in the medical marijuana registry as a patient must submit to a medical marijuana dispensary:

(a) Valid, written documentation from the person's attending physician stating that:

(1) The person has been diagnosed with a chronic or debilitating medical condition;

(2) The medical use of marijuana may mitigate the symptoms or effects of that condition; and

(3) The attending physician has explained the possible risks and benefits of the medical use of marijuana; and

(b) The name and date of birth of the person.

3. A medical marijuana dispensary may list a person who is less than 18 years of age in the medical marijuana registry only if the custodial parent or legal guardian with responsibility for health care decisions for the person who is less than 18 years of age submits:

(a) Valid, written documentation from the attending physician of the person who is less than 18 years of age stating that:

(1) The person has been diagnosed with a chronic or debilitating medical condition;

(2) The medical use of marijuana may mitigate the symptoms or effects of that condition; and

(3) The attending physician has explained the possible risks and benefits of the medical use of marijuana;

(b) The name and date of birth of the person who is less than 18 years of age;

(c) The name and date of birth of the custodial parent or legal guardian with responsibility for health care decisions for the person who is less than 18 years of age; and

(d) A written statement signed by the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age setting forth that:

(1) The attending physician of the person under 18 years of age has explained to that person and to the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age the possible risks and benefits of the medical use of marijuana;

(2) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age consents to the use of marijuana by the person under 18 years of age for medical purposes;

(3) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to serve as the designated primary caregiver for the person under 18 years of age; and

(4) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to control the acquisition of marijuana and the dosage and frequency of use by the person under 18 years of age.

4. Upon submission of the information described in subsection 2 or 3 or NRS 453A.250 to a medical marijuana dispensary, the medical marijuana dispensary shall enter the name and date of birth of the person into the medical marijuana registry.

5. An attending physician who provides the written documentation described in subsection 2 or 3 must indicate on the written documentation that it expires either 1 year or 2 years after the date of issuance. A listing in the medical marijuana registry expires ~~(2 years after)~~ on the date ~~of receipt of~~ that the written documentation which was submitted to the medical marijuana dispensary pursuant to subsection 2 or 3 or NRS 453A.250 expires or, for a listing for a designated primary caregiver, on the date of expiration for the listing of the patient for whom the person is a designated primary caregiver. A listing in the medical marijuana registry may be renewed by the submission of new written documentation to a medical marijuana dispensary.

Sec. 6. NRS 453A.010 is hereby amended to read as follows:

453A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 453A.020 to 453A.170, inclusive, **and sections 2, 3 and 4 of this act** have the meanings ascribed to them in those sections.

Sec. 7. NRS 453A.050 is hereby amended to read as follows:

453A.050 “Chronic or debilitating medical condition” means:

1. Acquired immune deficiency syndrome;
2. Cancer;
3. Glaucoma;
4. A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:
 - (a) Cachexia;
 - (b) Persistent muscle spasms, including, without limitation, spasms caused by multiple sclerosis;
 - (c) Seizures, including, without limitation, seizures caused by epilepsy;
 - (d) Severe nausea; or
 - (e) Severe pain; or
5. Any other medical condition or treatment for a medical condition that is:
 - (a) Classified as a chronic or debilitating medical condition by regulation of the ~~Division;~~ **Department;** or
 - (b) Approved as a chronic or debilitating medical condition pursuant to a petition submitted in accordance with NRS 453A.710.

Sec. 8. NRS 453A.056 is hereby amended to read as follows:

453A.056 “Cultivation facility” means a business that:

1. Is registered with the ~~{Division}~~ **Department** pursuant to NRS 453A.322; and

2. Acquires, possesses, cultivates, delivers, transfers, transports, supplies or sells marijuana and related supplies to:

(a) Medical marijuana dispensaries;

(b) Facilities for the production of edible marijuana products or marijuana-infused products; or

(c) Other cultivation facilities.

Sec. 9. NRS 453A.102 is hereby amended to read as follows:

453A.102 “Electronic verification system” means an electronic database that:

1. Keeps track of data in real time; and

2. Is accessible by the ~~{Division}~~ **Department** and by registered medical marijuana establishments.

Sec. 10. NRS 453A.103 is hereby amended to read as follows:

453A.103 “Enclosed, locked facility” means a closet, display case, room, greenhouse or other enclosed area that meets the requirements of NRS 453A.362 and is equipped with locks or other security devices which allow access only by a medical marijuana establishment agent and ~~{the holder of a valid registry identification card}~~ **a person who is listed in the medical marijuana registry.**

Sec. 11. NRS 453A.105 is hereby amended to read as follows:

453A.105 “Facility for the production of edible marijuana products or marijuana-infused products” means a business that:

1. Is registered with the ~~{Division}~~ **Department** pursuant to NRS 453A.322; and

2. Acquires, possesses, manufactures, delivers, transfers, transports, supplies or sells edible marijuana products or marijuana-infused products to medical marijuana dispensaries.

Sec. 12. NRS 453A.109 is hereby amended to read as follows:

453A.109 “Letter of approval” means a document issued by the ~~{Division}~~ **Department or its designee** to an applicant who is under 10 years of age pursuant to NRS 453A.220 which provides that the applicant is exempt from state prosecution for engaging in the medical use of marijuana.

Sec. 13. NRS 453A.115 is hereby amended to read as follows:

453A.115 “Medical marijuana dispensary” means a business that:

1. Is registered with the ~~{Division}~~ **Department** pursuant to NRS 453A.322; and

2. Acquires, possesses, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to ~~{the holder of a valid registry identification card}~~ **a person who is listed in the medical marijuana registry or to another medical marijuana dispensary.**

Sec. 14. NRS 453A.118 is hereby amended to read as follows:

453A.118 “Medical marijuana establishment agent registration card” means a registration card that is issued by the ~~{Division}~~ **Department**

pursuant to NRS 453A.332 to authorize a person to volunteer or work at a medical marijuana establishment.

Sec. 15. NRS 453A.119 is hereby amended to read as follows:

453A.119 “Medical marijuana establishment registration certificate” means a registration certificate that is issued by the ~~{Division}~~ **Department** pursuant to NRS 453A.322 to authorize the operation of a medical marijuana establishment.

Sec. 16. NRS 453A.140 is hereby amended to read as follows:

453A.140 ~~“Registry identification card”~~ **“Letter of registration”** means a document issued by the ~~{Division}~~ **Department** or its designee **pursuant to NRS 453A.220** that identifies:

1. A person who is exempt from state prosecution for engaging in the medical use of marijuana; or

2. The designated primary caregiver, if any, of a person described in subsection 1.

Sec. 17. NRS 453A.170 is hereby amended to read as follows:

453A.170 **1.** “Written documentation” means:

~~{1-}~~ **(a)** A statement signed by the attending physician of a person diagnosed with a chronic or debilitating medical condition; or

~~{2-}~~ **(b)** Copies of the relevant medical records of a person diagnosed with a chronic or debilitating medical condition.

2. The term includes such documentation which is submitted electronically to a medical marijuana dispensary.

Sec. 18. NRS 453A.200 is hereby amended to read as follows:

453A.200 **1.** Except as otherwise provided in this section, ~~{and NRS 453A.300-}~~ a person who ~~{holds a valid registry identification card issued to the person pursuant to NRS 453A.220 or 453A.250}~~ **is listed in the medical marijuana registry** is exempt from state prosecution for:

(a) Possession, delivery or production of marijuana;

(b) Possession or delivery of paraphernalia;

(c) Aiding and abetting another in the possession, delivery or production of marijuana;

(d) Aiding and abetting another in the possession or delivery of paraphernalia;

(e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and

(f) Any other criminal offense in which the possession, delivery or production of marijuana or the possession or delivery of paraphernalia is an element.

2. In addition to the provisions of subsections 1 and 5, no person may be subject to state prosecution for constructive possession, conspiracy or any other criminal offense solely for being in the presence or vicinity of the medical use of marijuana in accordance with the provisions of this chapter.

3. The exemption from state prosecution set forth in subsection 1 applies only to the extent that a person who ~~{holds a registry identification card}~~

~~issued to the person pursuant to paragraph (a) of subsection 1 of NRS 453A.220 and the designated primary caregiver, if any, of such a person:] is listed in the medical marijuana registry:~~

(a) ~~[Engage]~~ **Engages** in or ~~[assist]~~ **assists** in, as applicable, the medical use of marijuana in accordance with the provisions of this chapter as justified to mitigate the symptoms or effects of a person's chronic or debilitating medical condition; and

(b) ~~[Do]~~ **Does** not, at any one time, collectively possess with another who is authorized to possess, deliver or produce more than:

(1) Two and one-half ounces of usable marijuana ~~; in any one 14-day period;~~

(2) Twelve marijuana plants, irrespective of whether the marijuana plants are mature or immature; and

(3) A maximum allowable quantity of edible marijuana products and marijuana-infused products as established by regulation of the ~~[Division]~~ **Department**.

↪ The persons described in this subsection must ensure that the usable marijuana and marijuana plants described in this subsection are safeguarded in an enclosed, secure location.

4. If the persons described in subsection 3 possess, deliver or produce marijuana in an amount which exceeds the amount described in paragraph (b) of that subsection, those persons:

(a) Are not exempt from state prosecution for possession, delivery or production of marijuana.

(b) May establish an affirmative defense to charges of possession, delivery or production of marijuana, or any combination of those acts, in the manner set forth in NRS 453A.310.

5. A person who holds a valid medical marijuana establishment registration certificate issued to the person pursuant to NRS 453A.322 or a valid medical marijuana establishment agent registration card issued to the person pursuant to NRS 453A.332, and who confines his or her activities to those authorized by NRS 453A.320 to 453A.370, inclusive, and the regulations adopted by the ~~[Division]~~ **Department** pursuant thereto, is exempt from state prosecution for:

(a) Possession, delivery or production of marijuana;

(b) Possession or delivery of paraphernalia;

(c) Aiding and abetting another in the possession, delivery or production of marijuana;

(d) Aiding and abetting another in the possession or delivery of paraphernalia;

(e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and

(f) Any other criminal offense in which the possession, delivery or production of marijuana or the possession or delivery of paraphernalia is an element.

6. Notwithstanding any other provision of law and except as otherwise provided in this subsection, after a medical marijuana dispensary opens in the county of residence of a person who ~~holds a registry identification card, including, without limitation, a designated primary caregiver,~~ **is listed in the medical marijuana registry**, such a person is not authorized to cultivate, grow or produce marijuana. The provisions of this subsection do not apply if:

(a) The person who ~~holds the registry identification card~~ **is listed in the medical marijuana registry** was cultivating, growing or producing marijuana in accordance with this chapter on or before July 1, 2013;

(b) All the medical marijuana dispensaries in the county of residence of the person who ~~holds the registry identification card~~ **is listed in the medical marijuana registry** close or are unable to supply the quantity or strain of marijuana necessary for the medical use of the person to treat his or her specific medical condition;

(c) Because of illness or lack of transportation, the person who ~~holds the registry identification card~~ **is listed in the medical marijuana registry** is unable reasonably to travel to a medical marijuana dispensary; or

(d) No medical marijuana dispensary was operating within 25 miles of the residence of the person who ~~holds the registry identification card~~ **is listed in the medical marijuana registry** at the time the person first ~~applied for his or her registry identification card.~~ **was listed in the medical marijuana registry.**

7. As used in this section, “marijuana” includes, without limitation, edible marijuana products and marijuana-infused products.

Sec. 19. NRS 453A.210 is hereby amended to read as follows:

453A.210 1. The ~~Division~~ **Department** shall establish and maintain a program for the issuance of ~~registry identification cards~~ **letters of registration** and letters of approval to persons who ~~meet the requirements of this section.~~ **are listed in the medical marijuana registry.**

2. Except as otherwise provided in subsections 3 and ~~5~~ **4** and NRS 453A.225, the ~~Division~~ **Department** or its designee shall issue a ~~registry identification card~~ **letter of registration upon request** to a person who is ~~a resident of this State~~ **listed in the medical marijuana registry** and who submits an application ~~on~~ **in** a form prescribed by the ~~Division~~ **Department** accompanied by the following:

—(a) Valid, written documentation from the person’s attending physician stating that:

—(1) The person has been diagnosed with a chronic or debilitating medical condition;

—(2) The medical use of marijuana may mitigate the symptoms or effects of that condition; and

—(3) The attending physician has explained the possible risks and benefits of the medical use of marijuana;

—(b) The name, address, telephone number, social security number and date of birth of the person;

- ~~— (c) Proof satisfactory to the Division that the person is a resident of this State;~~
- ~~— (d) The name, address and telephone number of the person's attending physician;~~
- ~~— (e) If the person elects to designate a primary caregiver at the time of application:~~
 - ~~— (1) The name, address, telephone number and social security number of the designated primary caregiver; and~~
 - ~~— (2) A written, signed statement from the person's attending physician in which the attending physician approves of the designation of the primary caregiver; and~~
- ~~— (f) If the person elects to designate a medical marijuana dispensary at the time of application, the name of the medical marijuana dispensary.]~~

Department.

3. The ~~{Division}~~ **Department** or its designee shall issue a ~~{registry identification card}~~ **letter of registration** to a person who is at least 10 years of age but less than 18 years of age or a letter of approval to a person who is less than 10 years of age if:

- (a) **The person is listed in the medical marijuana registry;**
- (b) The person submits the ~~{materials}~~ **application** required pursuant to subsection 2; and
- ~~{(b)}~~ (c) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age signs a written statement setting forth that:

(1) The attending physician of the person under 18 years of age has explained to that person and to the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age the possible risks and benefits of the medical use of marijuana;

(2) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age consents to the use of marijuana by the person under 18 years of age for medical purposes;

(3) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to serve as the designated primary caregiver for the person under 18 years of age; and

(4) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to control the acquisition of marijuana and the dosage and frequency of use by the person under 18 years of age.

4. ~~{The form prescribed by the Division to be used by a person applying for a registry identification card or letter of approval pursuant to this section must be a form that is in quintuplicate.}~~ Upon receipt of an application that is completed and submitted pursuant to this section, the ~~{Division}~~ **Department** shall ~~{~~:

- ~~— (a) Record on the application the date on which it was received;~~
- ~~— (b) Retain one copy of the application for the records of the Division; and~~

~~—(c) Distribute the other four copies of the application in the following manner:~~

- ~~—(1) One copy to the person who submitted the application;~~
- ~~—(2) One copy to the applicant's designated primary caregiver, if any;~~
- ~~—(3) One copy to the Central Repository for Nevada Records of Criminal History; and~~
- ~~—(4) One copy to:~~

~~—(I) If the attending physician of the applicant is licensed to practice medicine pursuant to the provisions of chapter 630 of NRS, the Board of Medical Examiners; or~~

~~—(II) If the attending physician of the applicant is licensed to practice osteopathic medicine pursuant to the provisions of chapter 633 of NRS, the State Board of Osteopathic Medicine.~~

~~↔ The Central Repository for Nevada Records of Criminal History shall report to the Division its findings as to the criminal history, if any, of an applicant within 15 days after receiving a copy of an application pursuant to subparagraph (3) of paragraph (c). The Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, shall report to the Division its findings as to the licensure and standing of the applicant's attending physician within 15 days after receiving a copy of an application pursuant to subparagraph (4) of paragraph (c).~~

~~—5. The Division shall verify the information contained in an application submitted pursuant to this section} **verify whether the applicant is listed in the medical marijuana registry** and shall approve or deny {an} the application within 30 days after receiving the application. The {Division may contact an applicant, the applicant's attending physician and designated primary caregiver, if any, by telephone to determine that the information provided on or accompanying the application is accurate. The Division} **Department** may deny an application only on the following grounds:~~

~~(a) The {applicant failed to provide the information required pursuant to subsections 2 and 3 to:~~

~~—(1) Establish the applicant's chronic or debilitating medical condition;~~

~~or~~

~~—(2) Document the applicant's consultation with an attending physician regarding the medical use of marijuana in connection with that condition;~~

~~—(b) The applicant failed to comply with regulations adopted by the Division, including, without limitation, the regulations adopted by the Administrator pursuant to NRS 453A.740;~~

~~—(c) The Division determines that the information provided by the applicant was falsified;~~

~~—(d) The Division determines that the attending physician of the applicant is not licensed to practice medicine or osteopathic medicine in this State or is not in good standing, as reported by the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable;~~

~~—(e) The Division determines that the applicant, or the applicant's designated primary caregiver, if applicable, has been convicted of knowingly or intentionally selling a controlled substance;~~

~~—(f) The Division~~ **Department** has prohibited the applicant from ~~{obtaining or using a registry identification card or letter of approval}~~ **being listed in the medical marijuana registry** pursuant to subsection 2 of NRS 453A.300;

~~{(g) The Division determines that the applicant, or the applicant's designated primary caregiver, if applicable, has had a registry identification card or letter of approval revoked pursuant to NRS 453A.225;}~~

(b) The Department determines that the applicant is not listed in the medical marijuana registry; or

~~{(h)}~~ **(c)** In the case of a person under 18 years of age, the custodial parent or legal guardian with responsibility for health care decisions for the person has not signed the written statement required pursuant to paragraph ~~{(b)}~~ **(c)** of subsection 3.

~~{6.}~~ **5.** The decision of the ~~{Division}~~ **Department** to deny an application for a ~~{registry identification card}~~ **letter of registration** or letter of approval is a final decision for the purposes of judicial review. Only the person whose application has been denied or, in the case of a person under 18 years of age whose application has been denied, the person's parent or legal guardian, has standing to contest the determination of the ~~{Division}~~ **Department**. A judicial review authorized pursuant to this subsection must be limited to a determination of whether the denial was arbitrary, capricious or otherwise characterized by an abuse of discretion and must be conducted in accordance with the procedures set forth in chapter 233B of NRS for reviewing a final decision of an agency.

~~{7.}~~ **6.** A person whose application has been denied may not reapply for 6 months after the date of the denial, unless the ~~{Division}~~ **Department** or a court of competent jurisdiction authorizes reapplication in a shorter time.

~~{8. Except as otherwise provided in this subsection, if a person has applied for a registry identification card or letter of approval pursuant to this section and the Division has not yet approved or denied the application, the person, and the person's designated primary caregiver, if any, shall be deemed to hold a registry identification card or letter of approval upon the presentation to a law enforcement officer of the copy of the application provided to him or her pursuant to subsection 4.}~~

~~—9. As used in this section, "resident" has the meaning ascribed to it in NRS 483.141.}~~

Sec. 20. NRS 453A.220 is hereby amended to read as follows:

453A.220 1. If the ~~{Division}~~ **Department** approves an application pursuant to subsection ~~{5}~~ **4** of NRS 453A.210, the ~~{Division}~~ **Department** or its designee shall, as soon as practicable after the ~~{Division}~~ **Department** approves the application ~~{:~~

~~—(a) Issue}~~ **, issue a letter of registration or letter of approval , {or serially numbered registry identification card,}** as applicable, to the applicant . ~~{; and~~

~~—(b) If the applicant has designated a primary caregiver, issue a serially numbered registry identification card to the designated primary caregiver.~~

2. A ~~{registry identification card}~~ **letter of registration** issued pursuant to ~~{paragraph (a) of}~~ subsection 1 must set forth:

(a) The name ~~{, address, photograph}~~ and date of birth of the applicant;

(b) The date of issuance ~~{and date of expiration}~~ of the ~~{registry identification card}~~; **letter of registration and the date of expiration of the applicant's listing in the medical marijuana registry;**

(c) The name and ~~{address}~~ **date of birth** of the applicant's designated primary caregiver ~~{, if any;}~~ **or the name and date of birth of the person for whom the applicant is a designated primary caregiver, as applicable;**

(d) The name of the ~~{applicant's designated}~~ medical marijuana dispensary ~~{, if any;}~~ **that listed the applicant in the medical marijuana registry;**

(e) Whether the applicant is authorized to cultivate, grow or produce marijuana pursuant to subsection 6 of NRS 453A.200; and

(f) Any other information prescribed by regulation of the ~~{Division.}~~ **Department.**

3. A letter of approval issued pursuant to ~~{paragraph (a) of}~~ subsection 1 must set forth:

(a) The name ~~{, address}~~ and date of birth of the applicant;

(b) The date of issuance ~~{and date of expiration}~~ of the ~~{registry identification card of the designated primary caregiver;}~~ **letter of approval and the date of expiration of the applicant's listing in the medical marijuana registry;**

(c) The name and ~~{address}~~ **date of birth** of the applicant's designated primary caregiver;

(d) The name of the ~~{applicant's designated}~~ medical marijuana dispensary ~~{, if any;}~~ **that listed the applicant in the medical marijuana registry;** and

(e) Any other information prescribed by regulation of the ~~{Division.}~~ **Department.**

4. ~~{A registry identification card issued pursuant to paragraph (b) of subsection 1 must set forth:~~

~~—(a) The name, address and photograph of the designated primary caregiver;~~

~~—(b) The date of issuance and date of expiration of the registry identification card;~~

~~—(c) The name and address of the applicant for whom the person is the designated primary caregiver;~~

~~—(d) The name of the designated primary caregiver's designated medical marijuana dispensary, if any;~~

~~—(e) Whether the designated primary caregiver is authorized to cultivate, grow or produce marijuana pursuant to subsection 6 of NRS 453A.200; and~~

~~—(f) Any other information prescribed by regulation of the Division.~~

~~—5.] Except as otherwise provided in ~~[NRS 453A.225, subsection 3 of]~~ NRS 453A.230 ~~[and subsection 2 of NRS 453A.300, a registry identification card]~~, a **letter of registration** or letter of approval issued pursuant to this section ~~[is valid for a period of 1 year and may be renewed in accordance with regulations adopted by the Division.]~~ **expires on the date on which the applicant's listing in the medical marijuana registry expires.**~~

Sec. 21. NRS 453A.225 is hereby amended to read as follows:

453A.225 1. If, at any time after the ~~[Division]~~ **Department** or its designee has issued a ~~[registry identification card]~~ **letter of registration** or letter of approval to a person pursuant to ~~[paragraph (a) of]~~ subsection 1 of NRS 453A.220, the ~~[Division]~~ **Department** determines, on the basis of official documents or records or other credible evidence, that the person ~~is~~:

~~—(a) Provided falsified information on his or her application to the Division or its designee, as described in paragraph (c) of subsection 5 of NRS 453A.210; or~~

~~—(b) Has been convicted of knowingly or intentionally selling a controlled substance, as described in paragraph (c) of subsection 5 of NRS 453A.210,~~

~~↗] is not listed in the medical marijuana registry,~~ the ~~[Division]~~ **Department** shall immediately revoke the ~~[registry identification card]~~ **letter of registration** or letter of approval issued to that person. ~~[and shall immediately revoke the registry identification card issued to that person's designated primary caregiver, if any.]~~

~~—2. If, at any time after the Division or its designee has issued a registry identification card to a person pursuant to paragraph (b) of subsection 1 of NRS 453A.220 or pursuant to NRS 453A.250, the Division determines, on the basis of official documents or records or other credible evidence, that the person has been convicted of knowingly or intentionally selling a controlled substance, as described in paragraph (c) of subsection 5 of NRS 453A.210, the Division shall immediately revoke the registry identification card issued to that person.~~

~~—3.]~~ 2. Upon the revocation of a ~~[registry identification card]~~ **letter of registration** or letter of approval pursuant to this section:

(a) The ~~[Division]~~ **Department** shall send, by certified mail, return receipt requested, notice to the person whose ~~[registry identification card]~~ **letter of registration** or letter of approval has been revoked, advising the person of the requirements of paragraph (b); and

(b) The person shall return his or her ~~[registry identification card]~~ **letter of registration** or letter of approval to the ~~[Division]~~ **Department** within 7 days after receiving the notice sent pursuant to paragraph (a).

~~[4.]~~ 3. The decision of the ~~[Division]~~ **Department** to revoke a ~~[registry identification card]~~ **letter of registration** or letter of approval pursuant to this section is a final decision for the purposes of judicial review.

~~[5.]~~ 4. A person whose ~~[registry identification card]~~ **letter of registration** or letter of approval has been revoked pursuant to this section may not reapply for a ~~[registry identification card]~~ **letter of registration** or letter of

approval pursuant to NRS 453A.210 for 12 months after the date of the revocation, unless the ~~{Division}~~ **Department** or a court of competent jurisdiction authorizes reapplication in a shorter time.

Sec. 22. NRS 453A.230 is hereby amended to read as follows:

453A.230 1. A person to whom the ~~{Division}~~ **Department** or its designee has issued a ~~{registry identification card}~~ **letter of registration** or letter of approval pursuant to ~~{paragraph (a) of}~~ subsection 1 of NRS 453A.220 shall, in accordance with regulations adopted by the ~~{Division}~~:

~~—(a) Notify~~ **Department, notify** the ~~{Division}~~ **Department** of any change in the person's name, ~~{address, telephone number, designated medical marijuana dispensary, attending physician}~~ **registration with the medical marijuana registry** or designated primary caregiver, if any. ~~}; and~~

~~—(b) Submit annually to the Division:~~

~~—(1) Updated written documentation from the person's attending physician in which the attending physician sets forth that:~~

~~—(I) The person continues to suffer from a chronic or debilitating medical condition;~~

~~—(II) The medical use of marijuana may mitigate the symptoms or effects of that condition; and~~

~~—(III) The attending physician has explained to the person the possible risks and benefits of the medical use of marijuana; and~~

~~—(2) If the person elects to designate a primary caregiver for the subsequent year and the primary caregiver so designated was not the person's designated primary caregiver during the previous year:~~

~~—(I) The name, address, telephone number and social security number of the designated primary caregiver; and~~

~~—(II) A written, signed statement from the person's attending physician in which the attending physician approves of the designation of the primary caregiver.~~

~~—2. A person to whom the Division or its designee has issued a registry identification card pursuant to paragraph (b) of subsection 1 of NRS 453A.220 or pursuant to NRS 453A.250 shall, in accordance with regulations adopted by the Division, notify the Division of any change in the person's name, address, telephone number, designated medical marijuana dispensary or the identity of the person for whom he or she acts as designated primary caregiver.~~

~~—3.}~~ 2. If a person fails to comply with the provisions of subsection 1 ~~{or 2, the registry identification card}~~ , **the letter of registration** or letter of approval issued to the person shall be deemed expired. If the ~~{registry identification card}~~ **letter of registration** or letter of approval of a person to whom the ~~{Division}~~ **Department** or its designee issued the ~~{card or}~~ letter pursuant to ~~{paragraph (a) of}~~ subsection 1 of NRS 453A.220 is deemed expired pursuant to this subsection, a ~~{registry identification card}~~ **letter of registration** issued to the person's designated primary caregiver, if any, shall also be deemed expired. Upon the deemed expiration of a ~~{registry~~

~~identification card~~ **letter of registration** or letter of approval pursuant to this subsection:

(a) The ~~Division~~ **Department** shall send, by certified mail, return receipt requested, notice to the person whose ~~registry identification card~~ **letter of registration** or letter of approval has been deemed expired, advising the person of the requirements of paragraph (b); and

(b) The person shall return his or her ~~registry identification card~~ **letter of registration** or letter of approval to the ~~Division~~ **Department** within 7 days after receiving the notice sent pursuant to paragraph (a).

Sec. 23. NRS 453A.240 is hereby amended to read as follows:

453A.240 If a person to whom the ~~Division~~ **Department** or its designee has issued a ~~registry identification card~~ **letter of registration** or letter of approval pursuant to ~~paragraph (a) of~~ subsection 1 of NRS 453A.220 is ~~diagnosed by the person's attending physician as~~ no longer ~~having a chronic or debilitating medical condition,~~ **listed in the medical marijuana registry**, the person shall return his or her ~~registry identification card~~ **letter of registration** or letter of approval and his or her designated primary caregiver, if any, shall return his or her ~~registry identification card~~ **letter of registration** to the ~~Division~~ **Department** within 7 days after ~~notification of the diagnosis,~~ **the expiration of the listing.**

Sec. 24. NRS 453A.250 is hereby amended to read as follows:

453A.250 1. If a person who ~~applies to the Division for a registry identification card or letter of approval or to whom the Division or its designee has issued a registry identification card or letter of approval pursuant to paragraph (a) of subsection 1 of NRS 453A.220~~ **is listed in the medical marijuana registry** desires or is required to designate a primary caregiver, the person must:

(a) To designate a primary caregiver at the time ~~of application,~~ **the person is listed in the medical marijuana registry**, submit to the ~~Division the information required pursuant to paragraph (c) of subsection 2 of NRS 453A.210;~~ **medical marijuana dispensary the name and date of birth of the designated primary caregiver;** or

(b) To designate a primary caregiver after ~~the Division or its designee has issued a registry identification card or letter of approval to~~ the person ~~,~~ **is listed in the medical marijuana registry**, submit to ~~the Division the information required pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 453A.230,~~ **a medical marijuana dispensary the name and date of birth of the designated primary caregiver.**

2. A person may have only one designated primary caregiver at any one time.

3. ~~If a person designates a primary caregiver after the time that the person initially applies for a registry identification card or letter of approval, the Division or its designee shall, except as otherwise provided in subsection 5 of NRS 453A.210, issue a registry identification card to the designated primary caregiver as soon as practicable after receiving the information~~

~~submitted pursuant to paragraph (b) of subsection 1.]~~ **A person who is the parent or legal guardian of one or more children who are listed in the medical marijuana registry may be the designated primary caregiver for each such child regardless of whether the person is also listed in the medical marijuana registry as a patient.**

Sec. 25. NRS 453A.300 is hereby amended to read as follows:

453A.300 1. A person who ~~holds a registry identification card or letter of approval issued to him or her pursuant to NRS 453A.220 or 453A.250]~~ **is listed in the medical marijuana registry** is not exempt from state prosecution for, nor may the person establish an affirmative defense to charges arising from, any of the following acts:

(a) Driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of marijuana.

(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420, 488.425 or 493.130.

(c) Possessing a firearm in violation of paragraph (b) of subsection 1 of NRS 202.257.

(d) Possessing marijuana in violation of NRS 453.336 or possessing paraphernalia in violation of NRS 453.560 or 453.566:

(1) If the possession of the marijuana or paraphernalia is discovered because the person engaged or assisted in the medical use of marijuana in:

(I) Any public place or in any place open to the public or exposed to public view; or

(II) Any local detention facility, county jail, state prison, reformatory or other correctional facility, including, without limitation, any facility for the detention of juvenile offenders; or

(2) If the possession of the marijuana or paraphernalia occurs on school property.

(e) Delivering marijuana to another person who he or she knows ~~does not lawfully hold a registry identification card or letter of approval issued by the Division or its designee pursuant to NRS 453A.220 or 453A.250.]~~ **is not listed in the medical marijuana registry.**

(f) Delivering marijuana for consideration to any person, regardless of whether the recipient ~~lawfully holds a registry identification card or letter of approval issued by the Division or its designee pursuant to NRS 453A.220 or 453A.250.]~~ **is listed in the medical marijuana registry.**

2. Except as otherwise provided in NRS 453A.225 and in addition to any other penalty provided by law, if the ~~Division]~~ **Department** determines that a person has willfully violated a provision of this chapter or any regulation adopted by the ~~Division]~~ **Department** to carry out the provisions of this chapter, the ~~Division]~~ **Department** may, at its own discretion, prohibit the person from ~~obtaining or using a registry identification card or letter of approval]~~ **being listed in the medical marijuana registry** for a period of up to 6 months.

3. As used in this section, “school property” means the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

Sec. 26. NRS 453A.310 is hereby amended to read as follows:

453A.310 1. Except as otherwise provided in this section and NRS 453A.300, it is an affirmative defense to a criminal charge of possession, delivery or production of marijuana, or any other criminal offense in which possession, delivery or production of marijuana is an element, that the person charged with the offense:

(a) Is a person who:

(1) Has been diagnosed with a chronic or debilitating medical condition within the 12-month period preceding his or her arrest and has been advised by his or her attending physician that the medical use of marijuana may mitigate the symptoms or effects of that chronic or debilitating medical condition;

(2) Is engaged in the medical use of marijuana; and

(3) Possesses, delivers or produces marijuana only in the amount described in paragraph (b) of subsection 3 of NRS 453A.200 or in excess of that amount if the person proves by a preponderance of the evidence that the greater amount is medically necessary as determined by the person’s attending physician to mitigate the symptoms or effects of the person’s chronic or debilitating medical condition; or

(b) Is a person who:

(1) Is assisting a person described in paragraph (a) in the medical use of marijuana; and

(2) Possesses, delivers or produces marijuana only in the amount described in paragraph (b) of subsection 3 of NRS 453A.200 or in excess of that amount if the person proves by a preponderance of the evidence that the greater amount is medically necessary as determined by the assisted person’s attending physician to mitigate the symptoms or effects of the assisted person’s chronic or debilitating medical condition.

2. A person need not hold a ~~registry identification card~~ **letter of registration** or letter of approval issued to the person by the ~~Division~~ **Department** or its designee pursuant to NRS 453A.220 ~~for 453A.250~~ to assert an affirmative defense described in this section.

3. Except as otherwise provided in this section and in addition to the affirmative defense described in subsection 1, a person engaged or assisting in the medical use of marijuana who is charged with a crime pertaining to the medical use of marijuana is not precluded from:

(a) Asserting a defense of medical necessity; or

(b) Presenting evidence supporting the necessity of marijuana for treatment of a specific disease or medical condition,

↪ if the amount of marijuana at issue is not greater than the amount described in paragraph (b) of subsection 3 of NRS 453A.200 and the person has taken steps to comply substantially with the provisions of this chapter.

4. A defendant who intends to offer an affirmative defense described in this section shall, not less than 5 days before trial or at such other time as the court directs, file and serve upon the prosecuting attorney a written notice of the defendant's intent to claim the affirmative defense. The written notice must:

(a) State specifically why the defendant believes he or she is entitled to assert the affirmative defense; and

(b) Set forth the factual basis for the affirmative defense.

➡ A defendant who fails to provide notice of his or her intent to claim an affirmative defense as required pursuant to this subsection may not assert the affirmative defense at trial unless the court, for good cause shown, orders otherwise.

Sec. 27. NRS 453A.322 is hereby amended to read as follows:

453A.322 1. Each medical marijuana establishment must register with the ~~{Division}~~ **Department**.

2. A person who wishes to operate a medical marijuana establishment must submit to the ~~{Division}~~ **Department** an application on a form prescribed by the ~~{Division}~~ **Department**.

3. Except as otherwise provided in NRS 453A.324, 453A.326, 453A.328 and 453A.340, not later than 90 days after receiving an application to operate a medical marijuana establishment, the ~~{Division}~~ **Department** shall register the medical marijuana establishment and issue a medical marijuana establishment registration certificate and a random 20-digit alphanumeric identification number if:

(a) The person who wishes to operate the proposed medical marijuana establishment has submitted to the ~~{Division}~~ **Department** all of the following:

(1) The application fee, as set forth in NRS 453A.344;

(2) An application, which must include:

(I) The legal name of the proposed medical marijuana establishment;

(II) The physical address where the proposed medical marijuana establishment will be located and the physical address of any co-owned additional or otherwise associated medical marijuana establishments, the locations of which may not be within 1,000 feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12 and that existed on the date on which the application for the proposed medical marijuana establishment was submitted to the ~~{Division}~~ **Department**, or within 300 feet of a community facility that existed on the date on which the application for the proposed medical marijuana establishment was submitted to the ~~{Division}~~ **Department**;

(III) Evidence that the applicant controls not less than \$250,000 in liquid assets to cover the initial expenses of opening the proposed medical marijuana establishment and complying with the provisions of NRS 453A.320 to 453A.370, inclusive;

(IV) Evidence that the applicant owns the property on which the proposed medical marijuana establishment will be located or has the written permission of the property owner to operate the proposed medical marijuana establishment on that property;

(V) For the applicant and each person who is proposed to be an owner, officer or board member of the proposed medical marijuana establishment, a complete set of the person's fingerprints and written permission of the person authorizing the ~~{Division}~~ **Department** 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;

(VI) The name, address and date of birth of each person who is proposed to be an owner, officer or board member of the proposed medical marijuana establishment; and

(VII) The name, address and date of birth of each person who is proposed to be employed by or otherwise provide labor at the proposed medical marijuana establishment as a medical marijuana establishment agent;

(3) Operating procedures consistent with rules of the ~~{Division}~~ **Department** for oversight of the proposed medical marijuana establishment, including, without limitation:

(I) Procedures to ensure the use of adequate security measures; and

(II) The use of an electronic verification system and an inventory control system, pursuant to NRS 453A.354 and 453A.356;

(4) If the proposed medical marijuana establishment will sell or deliver edible marijuana products or marijuana-infused products, proposed operating procedures for handling such products which must be preapproved by the ~~{Division};~~ **Department;**

(5) If the city, town or county in which the proposed medical marijuana establishment will be located has enacted zoning restrictions, proof of licensure with the applicable local governmental authority or a letter from the applicable local governmental authority certifying that the proposed medical marijuana establishment is in compliance with those restrictions and satisfies all applicable building requirements; and

(6) Such other information as the ~~{Division}~~ **Department** may require by regulation;

(b) None of the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment have been convicted of an excluded felony offense;

(c) None of the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment have:

(1) Served as an owner, officer or board member for a medical marijuana establishment that has had its medical marijuana establishment registration certificate revoked; or

(2) Previously had a medical marijuana establishment agent registration card revoked; and

(d) None of the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment are under 21 years of age.

4. For each person who submits an application pursuant to this section, and each person who is proposed to be an owner, officer or board member of a proposed medical marijuana establishment, the ~~{Division}~~ **Department** shall submit the fingerprints of the person to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the criminal history of that person.

5. Except as otherwise provided in subsection 6, if an application for registration as a medical marijuana establishment satisfies the requirements of this section and the establishment is not disqualified from being registered as a medical marijuana establishment pursuant to this section or other applicable law, the ~~{Division}~~ **Department** shall issue to the establishment a medical marijuana establishment registration certificate. A medical marijuana establishment registration certificate expires 1 year after the date of issuance and may be renewed upon:

- (a) Resubmission of the information set forth in this section; and
- (b) Payment of the renewal fee set forth in NRS 453A.344.

6. In determining whether to issue a medical marijuana establishment registration certificate pursuant to this section, the ~~{Division}~~ **Department** shall consider the criteria of merit set forth in NRS 453A.328.

7. As used in this section, “community facility” means:

- (a) A facility that provides day care to children.
- (b) A public park.
- (c) A playground.
- (d) A public swimming pool.
- (e) A center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents.
- (f) A church, synagogue or other building, structure or place used for religious worship or other religious purpose.

Sec. 28. NRS 453A.324 is hereby amended to read as follows:

453A.324 1. Except as otherwise provided in this section and NRS 453A.326, the ~~{Division}~~ **Department** shall issue medical marijuana establishment registration certificates for medical marijuana dispensaries in the following quantities for applicants who qualify pursuant to NRS 453A.322:

- (a) In a county whose population is 700,000 or more, 40 certificates;
- (b) In a county whose population is 100,000 or more but less than 700,000, ten certificates;
- (c) In a county whose population is 55,000 or more but less than 100,000, two certificates; and
- (d) In each other county, one certificate.

2. Notwithstanding the provisions of subsection 1, the ~~{Division}~~ **Department**:

(a) Shall not issue medical marijuana establishment registration certificates for medical marijuana dispensaries in such a quantity as to cause the existence within the applicable county of more than one medical marijuana dispensary for every ten pharmacies that have been licensed in the county pursuant to chapter 639 of NRS. The ~~{Division}~~ **Department** may issue medical marijuana establishment registration certificates for medical marijuana dispensaries in excess of the ratio otherwise allowed pursuant to this paragraph if to do so is necessary to ensure that the ~~{Division}~~ **Department** issues at least one medical marijuana establishment registration certificate in each county of this State in which the ~~{Division}~~ **Department** has approved an application for such an establishment to operate.

(b) Shall, for any county for which no applicants qualify pursuant to NRS 453A.322, within 2 months after the end of the period during which the ~~{Division}~~ **Department** accepts applications pursuant to subsection 4, reallocate the certificates provided for that county pursuant to subsection 1 to the other counties specified in subsection 1 in the same proportion as provided in subsection 1.

3. With respect to medical marijuana establishments that are not medical marijuana dispensaries, the ~~{Division}~~ **Department** shall determine the appropriate number of such establishments as are necessary to serve and supply the medical marijuana dispensaries to which the ~~{Division}~~ **Department** has granted medical marijuana establishment registration certificates.

4. The ~~{Division}~~ **Department** shall not, for more than a total of 10 business days in any 1 calendar year, accept applications to operate medical marijuana establishments.

Sec. 29. NRS 453A.326 is hereby amended to read as follows:

453A.326 1. Except as otherwise provided in this subsection, in a county whose population is 100,000 or more, the ~~{Division}~~ **Department** shall ensure that not more than 25 percent of the total number of medical marijuana dispensaries that may be certified in the county, as set forth in NRS 453A.324, are located in any one local governmental jurisdiction within the county. The board of county commissioners of the county may increase the percentage described in this subsection if it determines that to do so is necessary to ensure that the more populous areas of the county have access to sufficient distribution of marijuana for medical use.

2. To prevent monopolistic practices, the ~~{Division}~~ **Department** shall ensure, in a county whose population is 100,000 or more, that it does not issue, to any one person, group of persons or entity, the greater of:

(a) One medical marijuana establishment registration certificate; or
(b) More than 10 percent of the medical marijuana establishment registration certificates otherwise allocable in the county.

3. In a local governmental jurisdiction that issues business licenses, the issuance by the ~~{Division}~~ **Department** of a medical marijuana establishment registration certificate shall be deemed to be provisional until such time as:

(a) The establishment is in compliance with all applicable local governmental ordinances or rules; and

(b) The local government has issued a business license for the operation of the establishment.

4. As used in this section, “local governmental jurisdiction” means a city, town, township or unincorporated area within a county.

Sec. 30. NRS 453A.328 is hereby amended to read as follows:

453A.328 In determining whether to issue a medical marijuana establishment registration certificate pursuant to NRS 453A.322, the ~~{Division}~~ **Department** shall, in addition to the factors set forth in that section, consider the following criteria of merit:

1. The total financial resources of the applicant, both liquid and illiquid;

2. The previous experience of the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment at operating other businesses or nonprofit organizations;

3. The educational achievements of the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment;

4. Any demonstrated knowledge or expertise on the part of the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment with respect to the compassionate use of marijuana to treat medical conditions;

5. Whether the proposed location of the proposed medical marijuana establishment would be convenient to serve the needs of persons who are authorized to engage in the medical use of marijuana;

6. The likely impact of the proposed medical marijuana establishment on the community in which it is proposed to be located;

7. The adequacy of the size of the proposed medical marijuana establishment to serve the needs of persons who are authorized to engage in the medical use of marijuana;

8. Whether the applicant has an integrated plan for the care, quality and safekeeping of medical marijuana from seed to sale;

9. The amount of taxes paid to, or other beneficial financial contributions made to, the State of Nevada or its political subdivisions by the applicant or the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment; and

10. Any other criteria of merit that the ~~{Division}~~ **Department** determines to be relevant.

Sec. 31. NRS 453A.332 is hereby amended to read as follows:

453A.332 1. Except as otherwise provided in this section, a person shall not volunteer or work at, contract to provide labor to or be employed by an independent contractor to provide labor to a medical marijuana establishment as a medical marijuana establishment agent unless the person is registered with the ~~{Division}~~ **Department** pursuant to this section.

2. A **person who wishes to volunteer or work at a medical marijuana establishment, or a** medical marijuana establishment that wishes to retain as a volunteer or employ ~~to a medical marijuana establishment agent~~ **such a person**, shall submit to the ~~Division~~ **Department** an application on a form prescribed by the ~~Division~~ **Department**. The application must be accompanied by:

(a) The name, address and date of birth of the prospective medical marijuana establishment agent;

(b) A statement signed by the prospective medical marijuana establishment agent pledging not to dispense or otherwise divert marijuana to any person who is not authorized to possess marijuana in accordance with the provisions of this chapter;

(c) A statement signed by the prospective medical marijuana establishment agent asserting that he or she has not previously had a medical marijuana establishment agent registration card revoked;

(d) A complete set of the fingerprints and written permission of the prospective medical marijuana establishment agent authorizing the ~~Division~~ **Department** 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;

(e) The application fee, as set forth in NRS 453A.344; and

(f) Such other information as the ~~Division~~ **Department** may require by regulation.

3. A **person who wishes to contract to provide labor to or be employed by an independent contractor to provide labor to a medical marijuana establishment, or a** medical marijuana establishment that wishes to contract with ~~an independent contractor to provide labor as a medical marijuana establishment agent~~ **such a person**, shall submit to the ~~Division~~ **Department** an application on a form prescribed by the ~~Division~~ **Department** for the registration of the independent contractor and each employee of the independent contractor who will provide labor as a medical marijuana establishment agent. The application must be accompanied by:

(a) The name, address and, if the prospective medical marijuana establishment agent has a state business registration, the business identification number assigned by the Secretary of State upon compliance with the provisions of chapter 76 of NRS;

(b) The name, address and date of birth of each employee of the prospective medical marijuana establishment agent who will provide labor as a medical marijuana establishment agent;

(c) A statement signed by the prospective medical marijuana establishment agent pledging not to dispense or otherwise divert marijuana to, or allow any of its employees to dispense or otherwise divert marijuana to, any person who is not authorized to possess marijuana in accordance with the provisions of this chapter;

(d) A statement signed by the prospective medical marijuana establishment agent asserting that it has not previously had a medical marijuana establishment agent registration card revoked and that none of its employees who will provide labor as a medical marijuana establishment agent have previously had a medical marijuana establishment agent registration card revoked;

(e) A complete set of the fingerprints of each employee of the prospective medical marijuana establishment agent who will provide labor as a medical marijuana establishment agent and written permission of the prospective medical marijuana establishment agent and each employee of the prospective medical marijuana establishment agent authorizing the ~~{Division}~~ **Department** 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;

(f) The application fee, as set forth in NRS 453A.344; and

(g) Such other information as the ~~{Division}~~ **Department** may require by regulation.

4. A medical marijuana establishment shall notify the ~~{Division}~~ **Department** within 10 days after a medical marijuana establishment agent ceases to be employed by, volunteer at or provide labor as a medical marijuana establishment agent to the medical marijuana establishment.

5. A person who:

(a) Has been convicted of an excluded felony offense; or

(b) Is less than 21 years of age,

↪ shall not serve as a medical marijuana establishment agent.

6. The ~~{Division}~~ **Department** shall submit the fingerprints of an applicant for registration as a medical marijuana establishment agent to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the criminal history of the applicant.

7. The provisions of this section do not require a person who is an owner, officer or board member of a medical marijuana establishment to resubmit information already furnished to the ~~{Division}~~ **Department** at the time the establishment was registered with the ~~{Division}~~ **Department**.

8. If an applicant for registration as a medical marijuana establishment agent satisfies the requirements of this section and is not disqualified from serving as such an agent pursuant to this section or any other applicable law, the ~~{Division}~~ **Department** shall issue to the person and, for an independent contractor, to each person identified in the independent contractor's application for registration as an employee who will provide labor as a medical marijuana establishment agent, a medical marijuana establishment agent registration card. If the ~~{Division}~~ **Department** does not act upon an application for a medical marijuana establishment agent registration card within 30 days after the date on which the application is received, the application shall be deemed conditionally approved until such time as the

~~{Division}~~ **Department** acts upon the application. A medical marijuana establishment agent registration card expires 1 year after the date of issuance and may be renewed upon:

- (a) Resubmission of the information set forth in this section; and
- (b) Payment of the renewal fee set forth in NRS 453A.344.

9. A medical marijuana establishment agent registration card issued pursuant to this section to an independent contractor or an employee of an independent contractor authorizes the independent contractor or employee to provide labor to any medical marijuana establishment in this State.

10. A medical marijuana establishment agent registration card issued pursuant to this section to a person who wishes to volunteer or work at a medical marijuana establishment authorizes the person to volunteer or work at any medical marijuana establishment in this State for which the category of the medical marijuana establishment agent registration card authorizes the person to volunteer or work.

11. Except as otherwise prescribed by regulation of the Department, an applicant for registration or renewal of registration as a medical marijuana establishment agent is deemed temporarily registered as a medical marijuana establishment agent on the date on which a complete application for registration or renewal of registration is submitted to the Department. A temporary registration as a medical marijuana establishment agent expires 30 days after the date upon which the application is received.

Sec. 32. NRS 453A.334 is hereby amended to read as follows:

453A.334 1. Except as otherwise provided in subsection 2, the following are nontransferable:

- (a) A medical marijuana establishment agent registration card.
- (b) A medical marijuana establishment registration certificate.

2. A medical marijuana establishment may transfer all or any portion of its ownership to another party, and the ~~{Division}~~ **Department** shall transfer the medical marijuana establishment registration certificate issued to the establishment to the party acquiring ownership, if the party who will acquire the ownership of the medical marijuana establishment submits:

(a) Evidence satisfactory to the ~~{Division}~~ **Department** that the party has complied with the provisions of sub-subparagraph (III) of subparagraph (2) of paragraph (a) of subsection 3 of NRS 453A.322 for the purpose of operating the medical marijuana establishment.

(b) For the party and each person who is proposed to be an owner, officer or board member of the proposed medical marijuana establishment, the name, address and date of birth of the person, a complete set of the person's fingerprints and written permission of the person authorizing the ~~{Division}~~ **Department** 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.

(c) Proof satisfactory to the ~~{Division}~~ **Department** that, as a result of the transfer of ownership, no person, group of persons or entity will, in a county whose population is 100,000 or more, hold more than one medical marijuana establishment registration certificate or more than 10 percent of the medical marijuana establishment registration certificates allocated to the county, whichever is greater.

Sec. 33. NRS 453A.336 is hereby amended to read as follows:

453A.336 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a medical marijuana establishment agent registration card or medical marijuana establishment registration certificate shall:

(a) Include the social security number of the applicant in the application submitted to the ~~{Division}~~ **Department**.

(b) Submit to the ~~{Division}~~ **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 ~~{Division}~~ **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 medical marijuana establishment agent registration card or medical marijuana establishment registration certificate; or

(b) A separate form prescribed by the ~~{Division}~~ **Department**.

3. A medical marijuana establishment agent registration card or medical marijuana establishment registration certificate may not be issued or renewed by the ~~{Division}~~ **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 ~~{Division}~~ **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.

Sec. 34. NRS 453A.338 is hereby amended to read as follows:

453A.338 1. If the ~~{Division}~~ **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 the holder of a medical marijuana establishment

agent registration card or medical marijuana establishment registration certificate, the ~~{Division}~~ **Department** shall deem the card or certificate issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the ~~{Division}~~ **Department** receives a letter issued to the holder of the card or certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the card or certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The ~~{Division}~~ **Department** shall reinstate a medical marijuana establishment agent registration card or medical marijuana establishment registration certificate that has been suspended by a district court pursuant to NRS 425.540 if the ~~{Division}~~ **Department** receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose card or certificate was suspended stating that the person whose card or certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 35. NRS 453A.340 is hereby amended to read as follows:

453A.340 The following acts constitute grounds for immediate revocation of a medical marijuana establishment registration certificate:

1. Dispensing, delivering or otherwise transferring marijuana to a person other than a medical marijuana establishment agent, another medical marijuana establishment or a person who ~~{holds a valid registry identification card, including, without limitation, a designated primary caregiver.}~~ **is listed in the medical marijuana registry.**

2. Acquiring usable marijuana or mature marijuana plants from any person other than a medical marijuana establishment agent, another medical marijuana establishment or a person who ~~{holds a valid registry identification card, including, without limitation, a designated primary caregiver.}~~ **is listed in the medical marijuana registry.**

3. Violating a regulation of the ~~{Division,}~~ **Department**, the violation of which is stated to be grounds for immediate revocation of a medical marijuana establishment registration certificate.

4. Failure to pay a fee imposed pursuant to NRS 453A.330.

Sec. 36. NRS 453A.342 is hereby amended to read as follows:

453A.342 The following acts constitute grounds for the immediate revocation of the medical marijuana establishment agent registration card of a medical marijuana establishment agent:

1. Having committed or committing any excluded felony offense.

2. Dispensing, delivering or otherwise transferring marijuana to a person other than a medical marijuana establishment agent, another medical marijuana establishment or a person who ~~{holds a valid registry identification card, including, without limitation, a designated primary caregiver.}~~ **is listed in the medical marijuana registry.**

3. Violating a regulation of the ~~{Division}~~ **Department**, the violation of which is stated to be grounds for immediate revocation of a medical marijuana establishment agent registration card.

Sec. 37. NRS 453A.344 is hereby amended to read as follows:

453A.344 1. Except as otherwise provided in subsection 2, the ~~{Division}~~ **Department** shall collect not more than the following maximum fees:

For the initial issuance of a medical marijuana establishment registration certificate for a medical marijuana dispensary.....	\$30,000
For the renewal of a medical marijuana establishment registration certificate for a medical marijuana dispensary.....	5,000
For the initial issuance of a medical marijuana establishment registration certificate for a cultivation facility.....	3,000
For the renewal of a medical marijuana establishment registration certificate for a cultivation facility	1,000
For the initial issuance of a medical marijuana establishment registration certificate for a facility for the production of edible marijuana products or marijuana-infused products	3,000
For the renewal of a medical marijuana establishment registration certificate for a facility for the production of edible marijuana products or marijuana-infused products	1,000
For each person identified in an application for the initial issuance of a medical marijuana establishment agent registration card.....	75
For each person identified in an application for the renewal of a medical marijuana establishment agent registration card.....	75
For the initial issuance of a medical marijuana establishment registration certificate for an independent testing laboratory.....	5,000
For the renewal of a medical marijuana establishment registration certificate for an independent testing laboratory.....	3,000

2. In addition to the fees described in subsection 1, each applicant for a medical marijuana establishment registration certificate must pay to the ~~{Division}~~ **Department**:

- (a) A one-time, nonrefundable application fee of \$5,000; and
- (b) The actual costs incurred by the ~~{Division}~~ **Department** in processing the application, including, without limitation, conducting background checks.

3. Any revenue generated from the fees imposed pursuant to this section:

(a) Must be expended first to pay the costs of the ~~{Division}~~ **Department** in carrying out the provisions of NRS 453A.320 to 453A.370, inclusive; and

(b) If any excess revenue remains after paying the costs described in paragraph (a), such excess revenue must be paid over to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.

Sec. 38. NRS 453A.352 is hereby amended to read as follows:

453A.352 1. The operating documents of a medical marijuana establishment must include procedures:

(a) For the oversight of the medical marijuana establishment; and

(b) To ensure accurate recordkeeping, including, without limitation, the provisions of NRS 453A.354 and 453A.356.

2. Except as otherwise provided in this subsection, a medical marijuana establishment:

(a) That is a medical marijuana dispensary must have a single entrance for patrons, which must be secure, and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

(b) That is not a medical marijuana dispensary must have a single secure entrance and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

↪ The provisions of this subsection do not supersede any state or local requirements relating to minimum numbers of points of entry or exit, or any state or local requirements relating to fire safety.

3. A medical marijuana establishment is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to:

(a) Directly or indirectly assist patients who ~~{possess valid registry identification cards;}~~ **are listed in the medical marijuana registry; and**

(b) Assist patients who ~~{possess valid registry identification cards or letters of approval}~~ **are listed in the medical marijuana registry** by way of those patients' designated primary caregivers. ~~{; or}~~

(c) Return for a refund marijuana, edible marijuana products or marijuana-infused products to the medical marijuana establishment from which the marijuana, edible marijuana products or marijuana-infused products were acquired.

↪ For the purposes of this subsection, a person shall be deemed to be a patient who ~~{possesses a valid registry identification card or letter of approval}~~ **is listed in the medical marijuana registry** if he or she qualifies for nonresident reciprocity pursuant to NRS 453A.364.

4. All cultivation or production of marijuana that a cultivation facility carries out or causes to be carried out must take place in an enclosed, locked facility at the physical address provided to the ~~{Division}~~ **Department** during the registration process for the cultivation facility. Such an enclosed, locked

facility must be accessible only by medical marijuana establishment agents who are lawfully associated with the cultivation facility, except that limited access by persons necessary to perform construction or repairs or provide other labor is permissible if such persons are supervised by a medical marijuana establishment agent.

5. A medical marijuana dispensary and a cultivation facility may acquire usable marijuana or marijuana plants from a person who ~~holds a valid registry identification card, including, without limitation, a designated primary caregiver.~~ **is listed in the medical marijuana registry.** Except as otherwise provided in this subsection, the patient or caregiver, as applicable, must receive no compensation for the marijuana. A patient who ~~holds a valid registry identification card, and the designated primary caregiver of such a patient, or the designated primary caregiver of a person who holds a letter of approval~~ **is listed in the medical marijuana registry** may sell usable marijuana to a medical marijuana dispensary one time and may sell marijuana plants to a cultivation facility one time.

6. A medical marijuana establishment shall not allow any person to consume marijuana on the property or premises of the establishment.

7. Medical marijuana establishments are subject to reasonable inspection by the ~~Division~~ **Department** at any time, and a person who holds a medical marijuana establishment registration certificate must make himself or herself, or a designee thereof, available and present for any inspection by the ~~Division~~ **Department** of the establishment.

8. **A dual licensee, as defined in NRS 453D.030:**

(a) **Shall comply with the regulations adopted by the Department pursuant to paragraph (k) of subsection 1 of NRS 453D.200 with respect to the medical marijuana establishment operated by the dual licensee; and**

(b) **May, to the extent authorized by such regulations, combine the location or operations of the medical marijuana establishment operated by the dual licensee with the marijuana establishment, as defined in NRS 453D.030, operated by the dual licensee.**

9. **A medical marijuana establishment shall not dispense or otherwise sell marijuana, edible marijuana products or marijuana-infused products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises of the medical marijuana establishment.**

Sec. 39. NRS 453A.354 is hereby amended to read as follows:

453A.354 1. Each medical marijuana establishment, in consultation with the ~~Division~~ **Department**, shall maintain an electronic verification system.

2. The electronic verification system required pursuant to subsection 1 must be able to monitor and report information, including, without limitation:

(a) In the case of a medical marijuana dispensary, for each person who ~~holds a valid registry identification card~~ **is listed in the medical marijuana**

registry and who purchased marijuana from the dispensary in the immediately preceding 60-day period:

- (1) The ~~number~~ **date of birth** of the ~~card~~ **person**;
- (2) The date on which the ~~card~~ **person** was ~~issued~~ **listed in the medical marijuana registry**; and
- (3) The date on which the ~~card~~ **listing of the person in the medical marijuana registry** will expire.

(b) For each medical marijuana establishment agent who is employed by or volunteers at the medical marijuana establishment, the number of the person's medical marijuana establishment agent registration card.

(c) In the case of a medical marijuana dispensary, such information as may be required by the ~~Division~~ **Department** by regulation regarding persons who are not residents of this State and who have purchased marijuana from the dispensary.

(d) Verification of the identity of a person to whom marijuana, edible marijuana products or marijuana-infused products are sold or otherwise distributed.

(e) Such other information as the ~~Division~~ **Department** may require.

3. Nothing in this section prohibits more than one medical marijuana establishment from co-owning an electronic verification system in cooperation with other medical marijuana establishments, or sharing the information obtained therefrom.

4. A medical marijuana establishment must exercise reasonable care to ensure that the personal identifying information of persons who ~~hold registry identification cards~~ **are listed in the medical marijuana registry** which is contained in an electronic verification system is encrypted, protected and not divulged for any purpose not specifically authorized by law.

Sec. 40. NRS 453A.356 is hereby amended to read as follows:

453A.356 1. Each medical marijuana establishment, in consultation with the ~~Division~~ **Department**, shall maintain an inventory control system.

2. The inventory control system required pursuant to subsection 1 must be able to monitor and report information, including, without limitation:

(a) Insofar as is practicable, the chain of custody and current whereabouts, in real time, of medical marijuana from the point that it is harvested at a cultivation facility until it is sold at a medical marijuana dispensary and, if applicable, if it is processed at a facility for the production of edible marijuana products or marijuana-infused products;

(b) The name of each person or other medical marijuana establishment, or both, to which the establishment sold marijuana;

(c) In the case of a medical marijuana dispensary, the date on which it sold marijuana to a person who ~~holds a registry identification card~~ **is listed in the medical marijuana registry** and, if any, the quantity of edible marijuana products or marijuana-infused products sold, measured both by weight and potency; and

(d) Such other information as the ~~Division~~ **Department** may require.

3. Nothing in this section prohibits more than one medical marijuana establishment from co-owning an inventory control system in cooperation with other medical marijuana establishments, or sharing the information obtained therefrom.

4. A medical marijuana establishment must exercise reasonable care to ensure that the personal identifying information of persons who ~~hold registry identification cards~~ **are listed in the medical marijuana registry** which is contained in an inventory control system is encrypted, protected and not divulged for any purpose not specifically authorized by law.

Sec. 41. NRS 453A.358 is hereby amended to read as follows:

453A.358 **1.** Each medical marijuana dispensary shall ensure all of the following:

~~1.1~~ **(a)** The weight, concentration and content of THC in all marijuana, edible marijuana products and marijuana-infused products that the dispensary sells is clearly and accurately stated on the product sold.

~~2.1~~ **(b)** That the dispensary does not sell to a person, in any one ~~14-day period, an amount~~ **transaction, more than 1 ounce** of marijuana . ~~For medical purposes that exceeds the limits set forth in NRS 453A.200.~~

~~3.1~~ **(c)** That, posted clearly and conspicuously within the dispensary, are the legal limits on the possession of marijuana for medical purposes, as set forth in NRS 453A.200.

~~4.1~~ **(d)** That, posted clearly and conspicuously within the dispensary, is a sign stating unambiguously the legal limits on the possession of marijuana for medical purposes, as set forth in NRS 453A.200.

2. A medical marijuana dispensary may, but is not required to, track the purchases of marijuana for medical purposes by any person to ensure that the person does not exceed the legal limits on the possession of marijuana for medical purposes, as set forth in NRS 453A.200. The Department shall not adopt a regulation or in any other way require a medical marijuana dispensary to track the purchases of a person or determine whether the person has exceeded the legal limits on the possession of marijuana for medical purposes, as set forth in NRS 453A.200.

Sec. 42. NRS 453A.360 is hereby amended to read as follows:

453A.360 Each medical marijuana dispensary and facility for the production of edible marijuana products or marijuana-infused products shall, in consultation with the ~~Division,~~ **Department,** cooperate to ensure that all edible marijuana products and marijuana-infused products offered for sale:

1. Are labeled clearly and unambiguously as medical marijuana.
2. Are not presented in packaging that is appealing to children.
3. Are regulated and sold on the basis of the concentration of THC in the products and not by weight.
4. Are packaged and labeled in such a manner as to allow tracking by way of an inventory control system.

Sec. 43. NRS 453A.364 is hereby amended to read as follows:

~~453A.364 1. The State of Nevada and the medical marijuana dispensaries in this State which hold valid medical marijuana establishment registration certificates will recognize a nonresident card **authorization for the medical use of marijuana** only under the following circumstances:~~

~~— (a) The state or jurisdiction from which the holder or bearer obtained the nonresident card **authorization for the medical use of marijuana** grants an exemption from criminal prosecution for the medical use of marijuana;~~

~~— (b) The state or jurisdiction from which the holder or bearer obtained the nonresident card **authorization for the medical use of marijuana** requires, as a prerequisite to the issuance of such a card, **an authorization**, that a physician advise the person that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition;~~

~~— (c) The nonresident card has an expiration date and has not yet expired;~~

~~— (d) The holder or bearer of the nonresident card **authorization for the medical use of marijuana** signs an affidavit in a form prescribed by the Division **Department** which sets forth that the holder or bearer is entitled to engage in the medical use of marijuana in his or her state or jurisdiction of residence; and~~

~~— (e) **(d)** The holder or bearer of the nonresident card **authorization for the medical use of marijuana** agrees to abide by, and does abide by, the legal limits on the possession of marijuana for medical purposes in this State, as set forth in NRS 453A.200.~~

~~2. For the purposes of the reciprocity described in this section:~~

~~— (a) The amount of medical marijuana that the holder or bearer of a nonresident card **authorization for the medical use of marijuana** is entitled to possess in his or her state or jurisdiction of residence is not relevant; and~~

~~— (b) Under no circumstances, while in this State, may the holder or bearer of a nonresident card **authorization for the medical use of marijuana** possess marijuana for medical purposes in excess of the limits set forth in NRS 453A.200.~~

~~3. As used in this section, "nonresident card" **authorization for the medical use of marijuana** means a card or other identification that:~~

~~— (a) Is issued by **an authorization by** a state or jurisdiction other than Nevada; and~~

~~— (b) Is the functional equivalent of a registry identification card or letter of approval, as determined by the Division. **for a person to engage in the medical use of marijuana. The term includes, without limitation, written documentation from a physician if, under the laws of the state or jurisdiction of the person's residence, such documentation would be sufficient to exempt the person from criminal prosecution for the medical use of marijuana.**~~

1. A person who is not a resident of this State, but who is authorized to engage in the medical use of marijuana under the laws of his or her state or jurisdiction of residence, is deemed to be listed in the medical marijuana

registry for the purpose of the exemption from state prosecution described in subsection 1 of NRS 453A.200 if the person abides by the legal limits on the possession, delivery and production of marijuana for medical purposes in this State, as set forth in NRS 453A.200.

2. A medical marijuana dispensary may dispense marijuana to a person described in subsection 1 if the person presents to the medical marijuana dispensary any document which is valid to prove the authorization of the person to engage in the medical use of marijuana under the laws of his or her state or jurisdiction of residence. Such documentation may include, without limitation, written documentation from a physician if, under the laws of the person's state or jurisdiction of residence, written documentation from a physician is sufficient to exempt the person from prosecution for engaging in the medical use of marijuana.

Sec. 44. NRS 453A.366 is hereby amended to read as follows:

453A.366 1. A ~~patient who holds a valid registry identification card or letter of approval and his or her designated primary caregiver, if any,~~ **person who is listed in the medical marijuana registry** may select one medical marijuana dispensary to serve as his or her designated medical marijuana dispensary at any one time.

2. A patient who designates a medical marijuana dispensary as described in subsection 1:

(a) Shall communicate the designation to the ~~{Division}~~ **Department** within the time specified by the ~~{Division}~~ **Department**.

(b) May change his or her designation not more than once in a 30-day period.

Sec. 45. NRS 453A.368 is hereby amended to read as follows:

453A.368 1. The ~~{Division}~~ **Department** shall establish standards for and certify one or more private and independent testing laboratories to test marijuana, edible marijuana products and marijuana-infused products that are to be sold in this State.

2. Such an independent testing laboratory must be able to determine accurately, with respect to marijuana, edible marijuana products and marijuana-infused products that are sold or will be sold at medical marijuana dispensaries in this State:

(a) The concentration therein of THC and cannabidiol.

(b) The presence and identification of molds and fungus.

(c) The composition of the tested material.

(d) The presence of chemicals in the tested material, including, without limitation, pesticides, herbicides or growth regulators.

3. To obtain certification by the ~~{Division}~~ **Department** on behalf of an independent testing laboratory, an applicant must:

(a) Apply successfully as required pursuant to NRS 453A.322.

(b) Pay the fees required pursuant to NRS 453A.344.

Sec. 46. NRS 453A.369 is hereby amended to read as follows:

453A.369 The ~~{Division}~~ **Department** may enter into an interlocal agreement pursuant to NRS 277.080 to 277.180, inclusive, to carry out the provisions of NRS 453A.320 to 453A.370, inclusive.

Sec. 47. NRS 453A.370 is hereby amended to read as follows:

453A.370 The ~~{Division}~~ **Department** shall adopt such regulations as it determines to be necessary or advisable to carry out the provisions of NRS 453A.320 to 453A.370, inclusive. Such regulations are in addition to any requirements set forth in statute and must, without limitation:

1. Prescribe the form and any additional required content of registration and renewal applications submitted pursuant to NRS 453A.322 and 453A.332.

2. Set forth rules pertaining to the safe and healthful operation of medical marijuana establishments, including, without limitation:

(a) The manner of protecting against diversion and theft without imposing an undue burden on medical marijuana establishments or compromising the confidentiality of ~~{the holders of registry identification cards and letters of approval}~~ **persons who are listed in the medical marijuana registry.**

(b) Minimum requirements for the oversight of medical marijuana establishments.

(c) Minimum requirements for the keeping of records by medical marijuana establishments.

(d) Provisions for the security of medical marijuana establishments, including, without limitation, requirements for the protection by a fully operational security alarm system of each medical marijuana establishment.

(e) Procedures pursuant to which medical marijuana dispensaries must use the services of an independent testing laboratory to ensure that any marijuana, edible marijuana products and marijuana-infused products sold by the dispensaries to end users are tested for content, quality and potency in accordance with standards established by the ~~{Division}~~ **Department.**

(f) Procedures pursuant to which a medical marijuana dispensary will be notified by the ~~{Division if a patient who holds a valid registry identification card or letter of approval}~~ **Department if a person who is listed in the medical marijuana registry** has chosen the dispensary as his or her designated medical marijuana dispensary, as described in NRS 453A.366.

3. Establish circumstances and procedures pursuant to which the maximum fees set forth in NRS 453A.344 may be reduced over time:

(a) To ensure that the fees imposed pursuant to NRS 453A.344 are, insofar as may be practicable, revenue neutral; and

(b) To reflect gifts and grants received by the ~~{Division}~~ **Director** pursuant to NRS 453A.720.

4. Set forth the amount of usable marijuana that a medical marijuana dispensary may dispense to a person who ~~{holds a valid registry identification card, including, without limitation, a designated primary caregiver,}~~ **is listed in the medical marijuana registry** in any one 14-day

period. Such an amount must not exceed the limits set forth in NRS 453A.200.

5. As far as possible while maintaining accountability, protect the identity and personal identifying information of each person who receives, facilitates or delivers services in accordance with this chapter.

6. In cooperation with the Board of Medical Examiners and the State Board of Osteopathic Medicine, establish a system to:

(a) Register and track attending physicians who advise their patients that the medical use of marijuana may mitigate the symptoms or effects of the patient's medical condition;

(b) Insofar as is possible, track and quantify the number of times an attending physician described in paragraph (a) makes such an advisement; and

(c) Provide for the progressive discipline of attending physicians who advise the medical use of marijuana at a rate at which the ~~{Division}~~ **Department** and Board determine and agree to be unreasonably high.

7. Establish different categories of medical marijuana establishment agent registration cards, including, without limitation, criteria for training and certification, for each of the different types of medical marijuana establishments at which such an agent may be employed or volunteer or provide labor as a medical marijuana establishment agent.

8. Provide for the maintenance of a log by the ~~{Division}~~ **Department** of each person who is authorized to cultivate, grow or produce marijuana pursuant to subsection 6 of NRS 453A.200. The ~~{Division}~~ **Department** shall ensure that the contents of the log are available for verification by law enforcement personnel 24 hours a day.

9. Address such other matters as may assist in implementing the program of dispensation contemplated by NRS 453A.320 to 453A.370, inclusive.

Sec. 48. NRS 453A.400 is hereby amended to read as follows:

453A.400 1. The fact that a person *is listed in the medical marijuana registry or* possesses a ~~{registry identification card}~~ **letter of registration** or letter of approval issued to the person by the ~~{Division}~~ **Department** or its designee pursuant to NRS 453A.220 , ~~{for 453A.250,}~~ a medical marijuana establishment registration certificate issued to the person by the ~~{Division}~~ **Department** or its designee pursuant to NRS 453A.322 or a medical marijuana establishment agent registration card issued to the person by the ~~{Division}~~ **Department** or its designee pursuant to NRS 453A.332 does not, alone:

(a) Constitute probable cause to search the person or the person's property; or

(b) Subject the person or the person's property to inspection by any governmental agency.

2. Except as otherwise provided in this subsection, if officers of a state or local law enforcement agency seize marijuana, paraphernalia or other related

property from a person engaged in, facilitating or assisting in the medical use of marijuana:

(a) The law enforcement agency shall ensure that the marijuana, paraphernalia or other related property is not destroyed while in the possession of the law enforcement agency.

(b) Any property interest of the person from whom the marijuana, paraphernalia or other related property was seized must not be forfeited pursuant to any provision of law providing for the forfeiture of property, except as part of a sentence imposed after conviction of a criminal offense.

(c) Upon:

- (1) A decision not to prosecute;
- (2) The dismissal of charges; or
- (3) Acquittal,

➡ the law enforcement agency shall, to the extent permitted by law, return to that person any usable marijuana, marijuana plants, paraphernalia or other related property that was seized. The provisions of this subsection do not require a law enforcement agency to care for live marijuana plants.

Sec. 49. NRS 453A.500 is hereby amended to read as follows:

453A.500 The Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, shall not take any disciplinary action against an attending physician on the basis that the attending physician:

1. ~~{Advised}~~ ***Regardless of whether the person is a resident of this State, advised*** a person whom the attending physician has diagnosed as having a chronic or debilitating medical condition, or a person whom the attending physician knows has been so diagnosed by another physician licensed to practice medicine pursuant to the provisions of chapter 630 of NRS or licensed to practice osteopathic medicine pursuant to the provisions of chapter 633 of NRS:

(a) About the possible risks and benefits of the medical use of marijuana; or

(b) That the medical use of marijuana may mitigate the symptoms or effects of the person's chronic or debilitating medical condition,

➡ if the advice is based on the attending physician's personal assessment of the person's medical history and current medical condition.

2. ~~Provided the written documentation required pursuant to paragraph (a) of subsection 2 of NRS 453A.210 for the issuance of a registry identification card or letter of approval or pursuant to subparagraph (1) of paragraph (b) of subsection 1 of NRS 453A.230 for the renewal of a registry identification card or letter of approval}~~ ***for a person to be listed in the medical marijuana registry or for the renewal of a person's listing in the medical marijuana registry, or any similar documentation required for the person to be authorized to engage in the medical use of marijuana pursuant to the laws of another state or jurisdiction, if:***

(a) Such documentation is based on the attending physician's personal assessment of the person's medical history and current medical condition; and

(b) The physician has advised the person about the possible risks and benefits of the medical use of marijuana.

Sec. 50. NRS 453A.510 is hereby amended to read as follows:

453A.510 A professional licensing board shall not take any disciplinary action against a person licensed by the board on the basis that:

1. The person engages in or has engaged in the medical use of marijuana in accordance with the provisions of this chapter; or

2. The person acts as or has acted as the designated primary caregiver of a person who ~~holds a registry identification card or letter of approval issued to him or her pursuant to paragraph (a) of subsection 1 of NRS 453A.220.~~ **is listed in the medical marijuana registry.**

Sec. 51. NRS 453A.700 is hereby amended to read as follows:

453A.700 1. Except as otherwise provided in this section ~~and~~ **and** NRS 239.0115, ~~and subsection 4 of NRS 453A.210, the Division~~ **the Department** shall not disclose:

(a) The contents of any tool used by the ~~Division~~ **Department** to evaluate an applicant or its affiliate.

(b) Any information, documents or communications provided to the ~~Division~~ **Department** by an applicant or its affiliate pursuant to the provisions of this chapter, without the prior written consent of the applicant or affiliate or pursuant to a lawful court order after timely notice of the proceedings has been given to the applicant or affiliate.

(c) The name or any other identifying information of:

(1) An attending physician; or

(2) A person who has applied for or to whom the ~~Division~~ **Department** or its designee has issued a ~~registry identification card~~ **letter of registration** or letter of approval.

➔ Except as otherwise provided in NRS 239.0115, the items of information described in this subsection are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

2. Notwithstanding the provisions of subsection 1, the ~~Division~~ **Department** or its designee may release the name and other identifying information of a person to whom the ~~Division~~ **Department** or its designee has issued a ~~registry identification card~~ **letter of registration** or letter of approval to:

(a) Authorized employees of the ~~Division~~ **Department** or its designee as necessary to perform official duties of the ~~Division~~ **Department**; and

(b) Authorized employees of state and local law enforcement agencies, only as necessary to verify that a person is ~~the lawful holder of a registry identification card or letter of approval issued to him or her pursuant to NRS 453A.220 or 453A.250.~~ **listed in the medical marijuana registry.**

Sec. 52. NRS 453A.710 is hereby amended to read as follows:

453A.710 1. A person may submit to the ~~{Division}~~ **Department** a petition requesting that a particular disease or condition be included among the diseases and conditions that qualify as chronic or debilitating medical conditions pursuant to NRS 453A.050.

2. The ~~{Division}~~ **Department** shall adopt regulations setting forth the manner in which the ~~{Division}~~ **Department** will accept and evaluate petitions submitted pursuant to this section. The regulations must provide, without limitation, that:

(a) The ~~{Division}~~ **Department** will approve or deny a petition within 180 days after the ~~{Division}~~ **Department** receives the petition; and

(b) The decision of the ~~{Division}~~ **Department** to deny a petition is a final decision for the purposes of judicial review.

Sec. 53. NRS 453A.720 is hereby amended to read as follows:

453A.720 1. The ~~{Administrator of the Division}~~ **Director** may apply for or accept any gifts, grants, donations or contributions from any source to carry out the provisions of this chapter.

2. Any money the ~~{Administrator}~~ **Director** receives pursuant to subsection 1 must be deposited in the State Treasury pursuant to NRS 453A.730.

Sec. 54. NRS 453A.730 is hereby amended to read as follows:

453A.730 1. Any money the ~~{Administrator of the Division}~~ **Director** receives pursuant to NRS 453A.720 or that is appropriated to carry out the provisions of this chapter:

(a) Must be deposited in the State Treasury and accounted for separately in the State General Fund;

(b) May only be used to carry out:

(1) The provisions of this chapter, including the dissemination of information concerning the provisions of this chapter and such other information as determined appropriate by the ~~{Administrator}~~ **Director**; and

(2) Alcohol and drug abuse programs pursuant to NRS 458.094; and

(c) Does not revert to the State General Fund at the end of any fiscal year.

2. ***The Director shall annually:***

(a) ***Determine the amount of money necessary to carry out the provisions of this chapter pursuant to subparagraph (1) of paragraph (b) of subsection 1;***

(b) ***Notify the Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services of any amount of money in the account in excess of the amount determined pursuant to paragraph (a); and***

(c) ***In consultation with the Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services, use the excess money in the account to carry out alcohol and drug abuse programs pursuant to NRS 458.094.***

3. The ~~[Administrator of the Division]~~ **Director** shall administer the account. Any interest or income earned on the money in the account must be credited to the account. Any claims against the account must be paid as other claims against the State are paid.

Sec. 55. NRS 453A.740 is hereby amended to read as follows:

453A.740 The ~~[Administrator of the Division]~~ **Director** shall adopt such regulations as the ~~[Administrator]~~ **Director** determines are necessary to carry out the provisions of this chapter. The regulations must set forth, without limitation ~~[-~~

~~—1. Procedures]~~ , **procedures** pursuant to which the ~~[Division]~~ **Department** will issue a ~~[registry identification card]~~ **letter of registration** or letter of approval . ~~[or, in cooperation with the Department of Motor Vehicles, cause a registry identification card to be prepared and issued to a qualified person as a type of identification card described in NRS 483.810 to 483.890, inclusive. The procedures described in this subsection must provide that the Division will:~~

~~—(a) Issue a registry identification card or letter of approval to a qualified person; or~~

~~—(b) Designate the Department of Motor Vehicles to issue a registry identification card to a person if:~~

~~——(1) The person presents to the Department of Motor Vehicles valid documentation issued by the Division indicating that the Division has approved the issuance of a registry identification card to the person; and~~

~~——(2) The Department of Motor Vehicles, before issuing the registry identification card, confirms by telephone or other reliable means that the Division has approved the issuance of a registry identification card to the person.~~

~~—2. That if the Division issues a registry identification card pursuant to subsection 1, the Division may charge and collect any fee authorized for the issuance of an identification card described in NRS 483.810 to 483.890, inclusive.~~

~~—3. Fees for:~~

~~—(a) Providing to an applicant an application for a registry identification card or letter of approval, which fee must not exceed \$25; and~~

~~—(b) Processing and issuing a registry identification card or letter of approval, which fee must not exceed \$75.]~~

Sec. 56. NRS 453A.800 is hereby amended to read as follows:

453A.800 The provisions of this chapter do not:

1. Require an insurer, organization for managed care or any person or entity who provides coverage for a medical or health care service to pay for or reimburse a person for costs associated with the medical use of marijuana.

2. Require any employer to allow the medical use of marijuana in the workplace.

3. Except as otherwise provided in subsection 4, require an employer to modify the job or working conditions of a person who engages in the medical

use of marijuana that are based upon the reasonable business purposes of the employer but the employer must attempt to make reasonable accommodations for the medical needs of an employee who engages in the medical use of marijuana if the employee ~~holds a valid registry identification card,~~ **is listed in the medical marijuana registry**, provided that such reasonable accommodation would not:

(a) Pose a threat of harm or danger to persons or property or impose an undue hardship on the employer; or

(b) Prohibit the employee from fulfilling any and all of his or her job responsibilities.

4. Prohibit a law enforcement agency from adopting policies and procedures that preclude an employee from engaging in the medical use of marijuana.

5. As used in this section, “law enforcement agency” means:

(a) The Office of the Attorney General, the office of a district attorney within this State or the Nevada Gaming Control Board and any attorney, investigator, special investigator or employee who is acting in his or her professional or occupational capacity for such an office or the Nevada Gaming Control Board; or

(b) Any other law enforcement agency within this State and any peace officer or employee who is acting in his or her professional or occupational capacity for such an agency.

Sec. 56.5. Chapter 453D of NRS is hereby amended by adding thereto a new section to read as follows:

A marijuana establishment shall not dispense or otherwise sell marijuana or marijuana products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises of the marijuana establishment.

Sec. 57. NRS 176.01247 is hereby amended to read as follows:

176.01247 1. There is hereby created the Subcommittee on the Medical Use of Marijuana of the Commission.

2. The Chair of the Commission shall appoint the members of the Subcommittee. The Subcommittee must consist of legislative and nonlegislative members, including, without limitation:

(a) At least four Legislators, who may or may not be members of the Commission.

(b) A representative of the Division of Public and Behavioral Health of the Department of Health and Human Services.

(c) A patient who ~~holds a valid registry identification card to engage in the medical use of marijuana pursuant to chapter 453A of NRS.~~ **is listed in the medical marijuana registry, as defined in section 4 of this act.**

(d) An owner or operator of a cultivation facility that is certified to operate pursuant to chapter 453A of NRS.

(e) An owner or operator of a facility for the production of edible marijuana products or marijuana-infused products that is certified to operate pursuant to chapter 453A of NRS.

(f) An owner or operator of a medical marijuana dispensary that is certified to operate pursuant to chapter 453A of NRS.

(g) A representative of the Attorney General.

(h) A representative of a civil liberties organization.

(i) A representative of an organization which advocates for persons who use marijuana for medicinal purposes.

(j) A representative of a law enforcement agency located within the jurisdiction of Clark County.

(k) A representative of a law enforcement agency located within the jurisdiction of Washoe County.

(l) A representative of local government.

3. The Chair of the Commission shall designate one of the legislative members of the Commission as Chair of the Subcommittee.

4. The Subcommittee shall meet at the times and places specified by a call of the Chair. A majority of the members of the Subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the Subcommittee.

5. The Subcommittee shall:

(a) Consider issues concerning the medical use of marijuana, the dispensation of marijuana for medical use and the implementation of provisions of law providing for the dispensation of marijuana for medical use; and

(b) Evaluate, review and submit a report to the Commission with recommendations concerning such issues.

6. Any Legislators who are members of the Subcommittee are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Subcommittee.

7. While engaged in the business of the Subcommittee, to the extent of legislative appropriation, each member of the Subcommittee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 58. NRS 207.335 is hereby amended to read as follows:

207.335 1. It is unlawful for any person to:

(a) Counterfeit or forge or attempt to counterfeit or forge a ~~registry identification card~~ **letter of registration** or letter of approval; or

(b) Have in his or her possession with the intent to use any counterfeit or forged ~~registry identification card~~ **letter of registration** or letter of approval.

2. Any person who violates the provisions of subsection 1 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

3. As used in this section:

(a) "Letter of approval" has the meaning ascribed to it in NRS 453A.109.

(b) [~~“Registry identification card”~~] ***“Letter of registration”*** has the meaning ascribed to it in NRS 453A.140.

Sec. 58.5. NRS 212.160 is hereby amended to read as follows:

212.160 1. A person, who is not authorized by law, who knowingly furnishes, attempts to furnish, or aids or assists in furnishing or attempting to furnish to a prisoner confined in an institution of the Department of Corrections, or any other place where prisoners are authorized to be or are assigned by the Director of the Department, any deadly weapon, explosive, a facsimile of a firearm or an explosive, any controlled substance or intoxicating liquor, shall be punished:

(a) Where a deadly weapon, controlled substance, explosive or a facsimile of a firearm or explosive is involved, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

(b) Where an intoxicant is involved, for a gross misdemeanor.

2. Knowingly leaving or causing to be left any deadly weapon, explosive, facsimile of a firearm or explosive, controlled substance or intoxicating liquor where it may be obtained by any prisoner constitutes, within the meaning of this section, the furnishing of the article to the prisoner.

3. A prisoner confined in an institution of the Department of Corrections, or any other place where prisoners are authorized to be or are assigned by the Director of the Department, who possesses a controlled substance without lawful authorization **or marijuana or marijuana paraphernalia, regardless of whether the person is listed in the medical marijuana registry, as defined in section 4 of this act,** is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 59. NRS 284.4062 is hereby amended to read as follows:

284.4062 1. Except as otherwise provided in subsections 3 and 4, an employee who:

(a) Consumes or is under the influence of alcohol while on duty, unless the alcohol is an integral part of a commonly recognized medication which the employee consumes pursuant to the manufacturer's instructions or in accordance with a lawfully issued prescription;

(b) Possesses, consumes or is under the influence of a controlled substance while on duty, at a work site or on state property, except in accordance with a lawfully issued prescription; or

(c) Consumes or is under the influence of any other drug which could interfere with the safe and efficient performance of the employee's duties, unless the drug is an integral part of a commonly recognized medication which the employee consumes pursuant to the manufacturer's instructions or in accordance with a lawfully issued prescription,

➔ is subject to disciplinary action. An appointing authority may summarily discharge an employee who, within a period of 5 years, commits a second act

which would subject the employee to disciplinary action pursuant to this subsection.

2. Except as otherwise provided in subsection 3, a state agency shall refer an employee who:

(a) Tests positive for the first time in a screening test; and

(b) Has committed no other acts for which the employee is subject to termination during the course of conduct giving rise to the screening test, ➔ to an employee assistance program. An employee who fails to accept such a referral or fails to complete such a program successfully is subject to further disciplinary action.

3. The Commission may adopt regulations setting forth the circumstances under which a person who ~~holds a valid registry identification card to engage in the medical use of marijuana pursuant to chapter 453A of NRS~~ **is listed in the medical marijuana registry, as defined in section 4 of this act**, is subject to disciplinary action pursuant to subsection 1 or must be referred to an employee assistance program pursuant to subsection 2.

4. Subsection 1 does not apply to:

(a) An employee who consumes alcohol in the course of the employment of the employee while hosting or attending a special event.

(b) A peace officer who possesses a controlled substance or consumes alcohol within the scope of the peace officer's duties.

Sec. 60. NRS 284.4063 is hereby amended to read as follows:

284.4063 1. Except as otherwise provided in subsection 2 and subsection 5 of NRS 284.4065, an employee who:

(a) Fails to notify the employee's supervisor as soon as possible after consuming any drug which could interfere with the safe and efficient performance of the employee's duties;

(b) Fails or refuses to submit to a screening test as requested by a state agency pursuant to subsection 1 or 2 of NRS 284.4065; or

(c) After taking a screening test which indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested by the employee's appointing authority, that the employee had taken the controlled substance as directed pursuant to a current and lawful prescription issued in the employee's name,

➔ is subject to disciplinary action.

2. The Commission may adopt regulations setting forth the circumstances under which a person who ~~holds a valid registry identification card to engage in the medical use of marijuana pursuant to chapter 453A of NRS~~ **is listed in the medical marijuana registry, as defined in section 4 of this act**, is subject to disciplinary action pursuant to this section.

Sec. 61. NRS 284.4064 is hereby amended to read as follows:

284.4064 1. If an employee informs the employee's appointing authority that the employee has consumed any drug which could interfere with the safe and efficient performance of the employee's duties, the

appointing authority may require the employee to obtain clearance from the employee's physician before the employee continues to work.

2. If an appointing authority reasonably believes, based upon objective facts, that an employee's ability to perform the employee's duties safely and efficiently:

(a) May be impaired by the consumption of alcohol or other drugs, it may ask the employee whether the employee has consumed any alcohol or other drugs and, if so:

(1) The amount and types of alcohol or other drugs consumed and the time of consumption;

(2) If a controlled substance other than marijuana was consumed, the name of the person who prescribed its use; and

(3) If marijuana was consumed, to provide proof that the employee ~~holds a valid registry identification card to engage in the medical use of marijuana pursuant to chapter 453A of NRS.~~ **is listed in the medical marijuana registry, as defined in section 4 of this act.**

(b) Is impaired by the consumption of alcohol or other drugs, it shall prevent the employee from continuing work and transport the employee or cause the employee to be transported safely away from the employee's place of employment in accordance with regulations adopted by the Commission.

Sec. 62. NRS 284.4066 is hereby amended to read as follows:

284.4066 1. Each appointing authority shall, subject to the approval of the Commission, determine whether each of its positions of employment affects the public safety. The appointing authority shall not hire an applicant for such a position unless the applicant submits to a screening test to detect the general presence of a controlled substance. Notice of the provisions of this section must be given to each applicant for such a position at or before the time of application.

2. An appointing authority shall consider the results of a screening test in determining whether to employ an applicant. If those results indicate the presence of a controlled substance other than marijuana, the appointing authority shall not hire the applicant unless the applicant provides, within 72 hours after being requested, proof that the applicant had taken the controlled substance as directed pursuant to a current and lawful prescription issued in the applicant's name.

3. An appointing authority shall, at the request of an applicant, provide the applicant with the results of the applicant's screening test.

4. If the results of a screening test indicate the presence of a controlled substance, the appointing authority shall:

(a) Provide the Administrator with the results of the applicant's screening test.

(b) If applicable, inform the Administrator whether the applicant ~~holds a valid registry identification card to engage in the medical use of marijuana pursuant to chapter 453A of NRS.~~ **is listed in the medical marijuana registry, as defined in section 4 of this act.**

5. The Commission may adopt regulations relating to an applicant for a position which affects the public safety who tests positive for marijuana and ~~holds a valid registry identification card to engage in the medical use of marijuana pursuant to chapter 453A of NRS.~~ ***is listed in the medical marijuana registry, as defined in section 4 of this act.***

Sec. 63. NRS 484C.210 is hereby amended to read as follows:

484C.210 1. If a person fails to submit to an evidentiary test as requested by a police officer pursuant to NRS 484C.160, the license, permit or privilege to drive of the person must be revoked as provided in NRS 484C.220, and the person is not eligible for a license, permit or privilege to drive for a period of:

(a) One year; or

(b) Three years, if the license, permit or privilege to drive of the person has been revoked during the immediately preceding 7 years for failure to submit to an evidentiary test.

2. If the result of a test given under NRS 484C.150 or 484C.160 shows that a person had a concentration of alcohol of 0.08 or more in his or her blood or breath or a detectable amount of a controlled substance or prohibited substance in his or her blood or urine for which he or she did not have a valid prescription, as defined in NRS 453.128, or ~~hold a valid registry identification card, as defined in NRS 453A.140,~~ ***for which he or she was not listed in the medical marijuana registry, as defined in section 4 of this act,*** at the time of the test, the license, permit or privilege of the person to drive must be revoked as provided in NRS 484C.220 and the person is not eligible for a license, permit or privilege for a period of 90 days.

3. If a revocation of a person's license, permit or privilege to drive under NRS 62E.640 or 483.460 follows a revocation under subsection 2 which was based on the person having a concentration of alcohol of 0.08 or more in his or her blood or breath, the Department shall cancel the revocation under that subsection and give the person credit for any period during which the person was not eligible for a license, permit or privilege.

4. Periods of ineligibility for a license, permit or privilege to drive which are imposed pursuant to this section must run consecutively.

Sec. 64. NRS 484C.220 is hereby amended to read as follows:

484C.220 1. As agent for the Department, the officer who requested that a test be given pursuant to NRS 484C.150 or 484C.160 or who obtained the result of a test given pursuant to NRS 484C.150 or 484C.160 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who failed to submit to a test requested by the police officer pursuant to NRS 484C.150 or 484C.160 or who has a concentration of alcohol of 0.08 or more in his or her blood or breath or has a detectable amount of a controlled substance or prohibited substance in his or her blood or urine for which he or she did not have a valid prescription, as defined in NRS 453.128, or ~~hold a valid registry identification card, as defined in NRS 453A.140,~~ ***for which he or she was not listed in the medical marijuana***

registry, as defined in section 4 of this act, if that person is present, and shall seize the license or permit to drive of the person. The officer shall then, unless the information is expressly set forth in the order of revocation, advise the person of his or her right to administrative and judicial review of the revocation pursuant to NRS 484C.230 and, except as otherwise provided in this subsection, that the person has a right to request a temporary license. If the person currently is driving with a temporary license that was issued pursuant to this section or NRS 484C.230, the person is not entitled to request an additional temporary license pursuant to this section or NRS 484C.230, and the order of revocation issued by the officer must revoke the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer shall issue the person a temporary license on a form approved by the Department if the person requests one, which is effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the Department along with the written certificate required by subsection 2.

2. When a police officer has served an order of revocation of a driver's license, permit or privilege on a person pursuant to subsection 1, or later receives the result of an evidentiary test which indicates that a person, not then present, had a concentration of alcohol of 0.08 or more in his or her blood or breath or had a detectable amount of a controlled substance or prohibited substance in his or her blood or urine for which he or she did not have a valid prescription, as defined in NRS 453.128, or ~~hold a valid registry identification card, as defined in NRS 453A.140,~~ **for which he or she was not listed in the medical marijuana registry, as defined in section 4 of this act**, the officer shall immediately prepare and transmit to the Department, together with the seized license or permit and a copy of the result of the test, if any, a written certificate that the officer had reasonable grounds to believe that the person had been driving or in actual physical control of a vehicle:

(a) With a concentration of alcohol of 0.08 or more in his or her blood or breath or with a detectable amount of a controlled substance or prohibited substance in his or her blood or urine for which he or she did not have a valid prescription, as defined in NRS 453.128, or ~~hold a valid registry identification card, as defined in NRS 453A.140,~~ **for which he or she was not listed in the medical marijuana registry, as defined in section 4 of this act**, as determined by a chemical test; or

(b) While under the influence of intoxicating liquor or a controlled substance or with a prohibited substance in his or her blood or urine and the person refused to submit to a required evidentiary test.

➡ The certificate must also indicate whether the officer served an order of revocation on the person and whether the officer issued the person a temporary license.

3. The Department, upon receipt of such a certificate for which an order of revocation has not been served, after examining the certificate and copy of the result of the chemical test, if any, and finding that revocation is proper,

shall issue an order revoking the person's license, permit or privilege to drive by mailing the order to the person at the person's last known address. The order must indicate the grounds for the revocation and the period during which the person is not eligible for a license, permit or privilege to drive and state that the person has a right to administrative and judicial review of the revocation and to have a temporary license. The order of revocation becomes effective 5 days after mailing.

4. Notice of an order of revocation and notice of the affirmation of a prior order of revocation or the cancellation of a temporary license provided in NRS 484C.230 is sufficient if it is mailed to the person's last known address as shown by any application for a license. The date of mailing may be proved by the certificate of any officer or employee of the Department, specifying the time of mailing the notice. The notice is presumed to have been received upon the expiration of 5 days after it is deposited, postage prepaid, in the United States mail.

Sec. 65. NRS 484C.230 is hereby amended to read as follows:

484C.230 1. At any time while a person is not eligible for a license, permit or privilege to drive following an order of revocation issued pursuant to NRS 484C.220, the person may request in writing a hearing by the Department to review the order of revocation, but the person is only entitled to one hearing. The hearing must be conducted as soon as is practicable at any location, if the hearing officer permits each party and witness to attend the hearing by telephone, videoconference or other electronic means. The Director or agent of the Director may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the requester. Unless the person is ineligible for a temporary license pursuant to NRS 484C.220, the Department shall issue an additional temporary license for a period which is sufficient to complete the administrative review.

2. The scope of the hearing must be limited to the issue of whether the person:

(a) Failed to submit to a required test provided for in NRS 484C.150 or 484C.160; or

(b) At the time of the test, had a concentration of alcohol of 0.08 or more in his or her blood or breath or a detectable amount of a controlled substance or prohibited substance in his or her blood or urine for which he or she did not have a valid prescription, as defined in NRS 453.128, or ~~held a valid registry identification card, as defined in NRS 453A.140.~~ **for which he or she was not listed in the medical marijuana registry, as defined in section 4 of this act.**

➤ Upon an affirmative finding on either issue, the Department shall affirm the order of revocation. Otherwise, the order of revocation must be rescinded.

3. If, after the hearing, the order of revocation is affirmed, the person whose license, privilege or permit has been revoked is entitled to a review of the same issues in district court in the same manner as provided by chapter

233B of NRS. The court shall notify the Department upon the issuance of a stay, and the Department shall issue an additional temporary license for a period which is sufficient to complete the review.

4. If a hearing officer grants a continuance of a hearing at the request of the person whose license was revoked, or a court does so after issuing a stay of the revocation, the officer or court shall notify the Department, and the Department shall cancel the temporary license and notify the holder by mailing the order of cancellation to the person's last known address.

Sec. 65.5. On or before June 30, 2017, the Division of Public and Behavioral Health of the Department of Health and Human Services shall ensure that the name, date of birth and unique identification number of each person who, on June 30, 2017, holds a valid registry identification card or valid letter of approval issued by the Division is entered into the medical marijuana registry of the Department of Taxation established pursuant to section 5 of this act.

Sec. 66. 1. A person who holds a valid, unexpired registry identification card on July 1, 2017, shall be deemed to be listed in the medical marijuana registry until the registry identification card expires.

2. The amendatory provisions of this act do not affect the validity of an unexpired registry identification card, letter of approval, medical marijuana establishment registration certificate or medical marijuana establishment agent registration card that was issued by the Division of Public and Behavioral Health of the Department of Health and Human Services before July 1, 2017. However, upon the expiration of such a registry identification card, letter of approval, medical marijuana establishment registration certificate or medical marijuana establishment agent registration card, a person who wishes to retain the limited exemption from state prosecution which is set forth in NRS 453A.200 must:

(a) Reapply to the Department of Taxation for a new letter of approval, medical marijuana establishment registration certificate or medical marijuana establishment agent registration card issued by that agency or comply with the provisions of section 5 of this act to be listed in the medical marijuana registry, as applicable.

(b) Pay any necessary fees as determined by the Department of Taxation or any regulations adopted pursuant to chapter 453A of NRS.

3. As used in this section:

(a) "Letter of approval" has the meaning ascribed to it in NRS 453A.109.

(b) "Medical marijuana establishment agent registration card" has the meaning ascribed to it in NRS 453A.118.

(c) "Medical marijuana establishment registration certificate" has the meaning ascribed to it in NRS 453A.119.

(d) "Medical marijuana registry" has the meaning ascribed to it in section 4 of this act.

(e) “Registry identification card” means a document issued by the Division of Public and Behavioral Health of the Department of Health and Human Services or its designee that identifies:

(1) A person who is exempt from state prosecution for engaging in the medical use of marijuana; or

(2) The designated primary caregiver, if any, of a person described in subparagraph (1).

Sec. 67. 1. The administrative regulations adopted by the Division of Public and Behavioral Health of the Department of Health and Human Services pursuant to chapter 453A of NRS remain in force and are hereby transferred to become the administrative regulations of the Department of Taxation on July 1, 2017. On and after July 1, 2017, these regulations must be interpreted in a manner so that all references to the Division of Public and Behavioral Health of the Department of Health and Human Services and its constituent parts are read and interpreted as being references to the Department of Taxation and its constituent parts, regardless of whether those references have been conformed pursuant to section 68 of this act at the time of interpretation.

2. Any contracts or other agreements entered into by the Division of Public and Behavioral Health of the Department of Health and Human Services and its constituent parts pursuant to chapter 453A of NRS are binding upon the Department of Taxation on and after July 1, 2017, rather than the Division of Public and Behavioral Health of the Department of Health and Human Services and its constituent parts. Such contracts and other agreements may be enforced by the Department of Taxation on and after July 1, 2017.

3. Any action taken by the Division of Public and Behavioral Health of the Department of Health and Human Services or its constituent parts pursuant to chapter 453A of NRS before July 1, 2017, remains in effect as if taken by the Department of Taxation or its constituent parts on and after July 1, 2017.

Sec. 68. The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

2. In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

Sec. 69. 1. NRS 453A.090 is hereby repealed.

2. Section 24.9 of chapter 547, Statutes of Nevada 2013, at page 3728, is hereby repealed.

Sec. 70. 1. This section and sections 1 to 56, inclusive, and 57 to 69, inclusive, of this act becomes effective on;

(a) Upon passage and approval for the purposes of adopting any regulations and performing any preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On July 1, 2017, for all other purposes.

2. Section 56.5 of this act becomes effective on January 1, 2020.

TEXT OF REPEALED SECTION OF NRS AND

TEXT OF REPEALED SECTION OF STATUTES OF NEVADA

453A.090 “Division” defined. “Division” means the Division of Public and Behavioral Health of the Department of Health and Human Services.

Section 24.9 of chapter 547, Statutes of Nevada 2013, at page 3728:

Sec. 24.9. Section 19.5 of this act is hereby amended to read as follows:

Sec. 19.5 1. The State of Nevada and the medical marijuana dispensaries in this State which hold valid medical marijuana establishment registration certificates will recognize a nonresident card only under the following circumstances:

(a) The state or jurisdiction from which the holder or bearer obtained the nonresident card grants an exemption from criminal prosecution for the medical use of marijuana;

(b) The state or jurisdiction from which the holder or bearer obtained the nonresident card requires, as a prerequisite to the issuance of such a card, that a physician advise the person that the medical use of marijuana may mitigate the symptoms or effects of the person’s medical condition;

(c) The nonresident card has an expiration date and has not yet expired;

(d) ~~The holder or bearer of the nonresident card signs an affidavit in a form prescribed by the Division which sets forth that the holder or bearer is entitled to engage in the medical use of marijuana in his or her state or jurisdiction of residence; and~~

~~—(e) state or jurisdiction from which the holder or bearer obtained the nonresident card maintains a database which preserves such information as may be necessary to verify the authenticity or validity of the nonresident card;~~

(e) The state or jurisdiction from which the holder or bearer obtained the nonresident card allows the Division and medical marijuana dispensaries in this State to access the database described in paragraph (d);

(f) The Division determines that the database described in paragraph (d) is able to provide to medical marijuana dispensaries

in this State information that is sufficiently accurate, current and specific as to allow those dispensaries to verify that a person who holds or bears a nonresident card is entitled lawfully to do so; and

(g) The holder or bearer of the nonresident card agrees to abide by, and does abide by, the legal limits on the possession of marijuana for medical purposes in this State, as set forth in NRS 453A.200.

2. For the purposes of the reciprocity described in this section:

(a) The amount of medical marijuana that the holder or bearer of a nonresident card is entitled to possess in his or her state or jurisdiction of residence is not relevant; and

(b) Under no circumstances, while in this State, may the holder or bearer of a nonresident card possess marijuana for medical purposes in excess of the limits set forth in NRS 453A.200.

3. As used in this section, “nonresident card” means a card or other identification that:

(a) Is issued by a state or jurisdiction other than Nevada; and

(b) Is the functional equivalent of a registry identification card, as determined by the Division.

Assemblyman Sprinkle moved the adoption of the amendment.

Potential conflict of interest declared by Assemblyman Ohrenschall.

ASSEMBLYMAN OHRENSCHALL:

Mr. Speaker, because this body is considering Assembly Bill 422 which proposes to make changes regarding medical marijuana and marijuana establishments, I would like to advise the Chamber that my wife is currently employed as the Executive Director of the Nevada Dispensary Association, a trade association consisting of medical marijuana dispensaries and medical marijuana cultivators, which actively lobbies the Legislature and other governmental bodies on issues affecting its members. I have sought the advice of our Legislative Counsel and although Assembly Bill 422 does not affect the members of the trade association that my wife is employed with any differently than other owners of medical marijuana dispensaries and medical marijuana cultivators, I am making this disclosure. I did abstain from voting on the proposed amendment to Assembly Bill 422 as I will abstain from voting on Assembly Bill 422 out of an abundance of caution.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 425.

Bill read second time.

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

Amendment No. 535.

AN ACT relating to counselors; authorizing certain holders of licenses and certificates issued by the Board of Examiners for Alcohol, Drug and Gambling Counselors to place those licenses and certificates on inactive status; authorizing the Board to impose administrative sanctions against a person who engages in certain activity without a license or certificate; authorizing certain certified alcohol and drug abuse counselors to supervise a

certified alcohol and drug abuse counselor intern; **revising the required training for a certified alcohol and drug abuse counselor intern;** authorizing the Board to impose disciplinary action in certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the Board of Examiners for Alcohol, Drug and Gambling Counselors to: (1) license clinical alcohol and drug abuse counselors and alcohol and drug abuse counselors who have received a master's or doctoral degree in an approved field of social science; and (2) certify alcohol and drug abuse counselors who have received a bachelor's degree in an approved field of social science, problem gambling counselors, clinical alcohol and drug abuse counselor interns, alcohol and drug abuse counselor interns and problem gambling counselor interns. (NRS 641C.330, 641C.340, 641C.350, 641C.390, 641C.420, 641C.430, 641C.440) **Section 2** of this bill authorizes the holder of a license or certificate issued by the Board, other than a certificate as an intern, to place the license or certificate on inactive status if the license or certificate is in good standing and the holder of the license or certificate has met all requirements for the issuance or renewal of the license or certificate. **Section 2** prohibits a person whose license is inactive from engaging in any work or activity that requires a license or certificate issued by the Board in this State unless the license or certificate is returned to active status. Violation of this provision is a misdemeanor. (NRS 641C.950) **Section 6** of this bill authorizes the Board to impose disciplinary action against a person who: (1) violates this provision; or (2) engages in the practice of counseling problem gamblers with an expired, suspended or revoked certificate.

Section 3 of this bill authorizes the Board to impose certain sanctions, including an administrative penalty, against a person who: (1) provides services for which a license or certificate issued by the Board is required without such a license or certificate; or (2) falsely represents or implies that he or she has such a license or certificate.

Under existing law, only a licensed alcohol and drug abuse counselor is authorized to supervise a certified alcohol and drug abuse counselor intern. (NRS 641C.420) **Sections 4 and 5** of this bill additionally authorize a certified alcohol and drug abuse counselor who has been certified for at least 3 years and meets any other requirements prescribed by the Board to supervise such an intern.

Existing law requires an applicant for a certificate as an alcohol and drug abuse counselor intern to have completed not less than 30 hours of training specific to alcohol and drug abuse, which must include at least 6 hours of instruction relating to confidentiality and 6 hours of instruction relating to ethics. (NRS 641C.420) Section 5 of this bill removes the requirement that an applicant must have completed not less than 30 hours of training specific to alcohol and drug abuse, but leaves in place the requirement that the applicant must have received at least 6 hours of

instruction relating to confidentiality and 6 hours of instruction relating to ethics.

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

Section 1. Chapter 641C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *The holder of a license or certificate issued by the Board, other than a certified intern, may apply to the Board to have his or her license or certificate placed on inactive status. The Board may grant the application if the license or certificate is in good standing and the holder of the license or certificate has met all requirements for the issuance or renewal of the license or certificate as of the date of the application.*

2. *If an application is granted pursuant to subsection 1, the holder of the license or certificate shall not engage in any work or activities that require a license or certificate issued by the Board in this State unless the license or certificate is first returned to active status.*

3. *The Board shall adopt regulations prescribing the:*

(a) Procedure for submitting an application pursuant to this section;

(b) Procedure and terms upon which a person whose license or certificate has been placed on inactive status may resume work or activities that require a license or certificate;

(c) Length of time that a license or certificate may remain on inactive status; and

(d) Fees for the renewal of the inactive status of a license or certificate.

Sec. 3. *In addition to any criminal penalty that may be imposed for a violation of NRS 641C.900 or 641C.910, the Board, after notice and a hearing, may:*

1. *Issue an order against any person who has violated NRS 641C.900 or 641C.910, imposing an administrative penalty of not more than \$5,000 for each violation. Any administrative penalty collected pursuant to this subsection must be deposited in the State General Fund.*

2. *Issue and serve on the person an order to cease and desist until the person obtains from the Board the proper license or certificate and otherwise demonstrates that he or she is no longer in violation of NRS 641C.900 or 641C.910, as applicable. An order to cease and desist must include a telephone number by which the person may contact the Board.*

3. *Issue a citation to the person. A citation issued pursuant to this subsection must be in writing, describe with particularity the nature of the violation and inform the person of the provisions of this section. Each activity in*

which the person is engaged constitutes a separate offense for which a separate citation may be issued. To appeal a citation, the person must submit a written request for a hearing to the Board not later than 30 days after the date of issuance of the citation.

4. *Impose any combination of the penalties set forth in subsections 1, 2 and 3.*

Sec. 4. NRS 641C.390 is hereby amended to read as follows:

641C.390 1. The Board shall issue a certificate as an alcohol and drug abuse counselor to a person who:

- (a) Is not less than 21 years of age;
- (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
- (c) Except as otherwise provided in subsection 2, has received a bachelor's degree from an accredited college or university in a field of social science approved by the Board;
- (d) Has completed 4,000 hours of supervised counseling of alcohol and drug abusers;
- (e) Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;
- (f) Pays the fees required pursuant to NRS 641C.470; and
- (g) Submits all information required to complete an application for a certificate.

2. The Board may waive the educational requirement set forth in paragraph (c) of subsection 1 if an applicant for a certificate has contracted with or receives a grant from the Federal Government to provide services as an alcohol and drug abuse counselor to persons who are authorized to receive those services pursuant to 25 U.S.C. §§ ~~1450~~ **5301** et seq. or 25 U.S.C. §§ 1601 et seq. An alcohol and drug abuse counselor certified pursuant to this section for whom the educational requirement set forth in paragraph (c) of subsection 1 is waived may provide services as an alcohol and drug abuse counselor only to those persons who are authorized to receive those services pursuant to 25 U.S.C. §§ ~~1450~~ **5301** et seq. or 25 U.S.C. §§ 1601 et seq.

3. A certificate as an alcohol and drug abuse counselor is valid for 2 years and may be renewed.

4. A certified alcohol and drug abuse counselor may:

- (a) Engage in the practice of counseling alcohol and drug abusers; ~~and~~
- (b) Diagnose or classify a person as an alcoholic or abuser of drugs ~~and~~ ;

and

(c) If the certified alcohol and drug abuse counselor has been certified for at least 3 years and meets any other requirements prescribed by regulation of the Board for the supervision of interns, supervise certified alcohol and drug abuse counselor interns.

Sec. 5. NRS 641C.420 is hereby amended to read as follows:

641C.420 1. The Board shall issue a certificate as an alcohol and drug abuse counselor intern to a person who:

- (a) Is not less than 21 years of age;
- (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
- (c) Pays the fees required pursuant to NRS 641C.470;

(d) Submits proof to the Board that the person:

(1) Is enrolled in a program in which he or she has completed at least 60 hours of credit toward the completion of a bachelor's degree in a field of social science approved by the Board;

(2) Is enrolled in a program from which he or she will receive a master's degree or doctoral degree in a field of social science approved by the Board; or

(3) Has received an associate's degree, bachelor's degree, master's degree or doctoral degree that included at least 18 hours of credit specifically related to the practice of counseling alcohol and drug abusers in a field of social science approved by the Board;

(e) Has ~~completed not less than 30 hours of training specific to alcohol and drug abuse which must:~~

~~(1) Include~~ **received** at least 6 hours of ~~instructions~~ **instruction** relating to confidentiality and 6 hours of instruction relating to ethics; and

~~(2) Be approved by the Board; and~~

(f) Submits all information required to complete an application for a certificate.

2. A certificate as an alcohol and drug abuse counselor intern is valid for 6 months and may be renewed. The Board may waive any requirement for the renewal of a certificate upon good cause shown by the holder of the certificate.

3. A certified alcohol and drug abuse counselor intern may, under the supervision of a licensed alcohol and drug abuse counselor, ~~for~~ licensed clinical alcohol and drug abuse counselor ~~or~~ ***or certified alcohol and drug abuse counselor who meets the requirements of paragraph (c) of subsection 4 of NRS 641C.390:***

(a) Engage in the practice of counseling alcohol and drug abusers; and

(b) Diagnose or classify a person as an alcoholic or drug abuser.

Sec. 6. NRS 641C.700 is hereby amended to read as follows:

641C.700 The grounds for initiating disciplinary action pursuant to the provisions of this chapter include:

1. Conviction of:

(a) A felony relating to the practice of counseling alcohol and drug abusers, the clinical practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers;

(b) An offense involving moral turpitude; or

(c) A violation of a federal or state law regulating the possession, distribution or use of a controlled substance or dangerous drug as defined in chapter 453 of NRS;

2. Fraud or deception in:

(a) Applying for a license or certificate;

(b) Taking an examination for a license or certificate;

(c) Documenting the continuing education required to renew or reinstate a license or certificate;

- (d) Submitting a claim for payment to an insurer; or
 - (e) The practice of counseling alcohol and drug abusers or the clinical practice of counseling alcohol and drug abusers;
 - 3. Allowing the unauthorized use of a license or certificate issued pursuant to this chapter;
 - 4. Professional incompetence;
 - 5. The habitual use of alcohol or any other drug that impairs the ability of a licensed or certified counselor or certified intern to engage in the practice of counseling alcohol and drug abusers or the clinical practice of counseling alcohol and drug abusers;
 - 6. Engaging in the practice of counseling alcohol and drug abusers , ***the practice of counseling problem gamblers*** or the clinical practice of counseling alcohol and drug abusers with an ***inactive***, expired, suspended or revoked license or certificate;
 - 7. Engaging in behavior that is contrary to the ethical standards as set forth in the regulations of the Board; and
 - 8. The operation of a medical facility, as defined in NRS 449.0151, at any time during which:
 - (a) The license of the facility is suspended or revoked; or
 - (b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.
- ↪ This subsection applies to an owner or other principal responsible for the operation of the facility.

Sec. 7. This act becomes effective on July 1, 2017.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 429.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 422.

SUMMARY—Enacts provisions governing ~~the interstate provision of emergency medical services and~~ the interstate practice of psychology. (BDR ~~(40-351)~~ **54-351**)

[CONTAINS UNFUNDED MANDATE (§§ 1, 2, 10)]

(Not Requested by Affected Local Government)

AN ACT relating to health care; ratifying, enacting and entering into the ~~[Recognition of Emergency Medical Services Personnel Licensure Interstate Compact and the]~~ Psychology Interjurisdictional Compact; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[The Recognition of Emergency Medical Services Personnel Licensure Interstate Compact is an interstate compact that allows a person who is licensed to practice as an emergency medical technician, advanced emergency medical technician or paramedic to practice in another state that is a member of the Compact under certain circumstances. Specifically, such a person may practice in a state other than the state in which he or she is licensed, referred to as the "remote state," if the state in which he or she is licensed, referred to as his or her "home state": (1) requires licensees to pass the National Registry of Emergency Medical Technicians examination and undergo a criminal background check; (2) has provisions in place for receiving and investigating complaints concerning licensees; and (3) notifies the Commission, which is the administrative body of the Compact, of any disciplinary action taken against or significant investigation of a licensee. A person who practices in a remote state under the Compact is subject to the jurisdiction and rules of the remote state while practicing there, and his or her privilege to practice in any remote state may be revoked by the authorities in a remote state in which he or she practices. The Compact specifies that a person may only practice in a remote state after entering from his or her home state, meaning that the Compact does not authorize a person to obtain regular employment with an emergency medical services agency in a remote state without obtaining a license in that state.~~

~~—The Compact also requires member states to consider a veteran or member of the military, or spouse thereof, who holds an active National Registry of Emergency Medical Technicians certification at or above the level of an emergency medical technician, advanced emergency medical technician or paramedic as satisfying the minimum requirements for certification as an emergency medical technician, advanced emergency medical technician or paramedic, as applicable. Member states are required to expedite applications for licensure submitted by such persons.~~

~~—The Commission is authorized to adopt rules and impose an annual assessment on each member state to fund the activities of the Commission. The Compact becomes effective upon ratification by ten states. Currently, nine states have ratified the Compact, including Utah and Idaho.~~

~~—Section 2 of this bill ratifies and enacts the Compact. Sections 1, 3-5, 8, 10-13, 15, 16, 18 and 19 of this bill make conforming changes to clarify that: (1) an emergency medical technician, advanced emergency medical technician or paramedic who has not been certified by a health authority in this State is authorized to practice in this State under the conditions set forth in the Compact; and (2) a person practicing as an emergency medical technician, advanced emergency medical technician or paramedic under the conditions set forth in the Compact has the same rights and responsibilities as a person certified as such in this State. Sections 6, 7 and 9-11 of this bill provide that a veteran or member of the military, or spouse thereof, who holds an active National Registry of Emergency Medical Technicians~~

~~certification at or above the level of an emergency medical technician, advanced emergency medical technician or paramedic is not required to obtain additional training to be certified as such, in conformance with the Compact.]~~

The Psychology Interjurisdictional Compact of the Association of State and Provincial Psychology Boards is an interstate compact that allows a person who is licensed as a psychologist in a state that is a member of the Compact to provide services to patients in other states that are members of the Compact through telehealth or in person under certain conditions. Before providing such services, the Compact requires a psychologist to: (1) have a graduate degree in psychology from an accredited institution; (2) possess a full, unrestricted license to practice psychology in at least one state that is a member of the Compact; (3) have no history of disciplinary action or convictions of certain crimes; (4) make attestations and allow the governing body of the Compact, known as the Psychology Interjurisdictional Compact Commission, to access information concerning the psychologist's areas of intended practice, criminal background and knowledge of requirements in all states in which he or she intends to practice; (5) possess a valid certificate to practice either through telehealth, called an E.Passport, or in person, called an IPC Certificate, under the Compact; and (6) meet any other requirements of the Commission. The Compact only authorizes a psychologist to provide services in person in a state in which the psychologist is not licensed on a temporary basis, as defined by the Commission, and the psychologist is still required to obtain a license to provide services in person over the long term. Psychologists who provide services in states other than those in which they are licensed under the Compact are subject to the jurisdiction of the state in which they provide services, and such a state can revoke the authorization to practice in those states. The Commission is authorized to: (1) collect an annual assessment from each state that is a member of the Compact to fund the operations of the Commission; (2) make rules concerning the administration of the Compact and the practice of psychology across state lines under the Compact; and (3) resolve disputes among states that are members of the Compact related to the Compact. **Section 21** of this bill enacts the Compact.

~~Sections 14, 17, 20, 22 and 24-29~~ **Sections 20, 22 and 24-29** of this bill clarify that a psychologist who is authorized to practice in this State pursuant to the Compact is authorized to engage in the same activities as a psychologist who is licensed in this State. **Section 23** of this bill exempts a psychologist who is not licensed in this State and practicing as authorized in the Compact from a prohibition on representing oneself as a psychologist or practicing psychology without a license issued by the Board of Psychological Examiners. The Compact becomes effective upon ratification by seven states. Currently, only Arizona ~~has~~ **and Utah have** ratified the Compact.

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

Section 1. ~~[NRS 441A.195 is hereby amended to read as follows:~~

~~441A.195 1. A law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or any of their employees or volunteers, any other person who is employed by or is a volunteer for an agency of criminal justice or any other public employee or volunteer for a public agency who, in the course of his or her official duties, comes into contact with human blood or bodily fluids, or the employer of such a person or the public agency for which the person volunteers, may petition a court for an order requiring the testing of a person or decedent for exposure to a communicable disease if the person or decedent may have exposed the officer, emergency medical attendant, firefighter, county coroner or medical examiner or their employee or volunteer, other person employed by or volunteering for an agency of criminal justice or other public employee or volunteer for a public agency to a communicable disease.~~

~~2. When possible, before filing a petition pursuant to subsection 1, the person, employer or public agency for which the person volunteers, and who is petitioning shall submit information concerning the possible exposure to a communicable disease to the designated health care officer for the employer or public agency or, if there is no designated health care officer, the person designated by the employer or public agency to document and verify possible exposure to communicable diseases, for verification that there was substantial exposure. Each designated health care officer or person designated by an employer or public agency to document and verify possible exposure to communicable diseases shall establish guidelines based on current scientific information to determine substantial exposure.~~

~~3. A court shall promptly hear a petition filed pursuant to subsection 1 and determine whether there is probable cause to believe that a possible transfer of blood or other bodily fluids occurred between the person who filed the petition or on whose behalf the petition was filed and the person or decedent who possibly exposed him or her to a communicable disease. If the court determines that probable cause exists to believe that a possible transfer of blood or other bodily fluids occurred and, that a positive result from the test for the presence of a communicable disease would require the petitioner to seek medical intervention, the court shall:~~

~~(a) Order the person who possibly exposed the petitioner, or the person on whose behalf the petition was filed, to a communicable disease to submit two appropriate specimens to a local hospital or medical laboratory for testing for exposure to a communicable disease; or~~

~~(b) Order that two appropriate specimens be taken from the decedent who possibly exposed the petitioner, or the person on whose behalf the petition was filed, to a communicable disease and be submitted to a local hospital or medical laboratory for testing for exposure to the communicable disease.~~

~~3. The local hospital or medical laboratory shall perform the test in accordance with generally accepted medical practices and shall disclose the results of the test in the manner set forth in NRS 629.069.~~

~~4. If a judge or a justice of the peace enters an order pursuant to this section, the judge or justice of the peace may authorize the designated health care officer or the person designated by the employer or public agency to document and verify~~

~~possible exposure to a communicable disease to sign the name of the judge or justice of the peace on a duplicate order. Such a duplicate order shall be deemed to be an order of the court. As soon as practicable after the duplicate order is signed, the duplicate order must be returned to the judge or justice of the peace who authorized the signing of it and must indicate on its face the judge or justice of the peace to whom it is to be returned. The judge or justice of the peace, upon receiving the returned order, shall endorse the order with his or her name and enter the date on which the order was returned. Any failure of the judge or justice of the peace to make such an endorsement and entry does not in and of itself invalidate the order.~~

~~5. Except as otherwise provided in NRS 629.069, all records submitted to the court in connection with a petition filed pursuant to this section and any proceedings concerning the petition are confidential and the judge or justice of the peace shall order the records and any record of the proceedings to be sealed and to be opened for inspection only upon an order of the court for good cause shown.~~

~~6. A court may establish rules to allow a judge or justice of the peace to conduct a hearing or issue an order pursuant to this section by electronic or telephonic means.~~

~~7. The employer of a person or the public agency for which the person volunteers, who files a petition or on whose behalf a petition is filed pursuant to this section or the insurer of the employer or public agency, shall pay the cost of performing the test pursuant to subsection 3.~~

~~8. As used in this section:~~

~~(a) "Agency of criminal justice" has the meaning ascribed to it in NRS 179A.030.~~

~~(b) "Emergency medical attendant" means a person licensed as an attendant or certified as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to chapter 450B of NRS [.] or authorized to practice in this State as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ratified and enacted in section 2 of this act.] (Deleted by amendment.)~~

~~Sec. 2. [Chapter 450B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*The Recognition of Emergency Medical Services Personnel Licensure Interstate Compact is hereby ratified, enacted into law and entered into*~~

~~with all jurisdictions legally joining the Compact, in substantially the form set forth in this section:~~

~~EMS PERSONNEL LICENSURE INTERSTATE COMPACT~~

~~SECTION 1. PURPOSE~~

~~In order to protect the public through verification of competency and ensure accountability for patient care related activities, all states license EMS personnel, such as emergency medical technicians, advanced EMTs and paramedics. This Compact is intended to facilitate the day-to-day movement of EMS personnel across state boundaries in the performance of their EMS duties as assigned by an appropriate authority and to authorize state EMS authorities to afford immediate legal recognition to EMS personnel licensed in a member state. This Compact recognizes that states have a vested interest in protecting the health and safety of the public through their licensing and regulation of EMS personnel and that such state regulation shared among the member states will best protect public health and safety. This Compact is designed to achieve the following purposes and objectives:~~

- ~~—A. Increase public access to EMS personnel;~~
- ~~—B. Enhance the ability of the member states to protect the health and safety of the public, especially patient safety;~~
- ~~—C. Encourage the cooperation of member states in the areas of EMS personnel licensure and regulation;~~
- ~~—D. Support licensing of military members who are separating from an active duty tour, and their spouses;~~
- ~~—E. Facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action and significant investigatory information;~~
- ~~—F. Promote compliance with the laws governing the practice of EMS personnel in each member state; and~~
- ~~—G. Invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.~~

~~SECTION 2. DEFINITIONS~~

~~As used in this Compact:~~

- ~~—A. “Advanced emergency medical technician” or “AEMT” means an individual licensed with the cognitive knowledge and a scope of practice that corresponds to that level in the National Emergency Medical Services Education Standards and the National EMS Scope of Practice Model, published by the National Highway Traffic Safety Administration.~~
- ~~—B. “Adverse action” means any administrative, civil, equitable or criminal action permitted by a state’s laws which may be imposed against licensed EMS personnel by a state EMS authority or state court, including, but not limited to, actions against an individual’s license such as~~

~~revocation, suspension, probation, consent agreement, monitoring or other limitation or encumbrance on the individual's practice, letters of reprimand or admonition, fines, criminal convictions and state court judgments enforcing adverse actions by the state EMS authority.~~

~~C. "Alternative program" means a voluntary, nondisciplinary substance abuse recovery program approved by a state EMS authority.~~

~~D. "Certification" means the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated and legally defensible examination.~~

~~E. "Commission" means the national administrative body of which all states that have enacted this Compact are members.~~

~~F. "Emergency medical technician" or "EMT" means an individual licensed with the cognitive knowledge and a scope of practice that corresponds to that level in the National Emergency Medical Services Education Standards and the National EMS Scope of Practice Model published by the National Highway Traffic Safety Administration.~~

~~G. "EMS" means emergency medical services.~~

~~H. "Home state" means a member state where an individual is licensed to practice emergency medical services.~~

~~I. "License" means the authorization by a state for an individual to practice as an EMT, AEMT, paramedic or a level between EMT and paramedic.~~

~~J. "Medical director" means a physician licensed in a member state who is accountable for the care delivered by EMS personnel.~~

~~K. "Member state" means a state that has enacted this Compact.~~

~~L. "Paramedic" means an individual licensed with the cognitive knowledge and a scope of practice that corresponds to that level in the National Emergency Medical Services Education Standards and the National EMS Scope of Practice Model published by the National Highway Traffic Safety Administration.~~

~~M. "Privilege to practice" means an individual's authority to deliver emergency medical services in remote states as authorized under this Compact.~~

~~N. "Remote state" means a member state in which an individual is not licensed.~~

~~O. "Restricted" means the outcome of an adverse action that limits a license or the privilege to practice.~~

~~P. "Rule" means a written statement by the Commission promulgated pursuant to section 12 of this Compact that:~~

~~1. Is of general applicability;~~

~~2. Implements, interprets or prescribes a policy or provision of this Compact; or~~

~~3. Is an organizational, procedural or practice requirement of the Commission.~~

~~and has the force and effect of statutory law in a member state. The term includes the amendment, repeal or suspension of an existing rule.~~

~~Q. "Scope of practice" means defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute or court decision, the term tends to represent the limits of services an individual may perform.~~

~~R. "Significant investigatory information" means:~~

~~1. Investigative information that a state EMS authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice; or~~

~~2. Investigative information that indicates that an individual represents an immediate threat to public health and safety regardless of whether the individual has been notified and had an opportunity to respond.~~

~~S. "State" means any state, commonwealth, district or territory of the United States.~~

~~T. "State EMS authority" means the board, office or other agency with the legislative mandate to license EMS personnel.~~

~~SECTION 3. HOME STATE LICENSURE~~

~~A. Any member state in which an individual holds a current license shall be deemed a home state for purposes of this Compact.~~

~~B. Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this Compact.~~

~~C. A home state's license authorizes an individual to practice in a remote state under the privilege to practice only if the home state:~~

~~1. Currently requires the use of the National Registry of Emergency Medical Technicians examination as a condition of issuing initial licenses at the EMT and paramedic levels;~~

~~2. Has a mechanism in place for receiving and investigating complaints about individuals;~~

~~3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding an individual;~~

~~4. Not later than 5 years after activation of the Compact, requires a criminal background check of all applicants for initial licensure, including, without limitation, the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation with the exception of federal employees who have a suitability determination in accordance with 5 C.F.R. § 731.202 and submit documentation of such as promulgated in the rules of the Commission; and~~

~~5. Complies with the rules of the Commission.~~

~~SECTION 4. COMPACT PRIVILEGE TO PRACTICE~~

~~A. Member states shall recognize the privilege to practice of an individual licensed in another member state that is in conformance with section 3 of this Compact.~~

~~B. To exercise the privilege to practice under the terms and provisions of this Compact, an individual must:~~

~~1. Be at least 18 years of age;~~

~~2. Possess a current unrestricted license in a member state as an EMT, AEMT, paramedic or state recognized and licensed level with a scope of practice and authority between EMT and paramedic; and~~

~~3. Practice under the supervision of a medical director.~~

~~C. An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by an appropriate authority in the remote state as may be defined in the rules of the Commission.~~

~~D. Except as otherwise provided in subsection C of this section, an individual practicing in a remote state will be subject to the remote state's authority and laws. A remote state may, in accordance with due process and that state's laws, restrict, suspend or revoke an individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action, it shall promptly notify the home state and the Commission.~~

~~E. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.~~

~~F. If an individual's privilege to practice in any remote state is restricted, suspended or revoked, the individual shall not be eligible to practice in any remote state until the individual's privilege to practice is restored.~~

~~SECTION 5. CONDITIONS OF PRACTICE IN A REMOTE STATE~~

~~An individual may practice in a remote state under a privilege to practice only in the performance of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the Commission, and under the following circumstances:~~

~~A. The individual originates a patient transport in a home state and transports the patient to a remote state;~~

~~B. The individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state;~~

~~C. The individual enters a remote state to provide patient care or transport within that remote state;~~

~~D. The individual enters a remote state to pick up a patient and provide care and transport to a third member state; or~~

~~E. Other conditions as determined by the rules promulgated by the Commission.~~

~~SECTION 6. RELATIONSHIP TO EMERGENCY MANAGEMENT ASSISTANCE COMPACT~~

~~Upon a declaration of the Governor of a member state of a state of emergency or disaster that activates the Emergency Management Assistance Compact ratified in NRS 415.010, all relevant terms and provisions of the Emergency Management Assistance Compact shall apply, and to the extent any terms or provisions of this Compact conflict with the Emergency Management Assistance Compact, the terms of the Emergency Management Assistance Compact shall prevail with respect to any individual practicing in the remote state in response to such a declaration.~~

~~SECTION 7. VETERANS, SERVICE MEMBERS SEPARATING FROM ACTIVE DUTY MILITARY, AND THEIR SPOUSES~~

~~A. Member states shall consider a veteran, active military service member and member of the National Guard and Reserves who is separating from an active duty tour, and a spouse thereof, who holds a current valid and unrestricted certification from the National Registry of Emergency Medical Technicians at or above the level of the state license being sought as satisfying the minimum training and examination requirements for such licensure.~~

~~B. Member states shall expedite the processing of licensure applications submitted by veterans, active military service members and members of the National Guard and Reserves separating from an active duty tour, and their spouses.~~

~~C. All individuals functioning with a privilege to practice under this section remain subject to the adverse actions provisions of section 8 of this Compact.~~

~~SECTION 8. ADVERSE ACTIONS~~

~~A. A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.~~

~~B. If an individual's license in any home state is restricted or suspended, the individual is not eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.~~

~~1. All home state adverse action orders shall include a statement that the individual's privileges under this Compact are inactive. The order may allow the individual to practice in remote states with prior written~~

~~authorization from both the home state and the state EMS authority of the remote state.~~

~~— 2. An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from both the home state and the state EMS authority of the remote state.~~

~~— C. A member state shall report adverse actions and any occurrences that the individual's privileges under this Compact are restricted, suspended or revoked to the Commission in accordance with the rules of the Commission.~~

~~— D. A remote state may take adverse action on an individual's privilege to practice within that state.~~

~~— E. Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, so long as each state follows its own procedures for imposing such adverse action.~~

~~— F. The state EMS authority of a home state shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if such conduct had occurred within the home state. In such cases, the home state's law shall control in determining the appropriate adverse action.~~

~~— G. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the member state's laws. Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.~~

~~SECTION 9. ADDITIONAL POWERS INVESTED IN A MEMBER STATE'S EMS AUTHORITY~~

~~The state EMS authority of a member state, in addition to any other powers granted under state law, is authorized under this Compact to:~~

~~— A. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by the state EMS authority of a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the remote state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state EMS authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses or evidence are located.~~

~~— B. Issue cease and desist orders to restrict, suspend or revoke an individual's privilege to practice in the member state.~~

~~SECTION 10. ESTABLISHMENT OF THE INTERSTATE
COMMISSION FOR EMS PERSONNEL PRACTICE~~

~~A. The Compact states hereby create and establish a joint public agency known as the Interstate Commission for EMS Personnel Practice and:~~

~~1. The Commission is a body politic and an instrumentality of the Compact states;~~

~~2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings;~~

~~3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity;~~

~~B. Membership, voting and meetings:~~

~~1. Each member state shall have and be limited to one delegate. The responsible official of the state EMS authority or his or her designee shall be the delegate to this Compact for each member state. Any delegate may be removed or suspended from office as provided by the laws of the state from which the delegate is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the member state in which the vacancy exists. In the event that more than one board, office or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the Governor of the member state will determine which entity will be responsible for assigning the delegate.~~

~~2. Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for the delegates' participation in meetings by telephone or other means of communication.~~

~~3. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.~~

~~4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section 12 of this Compact.~~

~~5. The Commission may convene in a closed, nonpublic meeting if the Commission must discuss:~~

~~a. Noncompliance of a member state with its obligations under this Compact;~~

~~b. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other~~

~~matters related to the Commission's internal personnel practices and procedures;~~

~~c. Current, threatened or reasonably anticipated litigation;~~

~~d. Negotiation of contracts for the purchase or sale of goods, services or real estate;~~

~~e. Accusing any person of a crime or formally censuring any person;~~

~~f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;~~

~~g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;~~

~~h. Disclosure of investigatory records compiled for law enforcement purposes;~~

~~i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to this Compact; or~~

~~j. Matters specifically exempted from disclosure by federal or member state statute.~~

~~6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including, without limitation, a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or an order of a court of competent jurisdiction.~~

~~C. The Commission shall, by a majority vote of the delegates, prescribe bylaws and rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact, including, but not limited to:~~

~~1. Establishing the fiscal year of the Commission;~~

~~2. Providing reasonable standards and procedures:~~

~~a. For the establishment and meetings of other committees; and~~

~~b. Governing any general or specific delegation of any authority or function of the Commission.~~

~~3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals and proprietary information, including, without limitation, trade secrets. The Commission may meet in~~

~~closed session only after a majority of the membership votes to close a meeting in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed.~~

~~4. Establishing the titles, duties and authority, and reasonable procedures for the election, of the officers of the Commission.~~

~~5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any member state, such bylaws shall exclusively govern the personnel policies and programs of the Commission.~~

~~6. Promulgating a code of ethics to address permissible and prohibited activities of Commission members and employees.~~

~~7. Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment or reserving of all of its debts and obligations, as applicable.~~

~~8. Publishing its bylaws and filing a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the member states, if any.~~

~~9. Maintaining the financial records of the Commission in accordance with the bylaws.~~

~~10. Meeting and taking such actions as are consistent with the provisions of this Compact and the bylaws.~~

~~D. The Commission shall have the following powers:~~

~~1. The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;~~

~~2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law shall not be affected;~~

~~3. To purchase and maintain insurance and bonds;~~

~~4. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a member state;~~

~~5. To hire employees, elect or appoint officers, fix compensation, define duties and grant such individuals appropriate authority to carry out the purposes of this Compact and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;~~

~~6. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services and to receive, utilize and dispose of the same, provided that at all times the Commission shall strive to avoid any appearance of impropriety or conflict of interest;~~

~~7. To lease, purchase or accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed, provided that at all times the Commission shall strive to avoid any appearance of impropriety;~~

~~8. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;~~

~~9. To establish a budget and make expenditures;~~

~~10. To borrow money;~~

~~11. To appoint committees, including, without limitation, advisory committees comprised of members, state regulators, state legislators or their representatives, consumer representatives and such other interested persons as may be designated in this Compact and the bylaws;~~

~~12. To provide to and receive information from, and to cooperate with, law enforcement agencies;~~

~~13. To adopt and use an official seal; and~~

~~14. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of EMS personnel licensure and practice.~~

~~E. Financing of the Commission:~~

~~1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.~~

~~2. The Commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services.~~

~~3. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.~~

~~4. The Commission shall not incur obligations of any kind before securing the funds adequate to meet the same, and the Commission shall not pledge the credit of any of the member states, except by and with the authority of that member state.~~

~~5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.~~

~~F. Qualified Immunity, Defense and Indemnification:~~

~~1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacities, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities. Nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.~~

~~2. The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, if the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct. Nothing herein shall be construed to prohibit that person from retaining his or her own counsel.~~

~~3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.~~

~~SECTION 11. COORDINATED DATABASE~~

~~A. The Commission shall provide for the development and maintenance of a coordinated database and reporting system containing licensure information, adverse action information and significant investigatory information on all licensed individuals in member states.~~

~~B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the coordinated database on all individuals to whom this Compact is applicable as required by the rules of the Commission, including:~~

- ~~1. Identifying information;~~
- ~~2. Licensure data;~~
- ~~3. Significant investigatory information;~~
- ~~4. Adverse actions against an individual's license;~~
- ~~5. An indicator that an individual's privilege to practice is restricted, suspended or revoked;~~

~~6. Nonconfidential information related to participation in an alternative program;~~

~~7. Any denial of an application for licensure and each reason for such denial; and~~

~~8. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.~~

~~C. The administrator of the coordinated database shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.~~

~~D. Member states contributing information to the coordinated database may designate information that may not be shared with the public without the express permission of the contributing state.~~

~~E. Any information submitted to the coordinated database that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated database.~~

~~SECTION 12. RULEMAKING~~

~~A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.~~

~~B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any member state.~~

~~C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.~~

~~D. Before the promulgation and adoption of a final rule or rules by the Commission, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:~~

~~1. On the Internet website of the Commission; and~~

~~2. On the Internet website of the state EMS authority of each member state or the publication in which each member state would otherwise publish proposed rules.~~

~~E. The notice of proposed rulemaking shall include:~~

~~1. The proposed time, date and location of the meeting in which the rule will be considered and voted upon;~~

~~2. The text of the proposed rule or amendment and the reason for the proposed rule;~~

~~3. A request for comments on the proposed rule from any interested person; and~~

~~4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.~~

~~F. Before the adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.~~

~~G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:~~

~~1. At least 25 persons;~~

~~2. A governmental subdivision or agency; or~~

~~3. An association having at least 25 members.~~

~~H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time and date of the scheduled public hearing and:~~

~~1. All persons wishing to be heard at the hearing shall notify the Executive Director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than 5 business days before the scheduled date of the hearing.~~

~~2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.~~

~~3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.~~

~~4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.~~

~~I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.~~

~~J. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, based on the rulemaking record and the full text of the rule.~~

~~K. If no written notice of intent to attend the public hearing by an interested party is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.~~

~~L. Upon the determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, an opportunity for comment or a hearing, provided that the usual rulemaking procedures provided in this Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of~~

~~this provision, an emergency rule is one that must be adopted immediately in order to:~~

- ~~1. Meet an imminent threat to public health, safety or welfare;~~
- ~~2. Prevent a loss of Commission or member state funds;~~
- ~~3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or~~
- ~~4. Protect public health and safety.~~

~~M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the Internet website of the Commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Chair of the Commission before the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.~~

~~SECTION 13. OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT~~

~~A. Oversight~~

~~1. The executive, legislative and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.~~

~~2. All courts shall take judicial notice of this Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission.~~

~~3. The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact or promulgated rules.~~

~~B. Default, technical assistance and termination~~

~~1. If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:~~

~~(a) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and any other action to be taken by the Commission; and~~

~~(b) Provide remedial training and specific technical assistance regarding the default.~~

~~2. If a member state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.~~

~~3. Termination of membership in this Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.~~

~~4. A state that has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of the termination, including, without limitation, obligations that extend beyond the effective date of the termination.~~

~~5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.~~

~~6. The defaulting state may appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including, without limitation, reasonable attorney's fees.~~

~~C. Dispute Resolution:~~

~~1. Upon request by a member state, the Commission shall attempt to resolve disputes related to this Compact that arise among member states and between member and nonmember states.~~

~~2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.~~

~~D. Enforcement:~~

~~1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.~~

~~2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of this Compact and its promulgated rules and bylaws. The relief sought may include, without limitation, both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including, without limitation, reasonable attorney's fees.~~

~~3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.~~

~~SECTION 14. DATE OF IMPLEMENTATION OF THE
INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE
AND ASSOCIATED RULES, WITHDRAWAL AND AMENDMENT~~

~~A. This Compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of this Compact.~~

~~B. Any state that joins the compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which this Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day this Compact becomes law in that state.~~

~~C. Any member state may withdraw from this Compact by enacting a statute repealing the same.~~

~~1. A member state's withdrawal shall not take effect until 6 months after enactment of the repealing statute.~~

~~2. Withdrawal shall not affect the continuing requirement of the withdrawing state's EMS authority to comply with the investigative and adverse action reporting requirements of this act before the effective date of withdrawal.~~

~~D. Nothing contained in this Compact shall be construed to invalidate or prevent any EMS personnel licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this Compact.~~

~~E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.~~

~~SECTION 15. CONSTRUCTION AND SEVERABILITY~~

~~This Compact shall be liberally construed so as to effectuate the purposes thereof. If this Compact shall be held contrary to the constitution of any member state thereto, the Compact shall remain in full force and effect as to the remaining member states. Nothing in this Compact supersedes state law or rules related to licensure of EMS agencies.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 450B.025 is hereby amended to read as follows:~~

~~450B.025 “Advanced emergency medical technician” means a person certified by the health officer as having satisfactorily completed a program of training for certification as an advanced emergency medical technician pursuant to NRS 450B.191 [.] or authorized to practice in this State as an advanced emergency medical technician pursuant to the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ratified and enacted in section 2 of this act.] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 450B.065 is hereby amended to read as follows:~~

~~450B.065 “Emergency medical technician” means a person certified by the health officer as having satisfactorily completed a program of training for certification as an emergency medical technician pursuant to NRS 450B.1905 [.] or authorized to practice in this State as an emergency medical technician pursuant to the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ratified and enacted in section 2 of this act.] (Deleted by amendment.)~~

Sec. 5. ~~[NRS 450B.095 is hereby amended to read as follows:~~

~~450B.095 “Paramedic” means a person certified by the health officer as having satisfactorily completed a program of training for certification as a paramedic pursuant to NRS 450B.195 [.] or authorized to practice in this State as a paramedic pursuant to the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ratified and enacted in section 2 of this act.] (Deleted by amendment.)~~

Sec. 6. ~~[NRS 450B.130 is hereby amended to read as follows:~~

~~450B.130 1. The board shall adopt regulations establishing reasonable minimum standards for:~~

- ~~— (a) Sanitation in ambulances and air ambulances;~~
- ~~— (b) Medical and nonmedical equipment and supplies to be carried in ambulances and medical equipment and supplies to be carried in air ambulances and vehicles of a fire fighting agency;~~
- ~~— (c) Interior configuration, design and dimensions of ambulances placed in service after July 1, 1979;~~
- ~~— (d) Permits for operation of ambulances, air ambulances and vehicles of a fire fighting agency;~~
- ~~— (e) Records to be maintained by an operator of an ambulance or air ambulance or by a fire fighting agency; and~~
- ~~— (f) Treatment of patients who are critically ill or in urgent need of treatment.~~

~~2. Any regulations adopted by the board pursuant to subsection 1 establishing reasonable minimum standards for a permit for the operation of an air ambulance or records to be maintained by an operator of an air ambulance must:~~

- ~~— (a) Except as otherwise provided in paragraph (b), be based on the medical aspects of the operation of an air ambulance, including, without limitation, aspects related to patient care; and~~

~~— (b) Not be based on economic factors, including, without limitation, factors related to the prices, routes or nonmedical services of an air ambulance.~~

~~— 3. The health officers of this state shall jointly adopt regulations to establish the minimum standards for the certification or licensure of persons who provide emergency medical care. **The regulations must not require additional training for the initial licensure or initial certification as an emergency medical technician, advanced emergency medical technician or paramedic for an applicant who is a veteran or a member of the military or the National Guard, or a spouse thereof, and who holds a current valid and unrestricted certification by the National Registry of Emergency Medical Technicians as an emergency medical technician, advanced emergency medical technician or paramedic, as applicable.** Upon adoption of the regulations, each health authority shall adopt the regulations for its jurisdiction. After each health authority adopts the regulations, the standards established constitute the minimum standards for certification or licensure of persons who provide emergency medical care in this state. Any changes to the minimum standards must be adopted jointly by the health officers and by each health authority in the manner set forth in this subsection. Any changes in the minimum standards which are not adopted in the manner set forth in this subsection are void.~~

~~— 4. A health officer may adopt regulations that impose additional requirements for the certification or licensure of persons who provide emergency medical care in the jurisdiction of the health officer, but the health officer must accept the certification or licensure of a person who provides emergency medical care from the jurisdiction of another health officer as proof that the person who provides emergency medical care has met the minimum requirements for certification or licensure.~~

~~— 5. As used in this section, “person who provides emergency medical care” means an emergency medical technician, advanced emergency medical technician, paramedic, attendant of an ambulance or air ambulance or firefighter employed by or serving with a fire fighting agency. **(Deleted by amendment.)**~~

Sec. 7. ~~[NRS 450B.160 is hereby amended to read as follows:~~

~~— 450B.160 — 1. The health authority may issue licenses to attendants and to firefighters employed by or serving as volunteers with a fire fighting agency.~~

~~— 2. Each license must be evidenced by a card issued to the holder of the license, is valid for a period not to exceed 2 years and is renewable.~~

~~— 3. An applicant for a license must file with the health authority:~~

~~— (a) A current, valid certificate evidencing the applicant’s successful completion of a program of training as an emergency medical technician, advanced emergency medical technician or paramedic, if the applicant is applying for a license as an attendant, or, if a volunteer attendant, at a level of skill determined by the board.~~

~~—(b) A current valid certificate evidencing the applicant's successful completion of a program of training as an emergency medical technician, advanced emergency medical technician or paramedic, if the applicant is applying for a license as a firefighter with a fire fighting agency;~~

~~—(c) A signed statement showing:~~

~~—(1) The name and address of the applicant;~~

~~—(2) The name and address of the employer of the applicant; and~~

~~—(3) A description of the applicant's duties.~~

~~—(d) Such other certificates for training and such other items as the board may specify.~~

~~—4. The board shall adopt such regulations as it determines are necessary for the issuance, suspension, revocation and renewal of licenses. **The regulations must not require additional training for an applicant for the initial licensure of an applicant who is a veteran or a member of the military or the National Guard, or a spouse thereof, and who holds a current valid and unrestricted certification by the National Registry of Emergency Medical Technicians as an emergency medical technician, advanced emergency medical technician or paramedic.**~~

~~—5. Each operator of an ambulance or air ambulance and each fire fighting agency shall annually file with the health authority a complete list of the licensed persons in its service.~~

~~—6. Licensed physicians, registered nurses and licensed physician assistants may serve as attendants without being licensed under the provisions of this section. A registered nurse who performs emergency care in an ambulance or air ambulance shall perform the care in accordance with the regulations of the State Board of Nursing. A licensed physician assistant who performs emergency care in an ambulance or air ambulance shall perform the care in accordance with the regulations of the Board of Medical Examiners.~~

~~—7. Each licensed physician, registered nurse and licensed physician assistant who serves as an attendant must have current certification of completion of training in:~~

~~—(a) Advanced life support procedures for patients who require cardiac care;~~

~~—(b) Life support procedures for pediatric patients who require cardiac care; and~~

~~—(c) Life support procedures for patients with trauma that are administered before the arrival of those patients at a hospital.~~

~~—The certification must be issued by the Board of Medical Examiners for a physician or licensed physician assistant or by the State Board of Nursing for a registered nurse.~~

~~—8. The Board of Medical Examiners and the State Board of Nursing shall issue a certificate pursuant to subsection 7 if the licensed physician, licensed physician assistant or registered nurse attends:~~

~~— (a) A course offered by a national organization which is nationally recognized for issuing such certification;~~

~~— (b) Training conducted by the operator of an ambulance or air ambulance; or~~

~~— (c) Any other course or training;~~

~~— approved by the Board of Medical Examiners or the State Board of Nursing, whichever is issuing the certification.] (Deleted by amendment.)~~

Sec. 8. ~~[NRS 450B.171 is hereby amended to read as follows:~~

~~450B.171 Except as otherwise provided in this chapter, unlicensed relatives of a sick or injured patient and other persons may ride in an ambulance if there are two attendants in the ambulance, each of whom is licensed pursuant to this chapter, authorized to practice in this State as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ratified and enacted in section 2 of this act or exempt from licensing pursuant to subsection 6 of NRS 450B.160.] (Deleted by amendment.)~~

Sec. 9. ~~[NRS 450B.1905 is hereby amended to read as follows:~~

~~450B.1905 1. A program of training for certification as an emergency medical technician must be:~~

~~— (a) Supervised by a physician and approved by the health authority; or~~

~~— (b) Presented by a national organization which is nationally recognized for providing such training and approved by the board.~~

~~2. A program of training for certification as an emergency medical technician must follow the curriculum or educational standards prepared by the United States Department of Transportation as a national standard for emergency medical technicians.~~

~~3. The board may adopt regulations which prescribe other requirements of training for certification as an emergency medical technician.~~

~~4. An owner of an ambulance shall not offer emergency medical care to a patient in urgent need of medical care or observation unless the attendant has successfully completed a program of training for certification as an emergency medical technician or is exempt, pursuant to subsection 6 of NRS 450B.160, from the requirement to obtain that training.~~

~~5. The board may by regulation prescribe additional requirements for receiving and maintaining certification as an emergency medical technician. The curriculum or educational standards for training must be:~~

~~— (a) At the level of advanced first aid; or~~

~~— (b) At least equivalent to any curriculum or educational standards prepared by the Department of Transportation as a national standard for emergency medical technicians.~~

~~6. The regulations adopted pursuant to subsections 3 and 5 must not require additional training for the initial certification as an emergency medical technician of an applicant who is a veteran or a member of the military or the National Guard, or a spouse thereof, and who holds a~~

~~current valid and unrestricted certification by the National Registry of Emergency Medical Technicians as an emergency medical technician, advanced emergency medical technician or paramedic.~~ **(Deleted by amendment.)**

Sec. 10. ~~[NRS 450B.191 is hereby amended to read as follows:~~

~~450B.191 1. A program of training for certification as an advanced emergency medical technician must be supervised by a licensed physician and approved by the health authority.~~

~~2. A program of training for certification as an advanced emergency medical technician must include an approved curriculum in intravenous therapy and the management of a passage for air to the lungs. Only a certified emergency medical technician with experience as established by the board is eligible for this training.~~

~~3. In order to maintain certification, each advanced emergency medical technician must annually:~~

~~(a) Comply with the requirements established by the board for continuing medical education; and~~

~~(b) Demonstrate his or her skills as required by regulation of the board.~~

~~4. The board may by regulation prescribe the curriculum and other requirements for training and maintaining certification as an advanced emergency medical technician. The curriculum must be at least equivalent to any curriculum or educational standards prepared by the United States Department of Transportation as a national standard for advanced emergency medical technicians. **The regulations must not require additional training for the initial certification as an advanced emergency medical technician of an applicant who is a veteran or a member of the military or the National Guard, or a spouse thereof, and who holds a current valid and unrestricted certification by the National Registry of Emergency Medical Technicians as an advanced emergency medical technician or paramedic.**~~

~~5. A person shall not represent himself or herself to be an advanced emergency medical technician unless the person [has]:~~

~~(a) Has on file with the health authority a currently valid certificate demonstrating successful completion of the program of training required by this section [.]; or~~

~~(b) Is authorized to practice in this State as an advanced emergency medical technician pursuant to the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ratified and enacted in section 2 of this act.~~

~~6. Except as authorized by subsection 6 of NRS 450B.160 [.] or the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ratified and enacted in section 2 of this act, an attendant or firefighter shall not perform, and the owner, operator, director or chief officer of an ambulance or a fire fighting agency shall not offer, emergency care as an advanced emergency medical technician without fulfilling the requirements established by the board.~~ **(Deleted by amendment.)**

Sec. 11. ~~[NRS 450B.195 is hereby amended to read as follows:~~

~~450B.195 1. Only a certified emergency medical technician with experience as established by the board is eligible for training as a paramedic.~~

~~2. A program of training for certification as a paramedic must be supervised by a licensed physician and approved by the health authority.~~

~~3. To maintain certification, each paramedic must annually:~~

~~(a) Comply with the requirements established by the board for continuing medical education; and~~

~~(b) Demonstrate his or her skills as required by regulation of the board.~~

~~4. The board may by regulation prescribe the curriculum and other requirements for training and maintaining certification as a paramedic. The curriculum must be at least equivalent to any curriculum or educational standards prepared by the United States Department of Transportation as a national standard for paramedics. **The regulations must not require additional training for the initial certification as a paramedic of an applicant who is a veteran or a member of the military or the National Guard, or a spouse thereof, and who holds a current valid and unrestricted certification by the National Registry of Emergency Medical Technicians as a paramedic.**~~

~~5. A person shall not represent himself or herself to be a paramedic unless the person [has]:~~

~~(a) Has on file with the health authority a currently valid certificate evidencing the person's successful completion of the program of training required by this section [.] ; or~~

~~(b) Is authorized to practice in this State as a paramedic pursuant to the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ratified and enacted in section 2 of this act.~~

~~6. Except as authorized by subsection 6 of NRS 450B.160 [.] or the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ratified and enacted in section 2 of this act, an attendant or firefighter shall not perform, and the owner, operator, director or chief officer of an ambulance or a fire fighting agency shall not offer, emergency care as a paramedic without fulfilling the requirements established by the board.] (Deleted by amendment.)~~

Sec. 12. ~~[NRS 450B.255 is hereby amended to read as follows:~~

~~450B.255 A person shall not represent himself or herself to be an emergency medical technician, advanced emergency medical technician or paramedic unless the person has been issued a currently valid certificate by the health authority [.] or is authorized to practice in this State as an emergency medical technician, advanced emergency medical technician or paramedic, as applicable, pursuant to the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ratified and enacted in section 2 of this act.] (Deleted by amendment.)~~

Sec. 13. ~~[NRS 450B.260 is hereby amended to read as follows:~~

~~450B.260 1. Except as otherwise provided in this section, the public or private owner of an ambulance or air ambulance or a fire fighting agency which owns a vehicle used in providing medical care to sick or injured persons at the scene of an emergency or while transporting those persons to a medical facility shall not permit its operation and use by any person not licensed under this chapter.~~

~~2. An ambulance carrying a sick or injured patient must be occupied by a driver and an attendant, each of whom is licensed as an attendant pursuant to this chapter, **authorized to practice in this State as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ratified and enacted in section 2 of this act** or exempt from licensing pursuant to subsection 6 of NRS 450B.160, except as otherwise provided in subsection 5 or in geographic areas which may be designated by the board and for which the board may prescribe lesser qualifications.~~

~~3. An air ambulance carrying a sick or injured patient must be occupied by a licensed attendant, **a person who is authorized to practice in this State as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ratified and enacted in section 2 of this act** or a person exempt from licensing pursuant to subsection 6 of NRS 450B.160, in addition to the pilot of the aircraft.~~

~~4. The pilot of an air ambulance is not required to have a license under this chapter.~~

~~5. A person who operates or uses a vehicle owned by a fire fighting agency is not required to be licensed under this chapter, except that such a vehicle may not be used to provide the level of medical care provided by an advanced emergency medical technician or paramedic to sick or injured persons:~~

~~(a) At the scene of an emergency unless at least one person in the vehicle is licensed to provide the care; or~~

~~(b) While transporting those persons to a medical facility unless at least two persons in the vehicle are licensed to provide the care.~~

~~6. Nothing in this section precludes the operation of an aircraft in this State in a manner other than as an air ambulance. **(Deleted by amendment.)**~~

Sec. 14. ~~[NRS 458A.057 is hereby amended to read as follows:~~

~~458A.057 1. "Qualified mental health professional" means any of the following persons:~~

~~(a) A person who is certified as a problem gambling counselor pursuant to the provisions of chapter 641C of NRS.~~

~~(b) A person who is certified as a problem gambling counselor intern pursuant to the provisions of chapter 641C of NRS.~~

~~—(c) A physician who is licensed pursuant to the provisions of chapter 630 or 633 of NRS;~~

~~—(d) A nurse who is licensed pursuant to the provisions of chapter 632 of NRS and is authorized by the State Board of Nursing to engage in the practice of counseling problem gamblers;~~

~~—(e) A psychologist who is licensed pursuant to the provisions of chapter 641 of NRS or authorized to practice psychology in this State pursuant to the Psychology Interjurisdictional Compact enacted in section 21 of this act, or a psychological assistant who is registered with the Board of Psychological Examiners pursuant to the provisions of chapter 641 of NRS and the regulations adopted pursuant thereto;~~

~~—(f) A clinical professional counselor or clinical professional counselor intern who is licensed pursuant to chapter 641A of NRS;~~

~~—(g) A marriage and family therapist or marriage and family therapist intern who is licensed pursuant to the provisions of chapter 641A of NRS and is authorized by the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors to engage in the practice of counseling problem gamblers;~~

~~—(h) A person who is licensed as a clinical social worker pursuant to the provisions of chapter 641B of NRS and is authorized by the Board of Examiners for Social Workers to engage in the practice of counseling problem gamblers;~~

~~—2. As used in this section, “practice of counseling problem gamblers” has the meaning ascribed to it in NRS 641C.105.} (Deleted by amendment.)~~

Sec. 15. [The preliminary chapter of NRS is hereby amended by adding thereto a new section to read as follows:

~~—Except as otherwise expressly provided in a particular statute or required by the context, “licensed psychologist” means a psychologist licensed pursuant to chapter 641 of NRS or authorized to practice psychology in this State pursuant to the Psychology Interjurisdictional Compact enacted in section 21 of this act.} (Deleted by amendment.)~~

Sec. 16. [NRS 41.139 is hereby amended to read as follows:

~~41.139 1. Except as otherwise provided in subsection 2, a peace officer, firefighter or emergency medical attendant may bring and maintain an action for damages for personal injury caused by the willful act of another person, or by another person’s lack of ordinary care or skill in the management of the person’s property, if the conduct causing the injury:~~

~~—(a) Occurred after the person who caused the injury knew or should have known of the presence of the peace officer, firefighter or emergency medical attendant;~~

~~—(b) Was intended to injure the peace officer, firefighter or emergency medical attendant;~~

~~—(c) Violated a statute, ordinance or regulation;~~

~~—(1) Intended to protect the peace officer, firefighter or emergency medical attendant; or~~

~~—(2) Prohibiting resistance to or requiring compliance with an order of a peace officer or firefighter, or~~

~~—(d) Was arson.~~

~~—2. This section does not impose liability on the employer of the peace officer, firefighter or emergency medical attendant.~~

~~—3. As used in this section:~~

~~—(a) “Emergency medical attendant” means a person licensed as an attendant or certified as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to chapter 450B of NRS [.] or authorized to practice in this State as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ratified and enacted in section 2 of this act.~~

~~—(b) “Peace officer” has the meaning ascribed to it in NRS 169.125.]~~

(Deleted by amendment.)

Sec. 17. ~~[NRS 41.504 is hereby amended to read as follows:~~

~~—41.504 1. Any physician, physician assistant or registered nurse who in good faith gives instruction or provides supervision to an emergency medical attendant, physician assistant or registered nurse, at the scene of an emergency or while transporting an ill or injured person from the scene of an emergency, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, in giving that instruction or providing that supervision.~~

~~—2. An emergency medical attendant, physician assistant, registered nurse or licensed practical nurse who obeys an instruction given by a physician, physician assistant, registered nurse or licensed practical nurse and thereby renders emergency care, at the scene of an emergency or while transporting an ill or injured person from the scene of an emergency, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, in rendering that emergency care.~~

~~—3. As used in this section, “emergency medical attendant” means a person licensed as an attendant or certified as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to chapter 450B of NRS [.] or authorized to practice in this State as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ratified and enacted in section 2 of this act.]~~ **(Deleted by amendment.)**

Sec. 18. ~~[NRS 484B.767 is hereby amended to read as follows:~~

~~—484B.767 1. Except as otherwise provided in this section, a peace officer, a firefighter, an emergency medical technician, an advanced emergency medical technician or a paramedic certified pursuant to chapter 450B of NRS or authorized to practice in this State as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to the Recognition of Emergency Medical Services Personnel~~

~~**Licensure Interstate Compact ratified and enacted in section 2 of this act or an employee of a pedestrian mall, who operates a bicycle or an electric bicycle while on duty, is not required to comply with any provision of NRS or any ordinance of a local government relating to the operation of a bicycle or an electric bicycle while on duty if he or she:**~~

~~—(a) Is responding to an emergency call or the peace officer is in pursuit of a suspected violator of the law; or~~

~~—(b) Determines that noncompliance with any such provision is necessary to carry out his or her duties.~~

~~2. The provisions of this section do not:~~

~~—(a) Relieve a peace officer, firefighter, emergency medical technician, advanced emergency medical technician, paramedic or employee of a pedestrian mall from the duty to operate a bicycle or an electric bicycle with due regard for the safety of others.~~

~~—(b) Protect such a person from the consequences of the person's disregard for the safety of others.~~

~~3. As used in this section, "pedestrian mall" has the meaning ascribed to it in NRS 268.811.} (Deleted by amendment.)~~

Sec. 19. [NRS 616A.035 is hereby amended to read as follows:

~~616A.035 1. "Accident benefits" means medical, surgical, hospital or other treatments, nursing, medicine, medical and surgical supplies, crutches and apparatuses, including prosthetic devices.~~

~~2. The term includes:~~

~~—(a) Medical benefits as defined by NRS 617.130;~~

~~—(b) Preventive treatment administered as a precaution to an employee who is exposed to a contagious disease while providing medical services, including emergency medical care, in the course and scope of his or her employment;~~

~~—(c) Preventive treatment administered as a precaution to a police officer, a salaried or volunteer firefighter or an arson investigator who:~~

~~—(1) Was exposed to a contagious disease;~~

~~—(I) Upon battery by an offender; or~~

~~—(II) While performing the duties of a police officer, firefighter or arson investigator;~~

~~— if the exposure is documented by the creation and maintenance of a report concerning the exposure pursuant to subsection 1 of NRS 616C.052; or~~

~~—(2) Tests positive for exposure to tuberculosis or another contagious disease under the circumstances described in subsection 2 or 3 of NRS 616C.052; and~~

~~—(d) Preventive treatment for hepatitis administered as a precaution to a police officer, full-time salaried firefighter, arson investigator or emergency medical attendant employed in this State.~~

~~3. The term does not include:~~

~~—(a) Exercise equipment, a hot tub or a spa for an employee's home;~~

~~—(b) Membership in an athletic or health club;~~

~~— (c) Except as otherwise provided in NRS 616C.245, a motor vehicle; or~~
~~— (d) The costs of operating a motor vehicle provided pursuant to NRS 616C.245, fees related to the operation or licensing of the motor vehicle or insurance for the motor vehicle.~~

~~— 4. As used in this section:~~

~~— (a) “Battery” includes, without limitation, the intentional propelling or placing, or the causing to be propelled or placed, of any human excrement or bodily fluid upon the person of an employee.~~

~~— (b) “Emergency medical attendant” means a person licensed as an attendant or certified as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to chapter 450B of NRS [,] or authorized to practice in this State as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to the Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ratified and enacted in section 2 of this act, whose primary duties of employment are the provision of emergency medical services.~~

~~— (c) “Hepatitis” includes hepatitis A, hepatitis B, hepatitis C and any additional diseases or conditions that are associated with or result from hepatitis A, hepatitis B or hepatitis C.~~

~~— (d) “Preventive treatment” includes, without limitation:~~

~~— (1) Tests to determine if an employee has contracted hepatitis or any other contagious disease to which the employee was exposed; and~~

~~— (2) If an employee tests positive for exposure to tuberculosis under the circumstances described in NRS 616C.052, such medication and chest X-rays as are recommended by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.} (Deleted by amendment.)~~

Sec. 20. NRS 629.550 is hereby amended to read as follows:

629.550 1. If a patient communicates to a mental health professional an explicit threat of imminent serious physical harm or death to a clearly identified or identifiable person and, in the judgment of the mental health professional, the patient has the intent and ability to carry out the threat, the mental health professional shall apply for the emergency admission of the patient to a mental health facility pursuant to NRS 433A.160 or make a reasonable effort to communicate the threat in a timely manner to:

(a) The person who is the subject of the threat;

(b) The law enforcement agency with the closest physical location to the residence of the person; and

(c) If the person is a minor, the parent or guardian of the person.

2. A mental health professional shall be deemed to have made a reasonable effort to communicate a threat pursuant to subsection 1 if:

(a) The mental health professional actually communicates the threat in a timely manner; or

(b) The mental health professional makes a good faith attempt to communicate the threat in a timely manner and the failure to actually communicate the threat in a timely manner does not result from the negligence or recklessness of the mental health professional.

3. A mental health professional who exercises reasonable care in determining that he or she:

(a) Has a duty to take an action described in subsection 1 is not subject to civil or criminal liability or disciplinary action by a professional licensing board for disclosing confidential or privileged information.

(b) Does not have a duty to take an action described in subsection 1 is not subject to civil or criminal liability or disciplinary action by a professional licensing board for any damages caused by the actions of a patient.

4. The provisions of this section do not:

(a) Limit or affect the duty of the mental health professional to report child abuse or neglect pursuant to NRS 432B.220; or

(b) Modify any duty of a mental health professional to take precautions to prevent harm by a patient:

(1) Who is in the custody of a hospital or other facility where the mental health professional is employed; or

(2) Who is being discharged from such a facility.

5. As used in this section, “mental health professional” includes:

(a) A physician or psychiatrist licensed to practice medicine in this State pursuant to chapter 630 or 633 of NRS;

(b) A psychologist who is licensed to practice psychology pursuant to chapter 641 of NRS ~~§~~ **or authorized to practice psychology in this State pursuant to the Psychology Interjurisdictional Compact enacted in section 21 of this act;**

(c) A social worker who:

(1) Holds a master’s degree in social work;

(2) Is licensed as a clinical social worker pursuant to chapter 641B of NRS; and

(3) Is employed by the Division of Public and Behavioral Health of the Department of Health and Human Services;

(d) A registered nurse who:

(1) Is licensed to practice professional nursing pursuant to chapter 632 of NRS; and

(2) Holds a master’s degree in psychiatric nursing or a related field;

(e) A marriage and family therapist licensed pursuant to chapter 641A of NRS;

(f) A clinical professional counselor licensed pursuant to chapter 641A of NRS; and

(g) A person who is working in this State within the scope of his or her employment by the Federal Government, including, without limitation, employment with the Department of Veterans Affairs, the military or the Indian Health Service, and is:

(1) Licensed or certified as a physician, psychologist, marriage and family therapist, clinical professional counselor, alcohol and drug abuse counselor or clinical alcohol and drug abuse counselor in another state;

(2) Licensed as a social worker in another state and holds a master's degree in social work; or

(3) Licensed to practice professional nursing in another state and holds a master's degree in psychiatric nursing or a related field.

Sec. 21. Chapter 641 of NRS is hereby amended by adding thereto a new section to read as follows:

The Psychology Interjurisdictional Compact, set forth in this section, is hereby enacted into law and entered into with all other jurisdictions substantially as follows:

ARTICLE I.

PURPOSE

WHEREAS, States license psychologists in order to protect the public through verification of education, training and experience and ensure accountability for professional practice; and

WHEREAS, This Compact is intended to regulate the day-to-day practice of telepsychology, including the provision of psychological services using telecommunication technologies, by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority; and

WHEREAS, This Compact is intended to regulate the temporary in-person face-to-face practice of psychology by psychologists across state boundaries for 30 days within a calendar year in the performance of their psychological practice as assigned by an appropriate authority; and

WHEREAS, This Compact is intended to authorize state psychology regulatory authorities to afford legal recognition, in a manner consistent with the terms of the Compact, to psychologists licensed in another state; and

WHEREAS, This Compact recognizes that states have a vested interest in protecting the public's health and safety through the licensing and regulation of psychologists and that such state regulation will best protect the public health and safety; and

WHEREAS, This Compact does not apply when a psychologist is licensed in both the home and receiving jurisdiction; and

WHEREAS, This Compact does not apply to permanent in-person, face-to-face practice, but it does allow for the authorization of temporary psychological practice.

Consistent with these principles, this Compact is designed to achieve the following purposes and objectives:

~~{A.}~~ **1.** *Increase public access to professional psychological services by allowing for telepsychological practice across state lines, as well as*

~~limited~~ temporary in-person, face-to-face services, into a ~~jurisdiction in~~ state which the psychologist is not licensed to practice psychology;

~~D.~~ 2. Enhance the states' ability to protect the public's health and safety, especially client/patient safety;

~~C.~~ 3. Encourage the cooperation of the compact states in the areas of psychology licensure and regulation;

~~D.~~ 4. Facilitate the exchange of information between the compact states regarding psychologist licensure ~~, and~~ adverse actions and disciplinary history;

~~E.~~ 5. Promote compliance with the laws governing psychological practice in each compact state; and

~~F.~~ 6. Invest all compact states with the authority to hold licensed psychologists accountable through the mutual recognition of compact state licenses.

ARTICLE II.

DEFINITIONS

A. "Adverse action" means any action taken by a state psychology regulatory authority which finds a violation of a statute or regulation that is identified by the state psychology regulatory authority as discipline and is a matter of public record.

B. "Association of State and Provincial Psychology Boards (ASPPB)" means the recognized membership organization composed of state and provincial psychology regulatory authorities responsible for the licensure and registration of psychologists throughout the United States and Canada.

C. "Authority to practice interjurisdictional telepsychology" means a licensed psychologist's authority to practice ~~in~~ telepsychology, within the limits authorized under this Compact, in another compact state.

~~C.~~ D. "Bylaws" means those bylaws established by the Psychology Interjurisdictional Compact Commission pursuant to Article X for its governance, or for directing and controlling its actions and conduct.

~~D.~~ E. "Client/patient" means the recipient of psychological services, whether psychological services are delivered in the context of healthcare, corporate, supervision ~~for~~ and/or consulting services.

~~E.~~ F. "Commissioner" means the voting representative appointed by each ~~member board~~ state psychology regulatory authority pursuant to Article X.

~~F.~~ G. "Compact state" means a state, the District of Columbia or ~~territory of the~~ United States territory that has enacted this Compact and which has not withdrawn pursuant to Article XIII, section C ~~of Article XIII~~ or been terminated pursuant to Article XII, section B ~~of Article XII~~.

~~G.~~ H. "Coordinated Licensure Information System" or "Coordinated Database" means an integrated process for collecting, storing and sharing

information on psychologists' licensure and enforcement activities related to psychology licensure laws, which is administered by ~~the nonprofit~~ the recognized membership organization composed of ~~and controlled by~~ the state psychology regulatory authorities.

~~H.I.~~ I. "Confidentiality" means the principle that data or information is not made available or disclosed to unauthorized persons or processes.

~~H.J.~~ J. "Day" means any part of a day in which psychological work is performed.

~~H.K.~~ K. "Distant ~~jurisdiction~~ state" means the ~~jurisdiction~~ compact state where a psychologist is physically present, not through using telecommunications technologies, to provide temporary in-person, face-to-face psychological services.

~~H.L.~~ L. "E.Passport" means a certificate ~~as referenced in section E of Article III, section E of Article IV and section B of Article VII, and as further defined by the rules of the Commission,~~ issued by the Association of State and Provincial Psychology Boards (ASPPB) that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines.

M. "Executive Board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

~~H.N.~~ N. "Home state" means a compact state where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one compact state, and is practicing under the authorization to practice interjurisdictional telepsychology, the home state is the compact state where the psychologist was physically present when the telepsychological services were delivered. ‡

~~M.~~ If the psychologist is licensed in more than one compact state and is practicing under the temporary authorization to practice, the home state is any compact state where the psychologist is licensed.

O. "Identity history summary" means a summary of information retained by the Federal Bureau of Investigation, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization or military service.

P. "In-person ~~f~~ , face-to-face" means interactions in which the psychologist and the client/patient are in the same physical space and which does not include interactions that may occur through the use of telecommunication technologies.

~~H.N.~~ Q. "Interjurisdictional practice certificate ~~f~~ or "IPC" (IPC)" means a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that grants temporary authority to practice based on notification to the ~~licensing board~~ state psychology regulatory authority of the intention to practice temporarily, and verification of one's qualifications for such practice.

~~{O-}~~ R. “License” means authorization by a state psychology regulatory authority to engage in the independent practice of psychology, which would be unlawful without the authorization.

~~{P-}~~ S. “Noncompact state” means any state which is not at the time a compact state.

~~{Q-}~~ T. “Psychologist” means an individual licensed for the independent practice of psychology.

~~{R-}~~ U. “Psychology Interjurisdictional Compact Commission” or “Commission” means the national administration of which all compact states are members.

~~{S-}~~ V. “Receiving state” means a compact state where the client/patient is physically located when the telepsychological services ~~were~~ are delivered.

~~{T-}~~ W. “Rule” means a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to Article XI that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural or practice requirement of the Commission and has the force and effect of statutory law in a compact state, and includes the amendment, repeal or suspension of an existing rule.

~~{U-}~~ X. “Significant investigatory information” means:

1. Investigative information that a state psychology regulatory authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if ~~proved~~ proven true, would indicate more than a violation of state statute or ethics code that would be considered more substantial than a minor infraction; or

2. Investigative information that indicates that the psychologist represents an immediate threat to the public health and safety, regardless of whether the psychologist has been notified or had an opportunity to respond.

~~{V-}~~ Y. “State” means a state, commonwealth, territory or possession of the United States or the District of Columbia.

~~{W-}~~ Z. “State psychology regulatory authority” means the board, office or other agency with the legislative mandate to license and regulate the practice of psychology.

~~{X-}~~ AA. “Telepsychology” means the provision of psychological services using telecommunication technologies.

BB. “Temporary authorization to practice” means a licensed psychologist’s authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this Compact, in another compact state.

~~{Y-}~~ CC. “Temporary in-person, face-to-face practice” means where a psychologist is physically present, not through using telecommunications technologies, in the distant ~~jurisdiction~~ state to provide for the practice of

psychology ~~for up to a limited period of time as determined by the Commission~~ for 30 days within a calendar year and based on notification to the distant jurisdiction state.

ARTICLE III.

HOME STATE LICENSURE

A. The home state ~~in which a psychologist is licensed~~ shall be a compact state where a psychologist is licensed to practice psychology.

B. A psychologist may hold one or more compact state licenses at a time. If the psychologist is licensed in more than one compact state, the home state is the compact state where the psychologist was physically present when the services were delivered ~~as authorized by the authority to practice interjurisdictional telepsychology under the terms of this Compact.~~

C. Any compact state may require a psychologist not previously licensed in a compact state to obtain and retain a license to be authorized to practice in the compact state under circumstances not authorized by the authority to practice interjurisdictional telepsychology under the terms of this Compact.

D. Any compact state may require a psychologist to obtain and retain a license to be authorized to practice in a compact state under circumstances not authorized by the temporary authorization to practice under the terms of this Compact.

E. A home state's license authorizes a psychologist to practice in a receiving state under the authority to practice interjurisdictional telepsychology only if the compact state:

1. Currently requires the psychologist to hold an active E.Passport;
2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;
3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;
4. Requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, or other designee with similar authority, not later than 10 years after activation of the Compact; and
5. Complies with the bylaws and rules of the Commission.

F. A home state's license grants temporary authorization to practice to a psychologist in a distant state only if the compact state:

1. Currently requires the psychologist to hold an active IPC;
2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;

3. *Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;*

4. *Requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, or other designee with similar authority, not later than 10 years after activation of the Compact; and*

5. *Complies with the bylaws and rules of the Commission.*

ARTICLE IV.

COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

A. *Compact states shall recognize the right of a psychologist, licensed in a compact state in conformance with Article III, to practice telepsychology in other compact states (receiving states) in which the psychologist is not licensed, under the authority to practice interjurisdictional telepsychology as provided in the Compact.*

B. *To exercise the authority to practice interjurisdictional telepsychology under the terms and provisions of this Compact, a psychologist licensed to practice in a compact state must:*

1. *Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:*

a. *Regionally accredited by an accrediting body recognized by the United States Department of Education to grant graduate degrees or authorized by provincial statute or royal charter to grant doctoral degrees; or*

b. *A foreign college or university deemed to be equivalent to ~~1(a)~~ 1(a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and*

2. *Hold a graduate degree in psychology that meets the following criteria:*

a. *The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program and such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;*

b. *The psychology program must stand as a recognizable, coherent organizational entity within the institution;*

c. *There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;*

d. *The program must consist of an integrated, organized sequence of study;*

e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

f. The designated director of the program must be a psychologist and a member of the core faculty;

g. The program must have an identifiable body of students who are matriculated in that program for a degree;

h. The program must include supervised practicum, internship or field training appropriate to the practice of psychology;

i. The curriculum shall encompass a minimum of 3 academic years of full-time graduate study for doctoral degrees and a minimum of 1 academic year of full-time graduate study for master's degrees; and

j. The program must include an acceptable residency as defined by the rules of the Commission;

3. Possess a current, full and unrestricted license to practice psychology in a home state which is a compact state;

4. Have no history of adverse action that violates the rules of the Commission;

5. Have no criminal record history reported on an identity history summary that violates the rules of the Commission;

6. Possess a current, active E.Passport;

7. Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology, criminal background and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

8. Meet other criteria as defined by the rules of the Commission.

C. ~~{A} The home state maintains authority over the license of any psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology. {shall practice within the areas of competencies and the scope of practice authorized by the home state.}~~

D. A psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology will be subject to the receiving state's ~~{authority and laws}~~ scope of practice. A receiving state may, in accordance with that state's due process law, limit or revoke a psychologist's authority to practice interjurisdictional telepsychology in the receiving state and may take any other necessary actions under the receiving state's applicable law to protect the health and safety of the receiving state's citizens. if a receiving state takes action, the state shall promptly notify the home state and the Commission.

E. If a psychologist's license in any home state or another compact state or any authority to practice interjurisdictional telepsychology in any receiving state is restricted, suspended or otherwise limited, the E.Passport shall be revoked and therefore the psychologist shall not be eligible to

practice telepsychology in a compact state under the authority to practice interjurisdictional telepsychology.

ARTICLE V.

COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

A. Compact states shall also recognize the right of a psychologist, licensed in a compact state in conformance with ~~Articles~~ Article III, ~~and IV,~~ to practice temporarily in other compact states ~~receiving~~ (distant states) in which the psychologist is not licensed, as provided in the Compact.

B. To exercise the temporary authorization to practice under the terms and provisions of this Compact, a psychologist licensed to practice in a compact state must:

1. Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

a. Regionally accredited by an accrediting body recognized by the United States Department of Education to grant graduate degrees or authorized by provincial statute or royal charter to grant doctoral degrees; or

b. A foreign college or university deemed to be equivalent to ~~(a)~~ 1(a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

2. Hold a graduate degree in psychology that meets the following criteria:

a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program and must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;

b. The psychology program must stand as a recognizable, coherent organizational entity within the institution;

c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

d. The program must consist of an integrated, organized sequence of study;

e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

f. The designated director of the program must be a psychologist and a member of the core faculty;

g. The program must have an identifiable body of students who are matriculated in that program for a degree;

h. The program must include supervised practicum, internship or field training appropriate to the practice of psychology;

i. The curriculum shall encompass a minimum of 3 academic years of full-time graduate study for doctoral degrees and a minimum of 1 academic year of full-time graduate study for master's degrees; and

j. The program must include an acceptable residency as defined by the rules of the Commission;

3. Possess a current, full and unrestricted license to practice psychology in a home state which is a compact state;

4. No history of adverse action that violates the rules of the Commission;

5. No criminal record history that violates the rules of the Commission;

6. Possess a current, active IPC;

7. Provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

8. Meet other criteria as defined by the rules of the Commission.

C. A psychologist practicing into a ~~receiving~~ distant state under the temporary authorization to practice shall practice within the scope of practice authorized by the ~~receiving~~ distant state.

D. A psychologist practicing into a ~~receiving~~ distant state under the Temporary Authorization to Practice will be subject to the ~~receiving~~ distant state's authority and law. A ~~receiving~~ distant state may, in accordance with that state's due process law, limit or revoke a psychologist's temporary authorization to practice in the ~~receiving~~ distant state and may take any other necessary actions under the ~~receiving~~ distant state's applicable law to protect the health and safety of the ~~receiving~~ distant state's citizens. If a ~~receiving~~ distant state takes action, the state shall promptly notify the home state and the Commission.

E. If a psychologist's license in any home state or another compact state or any temporary authorization to practice in any distant state is restricted, suspended or otherwise limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice in a compact state under the temporary authorization to practice.

ARTICLE VI.

CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

A psychologist may practice in a receiving state under the authority to practice interjurisdictional telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate state psychology regulatory authority, as defined in the rules of the Commission, and under the following circumstances:

A. The psychologist initiates a client/patient contact in a home state via telecommunications technologies with a client/patient in a receiving state; or

B. Other conditions regarding telepsychology as determined by rules promulgated by the Commission.

ARTICLE VII.

ADVERSE ACTIONS

A. A home state shall have the power to impose adverse action against a psychologist's license issued by the home state and a ~~receiving~~ distant state may take adverse action on a psychologist's ~~authority to practice interjurisdictional telepsychology and~~ temporary authorization to practice within that ~~receiving~~ distant state.

B. A receiving state may take adverse action on a psychologist's authority to practice interjurisdictional telepsychology within that receiving state. a home state may take adverse action against a psychologist based on an adverse action taken by a distant state regarding temporary in-person, face-to-face practice.

~~*B.*~~ *C. If a home state takes adverse action against a psychologist's license, that psychologist's authority to practice interjurisdictional telepsychology is terminated and the E.Passport is revoked. ~~In addition,~~ Furthermore, that psychologist's temporary authorization to practice is terminated and the IPC is revoked.*

1. All home state disciplinary orders which impose adverse action shall be reported to the Commission in accordance with the rules promulgated by the Commission. A compact state shall report adverse actions in accordance with the rules of the Commission.

2. In the event discipline is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the rules of the Commission.

3. Other actions may be imposed as determined by the rules promulgated by the Commission.

~~*C.*~~ *D. A home state's psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee which occurred in a receiving state as it would if such conduct had occurred by a licensee within the home state. In such cases, the home state's law shall control in determining any adverse action against a psychologist's license.*

~~*D.*~~ *E. If a license granted by a compact state is revoked, surrendered in lieu of discipline or suspended following an investigation authorized in Article VIII, the authorization to practice interjurisdictional telepsychology and the temporary authorization to practice in all compact states shall be terminated upon entry of the final order in the compact state taking the action.*

~~*E.*~~ *F. Nothing in this Compact shall override a compact state's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation shall remain*

nonpublic if required by the compact state's law. Compact states must require psychologists who enter any alternative programs to not provide telepsychology services under the authority to practice interjurisdictional telepsychology or provide temporary psychological services under the temporary authorization to practice in any other compact state during the term of the alternative program.

~~FF~~ G. No other judicial or administrative remedies shall be available to a psychologist in the event a compact state imposes an adverse action pursuant to section ~~B~~ C, above.

ARTICLE VIII.

ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S PSYCHOLOGY REGULATORY AUTHORITY

A. In addition to any other powers granted under state law, a compact state's psychology regulatory authority shall have the authority under this Compact to:

1. Issue subpoenas, for both hearings and investigations, which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a ~~state~~ compact state's psychology regulatory authority for the attendance and testimony of witnesses ~~and~~ and/or the production of evidence from another compact state shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state psychology regulatory authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses or evidence are located ~~FF~~ ; and

2. Issue cease and desist ~~and~~ and/or injunctive relief orders to revoke a psychologist's authority to practice interjurisdictional telepsychology ~~for~~ and/or temporary authorization to practice.

B. During the course of any investigation, a psychologist may not change his or her home state licensure. A home state psychology regulatory authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The home state psychology regulatory authority shall promptly report the conclusions of such investigations to the Commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change his or her home state licensure. The Commission shall promptly notify the new home state of any such decisions as provided in the rules of the Commission. All information provided to the Commission or distributed by compact states pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters. The Commission may create

additional rules for mandated or discretionary sharing of information by compact states.

ARTICLE IX.

COORDINATED LICENSURE INFORMATION SYSTEM

A. The Commission shall provide for the development and maintenance of a Coordinated Licensure Information System (Coordinated Database) and reporting system containing licensure and disciplinary action information on all ~~licensees of~~ psychologists individuals to whom this Compact is applicable in all compact states ~~that~~ as defined by the rules of the Commission.

B. Notwithstanding any other provision of state law to the contrary, a compact state shall submit a uniform data set to the Coordinated Database on all ~~psychologists to whom this Compact is applicable~~ licensees as required by the rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Significant investigatory information;
4. Adverse actions against a psychologist's license;
5. An indicator that a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice is revoked;
6. Nonconfidential information related to alternative program participation information;
7. Any denial of application for licensure, and the reasons for such denial; and
8. Other information which may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. The Coordinated Database administrator shall promptly notify all compact states of any adverse action taken against, or significant investigative information on, any licensee in a compact state.

D. Compact states reporting information to the Coordinated Database may designate information that may not be shared with the public without the express permission of the ~~contributing~~ compact state ~~that~~ reporting the information.

E. Any information submitted to the Coordinated Database that is subsequently required to be expunged by the law of the compact state reporting the information shall be removed from the Coordinated Database.

ARTICLE X.**ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT
COMMISSION**

A. The compact states hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission as follows:

1. The Commission is a body politic and an instrumentality of the compact states.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting and Meetings.

1. The Commission shall consist of one voting representative appointed by each compact state who shall serve as that state's Commissioner. The state psychology regulatory ~~board~~ authority shall appoint its delegate. This delegate shall be empowered to act on behalf of the compact state. This delegate shall be limited to:

a. An executive director, executive secretary or similar executive;

b. A current member of the state psychology regulatory authority of a compact state; or

c. A designee empowered with the appropriate delegate authority to act on behalf of the compact state.

2. Any Commissioner may be removed or suspended from office as provided by the law of the state from which the Commissioner is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the compact state in which the vacancy exists.

3. Each Commissioner shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A Commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for Commissioners' participation in meetings by telephone or other means of communication.

4. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

5. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article XI.

6. The Commission may convene in a closed, nonpublic meeting if the Commission must discuss:

a. Noncompliance of a compact state with its obligations under the Compact;

b. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened or reasonable anticipated litigation against the Commission;

d. Negotiation of contracts for the purchase or sale of goods, services or real estate;

e. Accusation against any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information which is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigatory records compiled for law enforcement purposes;

i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal and state statute.

7. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the meeting, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

C. The Commission shall, by a majority vote of the Commissioners, prescribe bylaws and rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact, including, but not limited to:

1. Establishing the fiscal year of the Commission.

2. Providing reasonable standards and procedures:

a. For the establishment and meetings of other committees; and

b. Governing any general or specific delegation of any authority or function of the Commission.

3. *Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals of such proceedings and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the Commissioners vote to close a meeting to the public in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each Commissioner with no proxy votes allowed.*

4. *Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission.*

5. *Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar law of any compact state, the bylaws shall exclusively govern the personnel policies and programs of the Commission.*

6. *Promulgating a code of ethics to address permissible and prohibited activities of Commission members and employees.*

7. *Providing a mechanism for concluding the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and reserving of all of its debts and obligations.*

8. *The Commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the compact states.*

9. *The Commission shall maintain its financial records in accordance with the bylaws.*

10. *The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.*

D. The Commission shall have the following powers:

1. *The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact which shall have the force and effect of law and shall be binding in all compact states;*

2. *To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state psychology regulatory authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law shall not be affected;*

3. *To purchase and maintain insurance and bonds;*

4. *To borrow, accept or contract for services of personnel, including, but not limited to, employees of a compact state;*

5. *To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact and to establish the Commission's personnel*

policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

6. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same, provided that at all times the Commission shall strive to avoid any appearance of impropriety or conflict of interest;

7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed, provided that at all times the Commission shall strive to avoid any appearance of impropriety;

8. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

9. To establish a budget and make expenditures;

10. To borrow money;

11. To appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

12. To provide and receive information from, and to cooperate with, law enforcement agencies;

13. To adopt and use an official seal; and

14. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice and telepsychology practice.

E. The Executive Board.

The elected officers shall serve as the Executive Board, which shall have the power to act on behalf of the Commission according to the terms of this Compact.

1. The Executive Board shall be comprised of six members:

a. Five voting members who are elected from the current membership of the Commission by the Commission; and

b. One ex-officio, nonvoting member from the recognized membership organization composed of state and provincial psychology regulatory authorities.

2. The ex-officio member must have served as staff or member on a state psychology regulatory authority and will be selected by its respective organization.

3. The Commission may remove any member of the Executive Board as provided in the bylaws.

4. The Executive Board shall meet at least annually.

5. The Executive Board shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by compact states, such as annual dues, and any other applicable fees;

b. Ensure compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor compact compliance of member states and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in the rules or bylaws.

F. Financing of the Commission.

1. The Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services.

3. The Commission may levy on and collect an annual assessment from each compact state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission which shall promulgate a rule binding upon all compact states.

4. The Commission shall not incur obligations of any kind before securing the funds adequate to meet the same, nor shall the Commission pledge the credit of any of the compact states, except by and with the authority of the compact state.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

~~{F.}~~ G. Qualified Immunity, Defense and Indemnification.

1. The members, officers, Executive Director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or

responsibilities, provided that nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, Executive Director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel, and provided further, that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, Executive Director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

ARTICLE XI.

RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the compact states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any compact state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Before promulgation and adoption of a final rule or rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:

1. On the Internet website of the Commission; and
2. On the Internet website of ~~each state~~ the compact states' psychology regulatory authority or the publication in which each state would otherwise publish proposed rules.

E. The notice of proposed rulemaking shall include:

- 1. The proposed time, date and location of the meeting in which the rule will be considered and voted upon;*
- 2. The text of the proposed rule or amendment and the reason for the proposed rule;*
- 3. A request for comments on the proposed rule from any interested person; and*
- 4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.*

F. Before adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

- 1. At least twenty-five (25) persons who submit comments independently of each other;*
- 2. A government subdivision or agency; or*
- 3. A duly appointed person in an association that has at least twenty-five (25) members.*

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time and date of the scheduled public hearing and:

- 1. All persons wishing to be heard at the hearing shall notify the Executive Director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.*

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to the public health, safety, or welfare;
2. Prevent a loss of Commission or compact state funds;
3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
4. Protect the public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the Internet website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Chair of the Commission before the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE XII.

OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

A. Oversight.

1. The executive, legislative and judicial branches of state government in each compact state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a compact state pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the

Commission shall render a judgment or order void as to the Commission, this Compact or promulgated rules.

B. Default, Technical Assistance and Termination.

1. If the Commission determines that a compact state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

a. Provide written notice to the defaulting state and other compact states of the nature of the default, the proposed means of remedying the default and any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to remedy the default, the defaulting state may be terminated from the Compact upon an affirmative vote of the majority of the compact states, and all rights, privileges and benefits conferred by this Compact shall be terminated on the effective date of termination. A remedy of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be submitted by the Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the compact states.

4. A compact state which has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations which extend beyond the effective date of termination.

5. The Commission shall not bear any costs incurred by the state which is found to be in default or which has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the United States District Court for the State of Georgia or the federal district where the Compact has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution.

1. Upon request by a compact state, the Commission shall attempt to resolve disputes related to the Compact which arise among compact states and between compact and noncompact states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the Commission.

D. Enforcement.

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the State of Georgia or the federal district where the Compact has its principal offices against a compact state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

ARTICLE XIII.

DATE OF IMPLEMENTATION OF PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact is enacted into law in the seventh compact state. The provisions which become effective at that time shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state which joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule which has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any compact state may withdraw from this Compact by enacting a statute repealing the same, and:

1. A compact state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's psychology regulatory authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a compact state and a noncompact state which does not conflict with the provisions of this Compact.

E. This Compact may be amended by the compact states. No amendment to this Compact shall become effective and binding upon any compact state until it is enacted into the law of all compact states.

ARTICLE XIV.**CONSTRUCTION AND SEVERABILITY**

This Compact shall be liberally construed so as to effectuate the purposes thereof. If this Compact shall be held contrary to the constitution of any state member thereto, the Compact shall remain in full force and effect as to the remaining compact states.

Sec. 22. NRS 641.316 is hereby amended to read as follows:

641.316 1. The Board through its President or Secretary-Treasurer or the Attorney General may maintain in any court of competent jurisdiction a suit for an injunction against any person practicing psychology without a license ~~{-}~~ ***or authorization to practice psychology in this State pursuant to the Psychology Interjurisdictional Compact enacted in section 21 of this act.***

2. Such an injunction:

(a) May be issued without proof of actual damage sustained by any person, this provision being a preventive as well as a punitive measure.

(b) Does not relieve any person from criminal prosecution for practicing without a license.

Sec. 23. NRS 641.390 is hereby amended to read as follows:

641.390 1. ~~{A}~~ ***Except as authorized by the Psychology Interjurisdictional Compact enacted in section 21 of this act, a*** person shall not represent himself or herself as a psychologist within the meaning of this chapter or engage in the practice of psychology unless he or she is licensed under the provisions of this chapter, except that any psychological scientist employed by an accredited educational institution or public agency which has set explicit standards may represent himself or herself by the title conferred upon him or her by such institution or agency.

2. This section does not grant approval for any person to offer services as a psychologist to any other person as a consultant, and to accept remuneration for such psychological services, other than that of an institutional salary, unless the psychologist has been licensed under the provisions of this chapter.

3. This chapter does not prevent the teaching of psychology or psychological research, unless the teaching or research involves the delivery or supervision of direct psychological services to a person. Persons who have earned a doctoral degree in psychology from an accredited educational institution may use the title "psychologist" in conjunction with the activities permitted by this subsection.

4. A graduate student in psychology whose activities are part of the course of study for a graduate degree in psychology at an accredited educational institution or a person pursuing postdoctoral training or experience in psychology to fulfill the requirements for licensure under the provisions of this chapter may use the terms "psychological trainee," "psychological intern," "psychological resident" or "psychological assistant"

if the activities are performed under the supervision of a licensed psychologist in accordance with the regulations adopted by the Board.

5. A person who is certified as a school psychologist by the State Board of Education may use the title “school psychologist” or “certified school psychologist” in connection with activities relating to school psychologists.

Sec. 24. NRS 641B.040 is hereby amended to read as follows:

641B.040 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;
2. A nurse who is licensed to practice in this State;
3. A person who is licensed as a psychologist pursuant to chapter 641 of NRS ~~§~~ **or authorized to practice psychology in this State pursuant to the Psychology Interjurisdictional Compact enacted in section 21 of this act;**

4. A person who is licensed as a marriage and family therapist or marriage and family therapist intern pursuant to chapter 641A of NRS;

5. A person who is licensed as a clinical professional counselor or clinical professional counselor intern pursuant to chapter 641A of NRS;

6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;

7. A person who is licensed as a clinical alcohol and drug abuse counselor, licensed or certified as an alcohol and drug abuse counselor, or certified as a clinical alcohol and drug abuse counselor intern, an alcohol and drug abuse counselor intern, a problem gambling counselor or a problem gambling counselor intern, pursuant to chapter 641C of NRS;

8. Any member of the clergy;

9. A county welfare director;

10. Any person who may engage in social work or clinical social work in his or her regular governmental employment but does not hold himself or herself out to the public as a social worker; or

11. A student of social work and any other person preparing for the profession of social work under the supervision of a qualified social worker in a training institution or facility recognized by the Board, unless the student or other person has been issued a provisional license pursuant to paragraph (b) of subsection 1 of NRS 641B.275. Such a student must be designated by the title “student of social work” or “trainee in social work,” or any other title which clearly indicates the student’s training status.

Sec. 25. NRS 641C.130 is hereby amended to read as follows:

641C.130 The provisions of this chapter do not apply to:

1. A physician who is licensed pursuant to the provisions of chapter 630 or 633 of NRS;

2. A nurse who is licensed pursuant to the provisions of chapter 632 of NRS and is authorized by the State Board of Nursing to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers;

3. A psychologist who is licensed pursuant to the provisions of chapter 641 of NRS ~~§~~ **or authorized to practice psychology in this State pursuant**

to the Psychology Interjurisdictional Compact enacted in section 21 of this act;

4. A clinical professional counselor or clinical professional counselor intern who is licensed pursuant to chapter 641A of NRS;

5. A marriage and family therapist or marriage and family therapist intern who is licensed pursuant to the provisions of chapter 641A of NRS and is authorized by the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers; or

6. A person who is licensed as a clinical social worker pursuant to the provisions of chapter 641B of NRS and is authorized by the Board of Examiners for Social Workers to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers.

Sec. 25.3. The preliminary chapter of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise expressly provided in a particular statute or required by the context, "licensed psychologist" means a psychologist licensed pursuant to chapter 641 of NRS or authorized to practice psychology in this State pursuant to the Psychology Interjurisdictional Compact enacted in section 21 of this act.

Sec. 25.5. NRS 458A.057 is hereby amended to read as follows:

458A.057 1. "Qualified mental health professional" means any of the following persons:

(a) A person who is certified as a problem gambling counselor pursuant to the provisions of chapter 641C of NRS.

(b) A person who is certified as a problem gambling counselor intern pursuant to the provisions of chapter 641C of NRS.

(c) A physician who is licensed pursuant to the provisions of chapter 630 or 633 of NRS.

(d) A nurse who is licensed pursuant to the provisions of chapter 632 of NRS and is authorized by the State Board of Nursing to engage in the practice of counseling problem gamblers.

(e) A psychologist who is licensed pursuant to the provisions of chapter 641 of NRS ***or authorized to practice psychology in this State pursuant to the Psychology Interjurisdictional Compact enacted in section 21 of this act***, or a psychological assistant who is registered with the Board of Psychological Examiners pursuant to the provisions of chapter 641 of NRS and the regulations adopted pursuant thereto.

(f) A clinical professional counselor or clinical professional counselor intern who is licensed pursuant to chapter 641A of NRS.

(g) A marriage and family therapist or marriage and family therapist intern who is licensed pursuant to the provisions of chapter 641A of NRS and is authorized by the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors to engage in the practice of counseling problem gamblers.

(h) A person who is licensed as a clinical social worker pursuant to the provisions of chapter 641B of NRS and is authorized by the Board of Examiners for Social Workers to engage in the practice of counseling problem gamblers.

2. As used in this section, “practice of counseling problem gamblers” has the meaning ascribed to it in NRS 641C.105.

Sec. 26. NRS 689A.048 is hereby amended to read as follows:

689A.048 If any policy of health insurance provides coverage for treatment of an illness which is within the authorized scope of the practice of a qualified psychologist, the insured is entitled to reimbursement for treatments by a **licensed** psychologist . ~~{who is licensed pursuant to chapter 641 of NRS.}~~

Sec. 27. NRS 689B.038 is hereby amended to read as follows:

689B.038 If any policy of group health insurance provides coverage for treatment of an illness which is within the authorized scope of the practice of a qualified psychologist, the insured is entitled to reimbursement for treatment by a **licensed** psychologist . ~~{who is licensed pursuant to chapter 641 of NRS.}~~

Sec. 28. NRS 695B.197 is hereby amended to read as follows:

695B.197 If any contract for hospital or medical service provides coverage for treatment of an illness which is within the authorized scope of the practice of a qualified psychologist, the insured is entitled to reimbursement for treatments by a **licensed** psychologist . ~~{who is licensed pursuant to chapter 641 of NRS.}~~

Sec. 29. NRS 695C.177 is hereby amended to read as follows:

695C.177 If any evidence of coverage provides coverage for treatment of an illness which is within the authorized scope of the practice of a qualified psychologist, the insured is entitled to reimbursement for treatments by a **licensed** psychologist . ~~{who is licensed pursuant to chapter 641 of NRS.}~~

Sec. 30. ~~{The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.}~~

(Deleted by amendment.)

Assemblyman Sprinkle moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 431.

Bill read second time.

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

Amendment No. 541.

AN ACT relating to alcoholic beverages; revising provisions governing brew pubs; revising provisions governing a supplier of alcoholic beverages; revising provisions prohibiting a wholesaler dealer of alcoholic beverages

from investing money in a retail liquor store; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a person who is licensed to operate a brew pub to operate more than one such brew pub in a county but limits the person to manufacturing not more than 15,000 barrels for all of the brew pubs the person operates in that county in any calendar year. (NRS 597.230) **Section 4** of this bill ~~[limits]~~ **authorizes** a person ~~[who operates]~~ **to operate one or more** ~~[a brew pub to two locations for the]~~ brew ~~[pub]~~ **pubs** in this State and increases the number of barrels of malt beverages that such a person may manufacture **for all the brew pubs he or she operates in this State** during a calendar year to ~~[20,000]~~ **40,000** barrels. **Section 4 additionally authorizes a person who operates one or more brew pubs in this State to transport malt beverages to a licensed person for the purpose of selling the malt beverages at a special event in this State. Section 3.5 of this bill defines a special event as an event that lasts no longer than 1 calendar day and that occurs at a farmers' market or at an event designated as a county fair.** **Section 4** further prohibits a person who operates a brew pub from selling at retail more than ~~[2,000]~~ **5,000** barrels of malt beverages per calendar year ~~[for consumption off the premises of the brew pub.]~~ **and provides that of the 5,000 barrels, not more than 1,000 barrels may be sold in kegs.**

Section 9.5 of this bill requires the Department of Taxation to adopt and enforce regulations necessary to monitor the quantity of malt beverages manufactured pursuant to section 4. **Section 10** of this bill specifies that a person licensed to operate a brew pub may not engage in any other activity **not authorized pursuant to section 4** for which a license is required unless the person holds the license for that activity.

Existing law defines the term "supplier" for the purposes of the regulation of alcoholic beverages and imposes certain requirements on a supplier of alcoholic beverages. (Chapters 369 and 597 of NRS) **Sections 1 and 9** of this bill include breweries, ~~[and]~~ brew pubs **and craft distilleries** located in this State within the definition of "supplier" and, thus, impose on such breweries, ~~[and]~~ brew pubs **and craft distilleries** the requirements of existing law applicable to a supplier. **Section 2** of this bill exempts certain smaller suppliers from the requirement to allow a wholesaler a period of 60 days to correct any failure to comply with the terms of a franchise agreement between the supplier and the wholesaler. **Section 3** of this bill revises certain prohibitions imposed on a supplier by prohibiting a supplier from engaging in certain conduct in relation to a wholesaler who sells, distributes, markets, advertises or promotes the alcoholic beverages produced by the supplier.

Existing law prohibits a wholesale dealer of alcoholic beverages from investing money, directly or indirectly in a retail liquor store. (NRS 369.485) **Section 12** of this bill prohibits the wholesale dealer from making such an investment through a subsidiary or agent.

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

Section 1. NRS 597.140 is hereby amended to read as follows:

597.140 “Supplier” means any person, partnership, corporation or other form of business enterprise engaged in business as a manufacturer, distiller, craft distillery, rectifier, brewer, **brew pub**, importer, vintner, broker or agent therefor, which distributes any or all of its brands of malt beverages, distilled spirits and wines, or all of them, through licensed wholesalers in this state.

Sec. 2. NRS 597.160 is hereby amended to read as follows:

597.160 1. Except as otherwise provided in subsection 4, if more than one franchise for the same brand or brands of malt beverages, distilled spirits and wines, or all of them, is granted to different wholesalers in this state, it is a violation of NRS 597.120 to 597.180, inclusive, for any supplier to discriminate between such wholesalers with respect to any of the terms, provisions and conditions of these franchises.

2. Except as otherwise provided in this subsection and notwithstanding the terms, provisions or conditions of any franchise, a supplier shall not unilaterally terminate or refuse to continue any franchise with a wholesaler or cause a wholesaler to resign from that franchise unless the supplier has first established good cause for that termination, noncontinuance or causing of that resignation. This subsection does not apply to a supplier who sells less than 2,000 barrels of malt beverages, less than 250 cases of distilled spirits or less than 2,000 cases of wine in this state in any calendar year, or who operates a winery pursuant to NRS 597.240.

3. ~~{A}~~ ***Except as otherwise provided in this subsection, a*** wholesaler may, within 60 days after he or she receives a notice required pursuant to NRS 597.155, correct any failure to comply with the terms, provisions and conditions of the franchise alleged by the supplier. ***This subsection does not apply to a supplier who sells less than 2,000 barrels of malt beverages, less than 250 cases of distilled spirits or less than 2,000 cases of wine in this State in any calendar year, or who operates a winery pursuant to NRS 597.240.***

4. Unless otherwise specified by contract between the supplier and wholesaler, a supplier shall not grant more than one franchise to a wholesaler for any brand of alcoholic beverage in a marketing area.

Sec. 3. NRS 597.162 is hereby amended to read as follows:

597.162 A supplier shall not:

1. Prohibit a wholesaler from selling an alcoholic beverage of any other supplier;

2. ***Prevent a wholesaler from using best efforts to sell, market, advertise or promote an alcoholic beverage of any other supplier;***

3. ***Provide any reward or penalty to, or in any other way condition its relationship with, a wholesaler based upon the amount of sales the wholesaler makes of an alcoholic beverage of any other supplier;***

4. Disapprove a wholesaler's selection of a general manager or successor general manager based on the wholesaler's sales, marketing, advertising, promotion or retail placement of an alcoholic beverage of any other supplier;

5. Require a wholesaler to report to the supplier any of the wholesaler's financial information associated with the purchase, sale or distribution of an alcoholic beverage of any other supplier;

6. Fix or maintain the price at which a wholesaler may resell an alcoholic beverage purchased from the supplier;

~~{3.}~~ **7. Require a wholesaler to pay to the supplier all or any portion of the difference in the suggested retail price of an alcoholic beverage and the actual price at which the wholesaler sells the alcoholic beverage;**

~~{4.}~~ **8. Require a wholesaler to accept delivery of any alcoholic beverage or any other item that is not voluntarily ordered by the wholesaler or otherwise not required under the franchise between the supplier and wholesaler or is in violation of any levels of inventory that are mutually agreed upon in writing by the supplier and wholesaler;**

~~{5.}~~ **9. Prohibit or restrain, directly or indirectly, a wholesaler from participating in an organization that represents the interests of wholesalers for any lawful purpose; ~~or~~**

10. Discriminate against, penalize or otherwise retaliate against a wholesaler because the wholesaler raises, alleges or otherwise brings to the attention of the Department of Taxation an actual, potential or perceived violation of this chapter; or

~~{6.}~~ **11. Require a wholesaler to participate in or contribute to any advertising fund or promotional activity that:**

(a) Is not used for advertising or a promotional activity in the marketing area of the wholesaler; or

(b) Requires a contribution by the wholesaler that exceeds any amount specified for that purpose in the franchise.

Sec. 3.5. NRS 597.200 is hereby amended to read as follows:

597.200 As used in NRS 597.190 to 597.255, inclusive, unless the context otherwise requires:

1. "Alcoholic beverage" means any malt beverage or spirituous, vinous or malt liquor which contains 1 percent or more ethyl alcohol by volume.

2. "Brew pub" means an establishment which manufactures malt beverages and sells those malt beverages at retail pursuant to the provisions of NRS 597.230.

3. "Craft distillery" means an establishment which:

(a) Manufactures distilled spirits from agricultural raw materials through distillation; and

(b) Is authorized to sell those distilled spirits pursuant to the provisions of this chapter.

4. "Distillation" means the process of producing or purifying spirituous liquor by successive evaporation and condensation.

5. “Engage in” includes participation in a business as an owner or partner, or through a subsidiary, affiliate, ownership equity or in any other manner.

6. “Instructional wine-making facility” means an instructional wine-making facility operated pursuant to NRS 597.245.

7. “Legal age” means the age at which a person is legally permitted to purchase an alcoholic beverage pursuant to NRS 202.020.

8. “Malt beverage” means beer, ale, porter, stout and other similar fermented beverages of any name or description, brewed or produced from malt, wholly or in part.

9. **“Special event” means an event that:**

(a) Lasts not longer than 1 calendar day; and

(b) Occurs at:

(1) A farmers’ market, as defined in NRS 244.336; or

(2) An event designated as a county fair by a county fair and recreation board appointed pursuant to NRS 244A.599, 244A.601 or 244A.603.

10. “Supplier” has the meaning ascribed to it in NRS 597.140.

~~[10.]~~ **11.** “Wine” has the meaning ascribed to it in NRS 369.140.

Sec. 4. NRS 597.230 is hereby amended to read as follows:

597.230 1. In any county, a person may operate a brew pub:

(a) In any redevelopment area established in that county pursuant to chapter 279 of NRS;

(b) In any historic district established in that county pursuant to NRS 384.005;

(c) In any retail liquor store as that term is defined in NRS 369.090; or

(d) In any other area in the county designated by the board of county commissioners for the operation of brew pubs. In a city which is located in that county, a person may operate a brew pub in any area in the city designated by the governing body of that city for the operation of brew pubs.

➔ A person who operates one or ~~more~~ ~~two~~ brew pubs may not manufacture more than ~~15,000~~ ~~20,000~~ **40,000** barrels of malt beverages for all the brew pubs he or she operates in ~~[that county]~~ **this State** in any calendar year.

2. The premises of any brew pub operated pursuant to this section must be conspicuously identified as a “brew pub.”

~~3. [A person who operates a brew pub pursuant to this section is limited to two locations for the brew pub in this State.]~~

~~4. A]~~ **Except as otherwise provided in subsection 4, a** person who operates ~~[a]~~ **one or more** brew ~~[pub]~~ **pubs** pursuant to this section may, upon obtaining a license pursuant to chapter 369 of NRS and complying with any other applicable governmental requirements:

(a) Manufacture and store malt beverages on the premises **of one or more** of the brew ~~[pub]~~ **pubs** and:

(1) Sell and transport the malt beverages manufactured on the premises to a person holding a valid wholesale wine and liquor dealer's license or wholesale beer dealer's license issued pursuant to chapter 369 of NRS.

(2) Donate for charitable or nonprofit purposes and , for the purposes of the donation, transport the malt beverages manufactured on the premises in accordance with the terms and conditions of a special permit for the transportation of the malt beverages obtained from the Department of Taxation pursuant to subsection 4 of NRS 369.450.

(b) Manufacture and store malt beverages on the premises of one or more of the brew pubs and transport the malt beverages manufactured on the premises to a retailer, other than a person who operates a brew pub pursuant to this section, that holds a valid license pursuant to chapter 369 of NRS for the purpose of selling the malt beverages at a special event in accordance with the terms and conditions of a special permit for the transportation of the malt beverages obtained from the Department of Taxation pursuant to subsection 4 of NRS 369.450. For the purposes of this paragraph, the person who operates one or more brew pubs shall not obtain more than 20 such special permits for the transportation of the malt beverages from the Department of Taxation pursuant to subsection 4 of NRS 369.450 within a calendar year.

(c) Sell at retail , not for resale, malt beverages manufactured on or off the premises of one or more of the brew ~~[pub]~~ pubs for consumption on the premises.

~~[(c)]~~ (d) Sell at retail , not for resale, in packages sealed on one or more of the premises of the brew ~~[pub]~~ pubs, malt beverages, including malt beverages in unpasteurized form, manufactured on the premises for consumption off the premises.

4. The amount of malt beverages sold ~~for consumption off the premises of the brew pub may~~ pursuant to paragraphs (b), (c) and (d) of subsection 3 must not exceed ~~[2,000]~~ a total of 5,000 barrels in any calendar year.

~~[5. As used in this section, the term "package" does not include a keg.]~~
Of the 5,000 barrels, not more than 1,000 barrels may be sold in kegs.

Sec. 5. Chapter 369 of NRS is hereby amended by adding thereto the provisions set forth as sections 6 ~~[and 7]~~ to 7.7, inclusive, of this act.

Sec. 6. ~~["Brew"]~~ As used in this chapter, "brew pub" has the meaning ascribed to it in NRS 597.200.

Sec. 7. ~~["Brewery"]~~ As used in this chapter, "brewery" means an establishment which manufactures malt beverages but does not sell those malt beverages at retail.

Sec. 7.3. As used in this chapter, "craft distillery" has the meaning ascribed to it in NRS 597.200.

Sec. 7.7. As used in this chapter, "malt beverage" has the meaning ascribed to it in NRS 597.200.

Sec. 8. NRS 369.035 is hereby amended to read as follows:

369.035 1. As used in this chapter, “instructional wine-making facility” means an instructional wine-making facility operated pursuant to NRS 597.245.

2. For the purposes of this chapter:

(a) A person who operates an instructional wine-making facility is not a wine maker or a supplier, brewer, ***brew pub***, distiller, ***craft distillery***, manufacturer, producer, vintner, bottler, wholesaler, wholesale dealer, retailer or retail dealer of wine.

(b) An instructional wine-making facility is not a winery or a retail liquor store.

Sec. 9. NRS 369.111 is hereby amended to read as follows:

369.111 As used in this chapter, “supplier” means, with respect to liquor which is brewed, distilled, fermented, manufactured, rectified, produced or bottled:

1. Outside the United States:

(a) The brewer, distiller, manufacturer, producer, rectifier, vintner or bottler of the liquor, or his or her designated agent; or

(b) The owner of the liquor when it is first transported into any area under the jurisdiction of the United States Government, if the brewer, distiller, manufacturer, rectifier, producer, vintner or bottler of the liquor, or a designated agent of such a person, has not designated an importer to import the liquor into this State;

2. Within the United States but outside this State, the brewer, distiller, manufacturer, rectifier, producer, vintner or bottler of the liquor, or his or her designated agent; or

3. Within this State, the ***brewery***, ***brew pub***, distiller, ***craft distillery***, manufacturer, rectifier, producer or bottler of the liquor or his or her designated agent.

Sec. 9.5. NRS 369.150 is hereby amended to read as follows:

369.150 1. The Department is charged with the duty of administering the provisions of this chapter.

2. The Department shall:

(a) Prescribe and cause to be printed and issued free of charge all forms for applications and reports.

(b) Except as otherwise provided in NRS 369.430, issue free of charge all certificates and permits.

(c) Adopt and enforce all rules, regulations and standards necessary or convenient to carry out the provisions of this chapter.

(d) Adopt regulations to carry out the provisions of NRS 369.462 to 369.468, inclusive, 369.486 and 369.488.

(e) Adopt and enforce all rules, regulations and standards necessary or convenient to monitor or survey the quantity of malt beverages manufactured by a brew pub within a calendar year for compliance with NRS 597.230.

Sec. 10. NRS 369.180 is hereby amended to read as follows:

369.180 1. In addition to the limitations imposed by NRS 597.210 and 597.220, a person shall not:

(a) Import liquors into this State unless the person first secures an importer's license or permit from this State.

(b) Engage in business as a wholesale dealer of wines and liquors in this State unless the person first secures a wholesale wine and liquor dealer's license from this State.

(c) Engage in business as a wholesale dealer of beer in this State unless the person first secures a wholesale beer dealer's license from this State.

(d) Operate a winery in this State or export wine from this State unless the person first secures a wine-maker's license from this State.

(e) Operate an instructional wine-making facility in this State unless the person first secures a license for the instructional wine-making facility from this State.

(f) Operate a brewery in this State unless the person first secures a brewer's license from this State.

(g) Operate a brew pub in this State unless the person first secures a brew pub's license from this State.

(h) Operate a craft distillery in this State unless the person first secures a craft distiller's license from this State.

2. ***A person who holds a license for a brew pub:***

(a) ***May engage in any activity authorized by NRS 597.230.***

(b) ***May not engage in any other activity for which a license is required pursuant to this chapter, unless the person holds the appropriate license for that activity.***

3. A person who holds a license for an instructional wine-making facility:

(a) May engage in any activity authorized by NRS 597.245.

(b) May not engage in any other activity for which a license is required pursuant to this chapter, unless the person holds the appropriate license for that activity.

~~{3.}~~ 4. A person who holds a license for a craft distillery:

(a) May engage in any activity authorized by NRS 597.235.

(b) May not engage in any other activity for which a license is required pursuant to this chapter, unless the person holds the appropriate license for that activity.

~~{4. 5. As used in this section:~~

~~(a) "Brew pub" has the meaning ascribed to it in NRS 597.200.~~

~~(b) "Brewery" means an establishment which manufactures malt beverages but does not sell those malt beverages at retail.~~

~~(c) "Craft distillery" has the meaning ascribed to it in NRS 597.200.~~

~~(d) (b) "Malt beverage" has the meaning ascribed to it in NRS 597.200.]~~

Sec. 11. NRS 369.382 is hereby amended to read as follows:

369.382 Except as otherwise provided in NRS 369.386, 369.415 , **597.230** and 597.235, a supplier shall not engage in the business of importing, wholesaling or retailing alcoholic beverages in this State.

Sec. 12. NRS 369.485 is hereby amended to read as follows:

369.485 1. The Legislature hereby declares:

(a) That it is a privilege to engage in the business of selling intoxicating liquor at the wholesale or retail level in this state;

(b) That the Legislature finds it necessary to impose certain restrictions on the exercise of such privilege; and

(c) That it is the policy of this state to preclude the acquisition or control of any retail liquor store by a wholesale liquor dealer.

2. As used in this section, unless the context requires otherwise:

(a) “Delinquent payment” means the failure of a retail liquor store to make payment to a wholesale dealer for liquor on or before the 15th day of the month following delivery by the wholesale dealer.

(b) “Payment” means the full legal discharge of the debt by the wholesale dealer’s receipt of cash or its equivalent, including ordinary and recognized means for discharge of indebtedness excepting notes, pledges or other promises to pay at a future date. A postdated check, a check not promptly deposited for collection or a check dishonored on presentation for payment does not constitute payment.

(c) “Payment in cash” means the full legal discharge of the debt by delivery of cash, money order, certified check or a cashier’s or similar bank officer’s check.

3. A wholesale dealer shall not:

(a) Loan any money or other thing of value to a retail liquor store.

(b) Invest money, directly or indirectly, ***including through a subsidiary or agent***, in a retail liquor store.

(c) Furnish or provide any premises, building, bar or equipment to a retail liquor store.

(d) Participate, directly or indirectly, in the operation of the business of a retail liquor store.

(e) Sell liquor to a retail liquor store except for payment on or before delivery or on terms requiring payment by the retail liquor store before or on the 10th day of the month following delivery of such liquor to it by the wholesale dealer.

(f) Sell liquor to a retail liquor store which is delinquent in payment to such wholesale dealer except for payment in cash on or before delivery.

4. On the 15th day of the month following the delivery of liquor and on the 15th day of each month thereafter, the wholesale dealer shall charge a retail liquor store which is delinquent a service charge of 1.5 percent of the amount of the unpaid balance.

5. The Department may impose the following penalties on a wholesale dealer who violates any of the provisions of this section within any 24-month period:

- (a) For the first violation a penalty of not more than \$500.
- (b) For the second violation a penalty of not more than \$1,000.
- (c) For the third and any subsequent violation a penalty of not more than \$5,000 or by a license suspension, or by both such penalty and suspension.

6. The Department may, upon its own motion, and shall, upon the verified written complaint of any wholesale dealer, investigate the possible violation of any of the provisions of this section by any wholesale dealer.

Sec. 13. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act and on July 1, 2017, for all other purposes.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 436.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 441.

AN ACT relating to economic development; requiring the Office of Economic Development to provide businesses certified as a local emerging small business with information concerning certain public and private programs to obtain financing for small businesses; revising provisions governing an application for the issuance or renewal of a state business registration; requiring the Secretary of State to provide to certain businesses information concerning certain public and private programs to obtain financing for small businesses and the process for obtaining certification as a disadvantaged business enterprise; requiring the Regional Business Development Advisory Council for Clark County to provide to certain businesses information concerning certain public and private programs to obtain financing for small businesses; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) provides for the certification of eligible local emerging small businesses by the Office of Economic Development; and (2) requires the Office to establish an outreach program for local emerging small businesses to connect those businesses with state agencies seeking state purchasing contracts and contracts for public works of this State and goals concerning the participation of local emerging small businesses in those contracts. (NRS 231.1405, 231.14065, 231.1407) **Section 1** of this bill requires the Office to provide a business certified as an eligible local

emerging small business with certain information concerning public and private programs to provide financing to small businesses and the criteria for obtaining financing through such programs.

Existing law requires a person to obtain a state business registration and pay an annual fee before conducting business within this State, unless exempted from the business registration requirement. (NRS 76.100, 76.130)

Sections 2 and 4 of this bill clarify that a person may obtain or renew a state business registration by submitting a written application or applying through the state business portal established by the Secretary of State. Sections 2 and 4

~~(of this bill)~~ **also** require the Secretary of State, upon the issuance or renewal of a state business registration, to provide to the business certain information concerning public and private programs to provide financing to small businesses and the criteria for obtaining financing through such programs. ~~(Sections)~~ **Finally, sections 2 and 4** also require the Secretary of State to include on the form for an application for the issuance or renewal of a state business registration an opportunity for the applicant to indicate whether the applicant's business is a minority-owned business, ~~for~~ a woman-owned business ~~or~~ **or a veteran-owned business.** If the applicant indicates that the business is a minority-owned business or a woman-owned business, **sections 2 and 4** require the Secretary of State to provide information concerning how the person may become certified as a disadvantaged business enterprise for certain purposes related to contracting for transportation projects and qualifying for loans to disadvantaged business enterprises.

Existing law creates the Regional Business Development Advisory Council for Clark County and prescribes its duties. (Sections 15 and 20 of chapter 7, Statutes of Nevada 2003, 20th Special Session, at pp. 268-69) **Section 5** of this bill requires the Council to provide to local businesses owned and operated by disadvantaged persons certain information concerning public and private programs to provide financing to small businesses and the criteria for obtaining financing through such programs.

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

Section 1. NRS 231.14055 is hereby amended to read as follows:

231.14055 1. A business may apply, on a form prescribed by regulation of the Office, to the Office for certification as a local emerging small business. The application must be accompanied by such proof as the Office requires to demonstrate that the applicant is in compliance with the criteria set forth in NRS 231.1405 and any regulations adopted pursuant to NRS 231.1408.

2. Upon receipt of the application and when satisfied that the applicant meets the requirements set forth in this section, NRS 231.1405 and any regulations adopted pursuant to NRS 231.1408, the Office shall ~~certify~~:

(a) Certify the business as a local emerging small business ~~it~~; **and**

(b) *Provide to the business, in ~~writing,~~ written or electronic form, information concerning public and private programs to provide financing for small businesses and the criteria for obtaining financing through such programs. The information must include, without limitation, information concerning:*

(1) Grants or loans of money from the Catalyst Account created by NRS 231.1573;

(2) The issuance of revenue bonds for industrial development pursuant to NRS 349.400 to 349.670, inclusive;

(3) The Nevada Collateral Support Program pursuant to 12 U.S.C. §§ 5701 et seq.;

(4) The Nevada Microenterprise Initiative Program pursuant to 12 U.S.C. §§ 5701 et seq.;

(5) The Nevada New Markets Jobs Act pursuant to chapter 231A of NRS;

(6) The Nevada Silver State Opportunities Fund pursuant to NRS 355.275;

(7) Loans from the Small Business Administration pursuant to 15 U.S.C. §§ 631 et seq.; and

(8) Any other ~~public or~~ private program to provide financing for small businesses ~~designated~~ approved by the Office.

3. The Office shall compile a list of the local emerging small businesses certified pursuant to this section and post the list on its Internet website.

Sec. 2. NRS 76.100 is hereby amended to read as follows:

76.100 1. A person shall not conduct a business in this State unless and until the person obtains a state business registration issued by the Secretary of State. If the person is:

(a) An entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business registration at the time of filing the initial or annual list.

(b) Not an entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business registration before conducting a business in this State.

2. An application for a state business registration may be submitted in writing or through the state business portal established pursuant to chapter 75A of NRS and must:

(a) Be made upon a form prescribed by the Secretary of State ~~to~~, which must enable the applicant to declare whether the applicant is a minority-owned business, ~~for~~ a woman-owned business ~~to~~ or a veteran-owned business;

(b) Set forth the name under which the applicant transacts or intends to transact business, or if the applicant is an entity organized pursuant to this title and on file with the Secretary of State, the exact name on file with the Secretary of State, the business identification number as assigned by the

Secretary of State pursuant to NRS 225.082, and the location in this State of the place or places of business;

(c) Be accompanied by a fee in the amount of \$200, except that if the applicant is a corporation organized pursuant to chapter 78, 78A or 78B of NRS, or a foreign corporation required to file an initial or annual list with the Secretary of State pursuant to chapter 80 of NRS, the application must be accompanied by a fee of \$500; and

(d) Include any other information that the Secretary of State deems necessary.

➡ If the applicant is an entity organized pursuant to this title and on file with the Secretary of State and the applicant has no location in this State of its place of business, the address of its registered agent shall be deemed to be the location in this State of its place of business.

3. The application must be signed pursuant to NRS 239.330 by:

- (a) The owner of a business that is owned by a natural person.
- (b) A member or partner of an association or partnership.
- (c) A general partner of a limited partnership.
- (d) A managing partner of a limited-liability partnership.
- (e) A manager or managing member of a limited-liability company.
- (f) An officer of a corporation or some other person specifically authorized by the corporation to sign the application.

4. If the application for a state business registration is defective in any respect or the fee required by this section is not paid, the Secretary of State may return the application for correction or payment.

5. ***Upon issuance of a state business registration, the Secretary of State shall provide to the business: ~~in writing~~***

(a) Information, in written or electronic form, concerning public and private programs to provide financing for small businesses and the criteria for obtaining financing through such programs. The information must include, without limitation:

(1) Grants or loans of money from the Catalyst Account created by NRS 231.1573;

(2) The issuance of revenue bonds for industrial development issued pursuant to NRS 349.400 to 349.670, inclusive;

(3) The Nevada Collateral Support Program pursuant to 12 U.S.C. §§ 5701 et seq.;

(4) The Nevada Microenterprise Initiative Program pursuant to 12 U.S.C. §§ 5701 et seq.;

(5) The Nevada New Markets Jobs Act pursuant to chapter 231A of NRS;

(6) The Nevada Silver State Opportunities Fund pursuant to NRS 355.275;

(7) Loans from the Small Business Administration loans pursuant to 15 U.S.C. § 631 et seq.; and

(8) *Any other program to provide financing for small businesses designated by the Secretary of State; and*

(b) *If the business indicated on its application for a state business registration that the business is a minority-owned business or a woman-owned business, information, in ~~writing,~~ written or electronic form, concerning the process by which the business may become certified as a disadvantaged business enterprise for the purposes of 49 C.F.R. § 26.5 or a program to provide financing for disadvantaged business enterprises.*

6. A state business registration issued pursuant to this section must contain the business identification number assigned by the Secretary of State pursuant to NRS 225.082.

~~{6.}~~ 7. The state business registration required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.

~~{7.}~~ 8. For the purposes of this chapter, a person:

(a) Shall be deemed to conduct a business in this State if a business for which the person is responsible:

(1) Is organized pursuant to this title, other than a business organized pursuant to:

(I) Chapter 82 or 84 of NRS; or

(II) Chapter 81 of NRS if the business is a nonprofit unit-owners' association or a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c);

(2) Has an office or other base of operations in this State;

(3) Except as otherwise provided in NRS 76.103, has a registered agent in this State; or

(4) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he or she is paid.

(b) Shall be deemed not to conduct a business in this State if the business for which the person is responsible:

(1) Is not organized pursuant to this title;

(2) Does not have an office or base of operations in this State;

(3) Does not have a registered agent in this State;

(4) Does not pay wages or other remuneration to a natural person who performs in this State any of the duties for which he or she is paid, other than wages or other remuneration paid to a natural person for performing duties in connection with an activity described in subparagraph (5); and

(5) Is conducting activity in this State solely to provide vehicles or equipment on a short-term basis in response to a wildland fire, a flood, an earthquake or another emergency.

~~{8.}~~ 9. As used in this section, ~~“registered”~~ :

(a) ***“Registered agent”*** has the meaning ascribed to it in NRS 77.230.

(b) ***“Veteran”*** has the meaning ascribed to it in NRS 417.005.

(c) ***“Veteran-owned business”*** means a business that:

(1) Is owned by a natural person who is a veteran; or

(2) Has at least 51 percent of its ownership interest held by one or more veterans.

Sec. 3. NRS 76.103 is hereby amended to read as follows:

76.103 1. A manufacturer who maintains a registered agent in this State solely because of the requirements set forth in NRS 370.680 and who is not otherwise required to obtain a state business registration pursuant to NRS 76.100 is not deemed, pursuant to subparagraph (3) of paragraph (a) of subsection ~~77~~ 8 of NRS 76.100, to conduct a business in this State.

2. As used in this section, “manufacturer” has the meaning ascribed to it in NRS 370.0315.

Sec. 4. NRS 76.130 is hereby amended to read as follows:

76.130 1. Except as otherwise provided in subsection 2, a person who applies for renewal of a state business registration shall submit **in writing or through the state business portal established pursuant to chapter 75A of NRS an application on a form prescribed by the Secretary of State, which must enable the applicant to declare whether the applicant is a minority-owned business, ~~for~~ a woman-owned business, ~~for~~ or a veteran-owned business,** and a fee in the amount of \$200 to the Secretary of State:

(a) If the person is an entity required to file an annual list with the Secretary of State pursuant to this title, at the time the person submits the annual list to the Secretary of State, unless the person submits a certificate or other form evidencing the dissolution of the entity; or

(b) If the person is not an entity required to file an annual list with the Secretary of State pursuant to this title, on the last day of the month in which the anniversary date of issuance of the state business registration occurs in each year, unless the person submits a written statement to the Secretary of State, at least 10 days before that date, indicating that the person will not be conducting a business in this State after that date.

2. If the person applying for the renewal of a state business registration pursuant to subsection 1 is a corporation organized pursuant to chapter 78, 78A or 78B of NRS, or a foreign corporation required to file an initial or annual list with the Secretary of State pursuant to chapter 80 of NRS, the fee for the renewal of a state business registration is \$500.

3. The Secretary of State shall, 90 days before the last day for filing an application for renewal of the state business registration of a person who holds a state business registration, provide to the person a notice of the state business registration fee due pursuant to this section and a reminder to file the application for renewal required pursuant to this section. Failure of any person to receive a notice does not excuse the person from the penalty imposed by law.

4. **Upon renewal of a state business registration, the Secretary of State shall provide to the business : ~~in writing~~**

(a) Information , in written or electronic form, concerning public and private programs to provide financing for small businesses and the criteria

for obtaining financing through such programs. The information must include, without limitation:

(1) Grants or loans of money from the Catalyst Account created by NRS 231.1573;

(2) The issuance of revenue bonds for industrial development revenue bonds issued pursuant to NRS 349.400 to 349.670, inclusive;

(3) The Nevada Collateral Support Program pursuant to 12 U.S.C. §§ 5701 et seq.;

(4) The Nevada Microenterprise Initiative Program pursuant to 12 U.S.C. §§ 5701 et seq.;

(5) The Nevada New Markets Jobs Act pursuant to chapter 231A of NRS;

(6) The Nevada Silver State Opportunities Fund pursuant to NRS 355.275;

(7) Loans from the Small Business Administration loans pursuant to 15 U.S.C. § 631 et seq.; and

(8) Any other program to provide financing for small businesses ~~designated~~ approved by the Secretary of State; and

(b) If the business indicated on its application for a state business registration that the business is a minority-owned business or a woman-owned business, information, in ~~writing,~~ written or electronic form, concerning the process by which the business may become certified as a disadvantaged business enterprise for the purposes of 49 C.F.R. § 26.5 or a program to provide financing for disadvantaged business enterprises.

5. If a person fails to submit the annual state business registration fee required pursuant to this section in a timely manner and the person is:

(a) An entity required to file an annual list with the Secretary of State pursuant to this title, the person:

(1) Shall pay a penalty of \$100 in addition to the annual state business registration fee;

(2) Shall be deemed to have not complied with the requirement to file an annual list with the Secretary of State; and

(3) Is subject to all applicable provisions relating to the failure to file an annual list, including, without limitation, the provisions governing default and revocation of its charter or right to transact business in this State, except that the person is required to pay the penalty set forth in subparagraph (1).

(b) Not an entity required to file an annual list with the Secretary of State, the person shall pay a penalty in the amount of \$100 in addition to the annual state business registration fee. The Secretary of State shall provide to the person a written notice that:

(1) Must include a statement indicating the amount of the fees and penalties required pursuant to this section and the costs remaining unpaid.

(2) May be provided electronically, if the person has requested to receive communications by electronic transmission, by electronic mail or other electronic communication.

~~{5-}~~ 6. A person who continues to do business in this State without renewing the person's state business registration before its renewal date is subject to the fees and penalties provided for in this section unless the person files a certificate of cancellation of the person's state business registration with the Secretary of State.

~~{6-}~~ 7. The Secretary of State shall waive the annual state business registration fee and any related penalty imposed on a natural person or partnership if the natural person or partnership provides evidence satisfactory to the Secretary of State that the natural person or partnership conducted no business in this State during the period for which the fees and penalties would be waived.

8. As used in this section:

(a) "Veteran" has the meaning ascribed to it in NRS 417.005.

(b) "Veteran-owned business" means a business that:

(1) Is owned by a natural person who is a veteran; or

(2) Has at least 51 percent of its ownership interest held by one or more veterans.

Sec. 5. Section 20 of the Regional Business Development Advisory Council for Clark County Act, being chapter 7, Statutes of Nevada 2003, 20th Special Session, as amended by chapter 142, Statutes of Nevada 2015, at page 550, is hereby amended to read as follows:

Sec. 20. 1. The Council shall propose and implement policies, programs and procedures to encourage and promote the use of local businesses owned and operated by disadvantaged persons, particularly in the area of contracting and procurement by public agencies in Clark County.

2. On or before November 1 of each year, each public entity which has a representative on the Council pursuant to subsection 1 of section 15 of this act shall prepare and deliver a written report to the Council for the immediately preceding fiscal year which contains:

(a) The number of persons employed by the public entity, disaggregated by major ethnic and racial categories, including, without limitation, African-American, Asian, Caucasian, Hispanic and Native American.

(b) Expenditures made by the public entity during the immediately preceding fiscal year, disaggregated by discretionary and nondiscretionary expenditures.

(c) The percentage of expenditures paid by the public entity to local businesses owned and operated by disadvantaged persons, disaggregated by ethnic and racial categories and by gender.

(d) A summary of the efforts and programs used by the public entity to encourage and increase the involvement in contracting local businesses owned and operated by disadvantaged persons and any efforts or programs used by the public entity to encourage the economic

development of local businesses owned and operated by disadvantaged persons.

(e) Such other information as the Council determines is necessary to achieve its goals.

3. The Council shall encourage each public and private entity which has a representative on the Council pursuant to subsection 2 of section 15 of this act to prepare and deliver to the Council an annual report similar to the report required pursuant to subsection 2.

4. ***The Council shall provide to local businesses owned and operated by disadvantaged persons information ~~in writing~~ written or electronic form, concerning public and private programs to provide financing for small businesses and the criteria for obtaining financing through such programs. The information must include, without limitation:***

(a) Grants or loans of money from the Catalyst Account created by NRS 231.1573;

(b) The issuance of revenue bonds for industrial development pursuant to NRS 349.400 to 349.670, inclusive;

(c) The Nevada Collateral Support Program pursuant to 12 U.S.C. §§ 5701 et seq.;

(d) The Nevada Microenterprise Initiative Program pursuant to 12 U.S.C. §§ 5701 et seq.;

(e) The Nevada New Markets Jobs Act pursuant to chapter 231A of NRS;

(f) The Nevada Silver State Opportunities Fund pursuant to NRS 355.275;

(g) Loans from the Small Business Administration pursuant to 15 U.S.C. § 631 et seq.; and

(h) Any other ~~public or~~ private lending opportunity for small businesses ~~designated by~~ with which the ~~Secretary of State,~~ Council has a working relationship.

5. On or before January 15 of each odd-numbered year, the Council shall prepare a report regarding the policies, programs and procedures that the Council proposed and implemented during the immediately preceding 2 years to encourage and promote the use of local businesses owned and operated by disadvantaged persons, using the reports received pursuant to this section, and shall submit the report to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

Sec. 6. ~~This~~ 1. This section and sections 1 and 5 of this act ~~becomes~~ become effective on July 1, 2017.

2. Sections 2, 3 and 4 of this act become effective on January 1, 2018.

Assemblywoman Neal moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 438.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 419.

AN ACT relating to controlled substances; establishing the crimes of ~~low-level drug possession, mid-level drug possession and high-level~~ **level 1 and level 2** drug possession; revising ~~the penalties imposed for the possession of and trafficking in certain controlled substances; establishing additional circumstances in which a court is authorized to reduce or suspend~~ **provisions relating to the reduction or suspension of** the sentence of a person convicted of ~~trafficking in~~ **certain offenses involving** a controlled substance; ~~repealing provisions relating to~~ **reducing the penalty for a violation of** the prohibition against **using or** being under the influence of a controlled substance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law generally prohibits a person from knowingly or intentionally possessing a controlled substance and provides certain limited exceptions to such a prohibition. Existing law establishes the penalties for such an offense, which vary depending on the type of controlled substance possessed and the frequency of the occurrence of the offense. (NRS 453.336) Section 5 of this bill revises such penalties and provides that the severity of the penalty depends on the quantity of the controlled substance possessed. Section 5 also establishes the crimes of low level drug possession, mid level drug possession and high level drug possession.]~~

Existing law prohibits a person from knowingly or intentionally selling, manufacturing, delivering, bringing into this State or being in actual or constructive possession of certain controlled substances other than marijuana and sets forth the penalties for the commission of any such act. (NRS 453.3385, 453.3395) ~~[Section]~~ **Sections 9 and 9.5** of this bill ~~[revises and consolidates such penalties and provides]~~ **provide** that ~~[if]~~ **a person who violates any such provision is guilty of level 1 drug possession, level 2 drug possession or trafficking in a controlled substance, depending on the type and** quantity of the controlled substance involved ~~[, if 500 grams or more, a person who commits any such act is punished for a category A felony by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served.]~~

Existing law provides that if a person is found guilty of trafficking in a controlled substance, the court is authorized to reduce or suspend the sentence of the person if the court finds that he or she rendered substantial assistance in the investigation or prosecution of any offense. (NRS 453.3405)

Section 10 of this bill ~~[additionally]~~ authorizes the court to reduce or suspend the sentence of ~~[such]~~ a person ~~[if the person proves by clear and convincing evidence that his or her only participation in the offense consisted of the transportation of a controlled substance and such participation was the result of duress because of a threat made against the person or a member of his or her family.]~~ **who is convicted of level 1 drug possession involving certain controlled substances without requiring the person to render such assistance.**

Existing law also provides that it is unlawful for a person knowingly to use or be under the influence of a controlled substance except: (1) in accordance with a lawfully issued prescription; or (2) when administered to the person at certain rehabilitation clinics or hospitals. A person who violates either such provision is generally guilty of a category E felony unless the controlled substance is listed in schedule V, in which case the person is guilty of a gross misdemeanor. (NRS 453.411) **Section [14] 10.5** of this bill ~~[repeals such provisions.~~

~~Sections 1-4, 6-8 and 11-13 of this bill make conforming changes.]~~ **reduces the penalty for a violation of either such provision to a misdemeanor.**

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

Section 1. ~~[NRS 453.322 is hereby amended to read as follows:~~

~~453.322 1. Except as authorized by the provisions of NRS 453.011 to 453.552, inclusive, it is unlawful for a person to knowingly or intentionally:~~

~~(a) Manufacture or compound a controlled substance other than marijuana;~~

~~(b) Possess, with the intent to manufacture or compound a controlled substance other than marijuana, or sell, exchange, barter, supply, prescribe, dispense or give away, with the intent that the chemical be used to manufacture or compound a controlled substance other than marijuana;~~

~~(1) Any chemical identified in subsection 4; or~~

~~(2) Any other chemical which is proven by expert testimony to be commonly used in manufacturing or compounding a controlled substance other than marijuana. The district attorney may present expert testimony to provide a prima facie case that any chemical, whether or not it is a chemical identified in subsection 4, is commonly used in manufacturing or compounding such a controlled substance.~~

~~↗ The provisions of this paragraph do not apply to a person who, without the intent to commit an unlawful act, possesses any chemical at a laboratory that is licensed to store the chemical.~~

~~(c) Offer or attempt to do any act set forth in paragraph (a) or (b).~~

~~2. Unless a greater penalty is provided in NRS 453.3385, [or 453.3395,] a person who violates any provision of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a~~

~~minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$100,000.~~

~~3. The court shall not grant probation to a person convicted pursuant to this section.~~

~~4. The following chemicals are identified for the purposes of subsection 1:~~

- ~~(a) Acetic anhydride.~~
- ~~(b) Acetone.~~
- ~~(c) N-Acetylanthranilic acid, its esters and its salts.~~
- ~~(d) Anthranilic acid, its esters and its salts.~~
- ~~(e) Benzaldehyde, its salts, isomers and salts of isomers.~~
- ~~(f) Benzyl chloride.~~
- ~~(g) Benzyl cyanide.~~
- ~~(h) 1,4-Butanediol.~~
- ~~(i) 2-Butanone (or methyl ethyl ketone or MEK).~~
- ~~(j) Ephedrine, its salts, isomers and salts of isomers.~~
- ~~(k) Ergonovine and its salts.~~
- ~~(l) Ergotamine and its salts.~~
- ~~(m) Ethylamine, its salts, isomers and salts of isomers.~~
- ~~(n) Ethyl ether.~~
- ~~(o) Gamma-butyrolactone.~~
- ~~(p) Hydriodic acid, its salts, isomers and salts of isomers.~~
- ~~(q) Hydrochloric gas.~~
- ~~(r) Iodine.~~
- ~~(s) Isosafrole, its salts, isomers and salts of isomers.~~
- ~~(t) Lithium metal.~~
- ~~(u) Methylamine, its salts, isomers and salts of isomers.~~
- ~~(v) 3,4-Methylenedioxy-phenyl-2-propanone.~~
- ~~(w) N-Methylephedrine, its salts, isomers and salts of isomers.~~
- ~~(x) Methyl isobutyl ketone (MIBK).~~
- ~~(y) N-Methylpseudoephedrine, its salts, isomers and salts of isomers.~~
- ~~(z) Nitroethane, its salts, isomers and salts of isomers.~~
- ~~(aa) Norpseudoephedrine, its salts, isomers and salts of isomers.~~
- ~~(bb) Phenylacetic acid, its esters and its salts.~~
- ~~(cc) Phenylpropanolamine, its salts, isomers and salts of isomers.~~
- ~~(dd) Piperidine and its salts.~~
- ~~(ee) Piperonal, its salts, isomers and salts of isomers.~~
- ~~(ff) Potassium permanganate.~~
- ~~(gg) Propionic anhydride, its salts, isomers and salts of isomers.~~
- ~~(hh) Pseudoephedrine, its salts, isomers and salts of isomers.~~
- ~~(ii) Red phosphorous.~~
- ~~(jj) Safrole, its salts, isomers and salts of isomers.~~
- ~~(kk) Sodium metal.~~
- ~~(ll) Sulfuric acid.~~
- ~~(mm) Toluene.~~ **(Deleted by amendment.)**

Sec. 2. ~~[NRS 453.323 is hereby amended to read as follows:~~

~~453.323 If the death of a person is proximately caused by a controlled substance which was sold, given, traded or otherwise made available to him or her by another person in violation of this chapter, the person who sold, gave or traded or otherwise made the substance available to him or her is guilty of murder. If convicted of murder in the second degree, the person is guilty of a category A felony and shall be punished as provided in subsection 5 of NRS 200.030. If convicted of murder in the first degree, the person is guilty of a category A felony and shall be punished as provided in subsection 4 of NRS 200.030, except that the punishment of death may be imposed only if the requirements of paragraph (a) of subsection 4 of that section have been met and if the defendant is or has previously been convicted of violating NRS 453.3285 [,] or 453.329 [or 453.3295] or a law of any other jurisdiction which prohibits the same conduct.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 453.3351 is hereby amended to read as follows:~~

~~453.3351 1. Unless a greater penalty is provided by law, and except as otherwise provided in NRS 193.169, any person who violates NRS 453.322 [,] or 453.3285 [or 453.3295] where the violation included the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine:~~

~~—(a) Within 500 feet of a residence, business, church, synagogue or other place of religious worship, public or private school, campus of the Nevada System of Higher Education, playground, public park, public swimming pool or recreational center for youths; or~~

~~—(b) In a manner which creates a great risk of death or substantial bodily harm to another person,~~

~~— shall be punished by imprisonment in the state prison for a term equal to and in addition to the term of imprisonment prescribed by statute for the crime. The sentence prescribed by this section runs consecutively with the sentence prescribed by statute for the crime.~~

~~2. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.~~

~~3. For the purposes of this section:~~

~~—(a) “Playground” has the meaning ascribed to it in NRS 453.3345.~~

~~—(b) “Recreational center for youths” has the meaning ascribed to it in NRS 453.3345.~~

~~—(c) “Residence” means any house, room, apartment, tenement, manufactured home as defined in NRS 489.113, or mobile home as defined in NRS 489.120, that is designed or intended for occupancy.] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 453.3353 is hereby amended to read as follows:~~

~~453.3353 1. Unless a greater penalty is provided by law, and except as otherwise provided in this section and NRS 193.169, if:~~

~~— (a) A person violates NRS 453.322 [,] or 453.3385 , [or 453.3395,] and the violation involves the manufacturing or compounding of any controlled substance other than marijuana; and~~

~~— (b) During the discovery or cleanup of the premises at, on or in which the controlled substance was manufactured or compounded, another person suffers substantial bodily harm other than death as the proximate result of the manufacturing or compounding of the controlled substance,~~

~~→ the person who committed the offense shall be punished by imprisonment in the state prison for a term equal to and in addition to the term of imprisonment prescribed by statute for the offense. The sentence prescribed by this subsection runs consecutively with the sentence prescribed by statute for the offense.~~

~~— 2. Unless a greater penalty is provided by law, and except as otherwise provided in NRS 193.169, if:~~

~~— (a) A person violates NRS 453.322 [,] or 453.3385 , [or 453.3395,] and the violation involves the manufacturing or compounding of any controlled substance other than marijuana; and~~

~~— (b) During the discovery or cleanup of the premises at, on or in which the controlled substance was manufactured or compounded, another person suffers death as the proximate result of the manufacturing or compounding of the controlled substance,~~

~~→ the offense shall be deemed a category A felony and the person who committed the offense shall be punished by imprisonment in the state prison:~~

~~— (1) For life without the possibility of parole;~~

~~— (2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or~~

~~— (3) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.~~

~~— 3. Subsection 1 does not create a separate offense but provides an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact. Subsection 2 does not create a separate offense but provides an alternative penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.~~

~~— 4. As used in this section:~~

~~— (a) “Marijuana” does not include concentrated cannabis.~~

~~— (b) “Premises” means:~~

~~— (1) Any temporary or permanent structure, including, without limitation, any building, house, room, apartment, tenement, shed, carport, garage, shop, warehouse, store, mill, barn, stable, outhouse or tent; or~~

~~— (2) Any conveyance, including, without limitation, any vessel, boat, vehicle, airplane, glider, house trailer, travel trailer, motor home or railroad car,~~

~~→ whether located aboveground or underground and whether inhabited or not. (Deleted by amendment.)~~

Sec. 5. ~~NRS 453.336 is hereby amended to read as follows:~~

~~453.336 1. Except as otherwise provided in subsection 5, a person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician, optometrist, advanced practice registered nurse or veterinarian while acting in the course of his or her professional practice, or except as otherwise authorized by the provisions of NRS 453.005 to 453.552, inclusive.~~

~~2. Except as otherwise provided in subsections 3 and 4 and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160 [, 453.3385,] or 453.339 or [453.3395,] a person is otherwise subject to the penalty set forth in NRS 453.3385, a person who violates this section:~~

~~(a) By possessing less than 1 gram of a controlled substance shall be punished:~~

~~(a) For the first or second offense, if the] for a misdemeanor.~~

~~(b) By possessing 1 gram or more but less than 14 grams of a controlled substance [is listed in schedule I, II, III or IV,] shall be punished for a category E felony as provided in NRS 193.130.~~

~~[(b) For a third or subsequent offense, if the controlled substance is listed in schedule I, II, III or IV, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance, for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than \$20,000.]~~

~~(c) [For the first offense, if the] By possessing 14 grams or more but less than 42 grams of a controlled substance is [listed in schedule V,] guilty of low level drug possession and shall be punished for a category [E] C felony as provided in NRS 193.130.~~

~~(d) [For a second or subsequent offense, if the] By possessing 42 grams or more but less than 112 grams of a controlled substance is [listed in schedule V,] guilty of mid-level drug possession and shall be punished for a category [D] B felony [as provided in NRS 193.130.] by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.~~

~~(e) By possessing 112 grams or more but less than 500 grams of a controlled substance is guilty of high level drug possession and shall be punished 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 20 years.~~

~~3. Unless a greater penalty is provided in subsection 2 or NRS 212.160, 453.337 or 453.3385, a person who is convicted of the possession of flunitrazepam or gamma hydroxybutyrate, or any substance for which flunitrazepam or gamma hydroxybutyrate is an immediate precursor, is guilty of a category B felony and shall be punished by imprisonment in the~~

state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

~~4. Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of 1 ounce or less of marijuana:~~

~~(a) For the first offense, is guilty of a misdemeanor and shall be:~~

~~(1) Punished by a fine of not more than \$600; or~~

~~(2) Examined by a treatment provider approved by the court to determine whether the person is a drug addict and is likely to be rehabilitated through treatment and, if the examination reveals that the person is a drug addict and is likely to be rehabilitated through treatment, assigned to a program of treatment and rehabilitation pursuant to NRS 453.580. As used in this subparagraph, "treatment provider" has the meaning ascribed to it in NRS 459.010.~~

~~(b) For the second offense, is guilty of a misdemeanor and shall be:~~

~~(1) Punished by a fine of not more than \$1,000; or~~

~~(2) Assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.~~

~~(c) For the third offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.~~

~~(d) For a fourth or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.~~

~~5. It is not a violation of this section if a person possesses a trace amount of a controlled substance and that trace amount is in or on a hypodermic device obtained from a sterile hypodermic device program pursuant to NRS 439.985 to 439.994, inclusive.~~

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

~~(a) "Controlled substance" includes flunitrazepam, gamma-hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.~~

~~(b) "Marijuana" does not include concentrated cannabis.~~

~~(c) "Sterile hypodermic device program" has the meaning ascribed to it in NRS 439.986. (Deleted by amendment.)~~

Sec. 6. [NRS 453.3363 is hereby amended to read as follows:

~~453.3363 1. If a person who has not previously been convicted of any offense pursuant to NRS 453.011 to 453.552, inclusive, or pursuant to any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant or hallucinogenic substances tenders a plea of guilty, guilty but mentally ill, nolo contendere or similar plea to a charge pursuant to subparagraph (1) of paragraph (a) of subsection 2 of NRS 453.3325, subsection 2 or 3 of NRS 453.336 [, NRS 453.411] or NRS 454.351, or is found guilty or guilty but mentally ill of one of those charges, the court, without entering a judgment of conviction and with the consent of the accused, may suspend further proceedings and place the person on probation upon terms and conditions that must include attendance and successful completion of an educational program or, in the case of a person~~

~~dependent upon drugs, of a program of treatment and rehabilitation pursuant to NRS 453.500.~~

~~2. Upon violation of a term or condition, the court may enter a judgment of conviction and proceed as provided in the section pursuant to which the accused was charged. Notwithstanding the provisions of paragraph (c) of subsection 2 of NRS 193.130, upon violation of a term or condition, the court may order the person to the custody of the Department of Corrections.~~

~~3. Upon fulfillment of the terms and conditions, the court shall discharge the accused and dismiss the proceedings against him or her. A nonpublic record of the dismissal must be transmitted to and retained by the Division of Parole and Probation of the Department of Public Safety solely for the use of the courts in determining whether, in later proceedings, the person qualifies under this section.~~

~~4. Except as otherwise provided in subsection 5, discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation of the law, to the status occupied before the arrest, indictment or information. The person may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of the person for any purpose. Discharge and dismissal under this section may occur only once with respect to any person.~~

~~5. A professional licensing board may consider a proceeding under this section in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to the applicant or licensee.] (Deleted by amendment.)~~

Sec. 7. ~~[NRS 453.337 is hereby amended to read as follows:~~

~~453.337 1. Except as otherwise authorized by the provisions of NRS 453.011 to 453.552, inclusive, it is unlawful for a person to possess for the purpose of sale flunitrazepam, gamma hydroxybutyrate, any substance for which flunitrazepam or gamma hydroxybutyrate is an immediate precursor or any controlled substance classified in schedule I or II.~~

~~2. Unless a greater penalty is provided in NRS 453.3385 [,] or 453.339, [for 453.3395,] a person who violates this section shall be punished:~~

~~(a) For the first offense, for a category D felony as provided in NRS 193.130.~~

~~(b) For a second offense, or if, in the case of a first conviction of violating this section, the offender has previously been convicted of a felony under the Uniform Controlled Substances Act or of an offense under the laws of the United States or any state, territory or district which, if committed in this~~

~~State, would amount to a felony under the Uniform Controlled Substances Act, for a category C felony as provided in NRS 193.130.~~

~~— (c) For a third or subsequent offense, or if the offender has previously been convicted two or more times of a felony under the Uniform Controlled Substances Act or of any offense under the laws of the United States or any state, territory or district which, if committed in this State, would amount to a felony under the Uniform Controlled Substances Act, for a category B felony by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$20,000 for each offense.~~

~~— 3. The court shall not grant probation to or suspend the sentence of a person convicted of violating this section and punishable pursuant to paragraph (b) or (c) of subsection 2.] (Deleted by amendment.)~~

Sec. 8. ~~[NRS 453.3383 is hereby amended to read as follows:~~

~~453.3383 For the purposes of NRS 453.3385 [,] and 453.339 , [and 453.3395,] the weight of the controlled substance as represented by the person selling or delivering it is determinative if the weight as represented is greater than the actual weight of the controlled substance.] (Deleted by amendment.)~~

Sec. 9. NRS 453.3385 is hereby amended to read as follows:

453.3385 1. Except as otherwise authorized by the provisions of NRS 453.011 to 453.552, inclusive, **and unless a greater penalty is provided in NRS 453.322,** 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 flunitrazepam, gamma-hydroxybutyrate, any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor or ~~[500 grams or more of]~~ any controlled substance which is listed in schedule I, except marijuana, or any mixture which contains any such controlled substance, ~~[shall be punished, unless a greater penalty is provided pursuant to NRS 453.322,]~~ if the quantity involved:

(a) Is 4 grams or more, but less than 14 grams, **is guilty of level 1 drug possession and shall be punished** for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years and by a fine of not more than \$50,000.

(b) Is 14 grams or more, but less than 28 grams, **is guilty of level 2 drug possession and shall be punished** 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 15 years and by a fine of not more than \$100,000.

(c) Is 28 grams or more, **is guilty of trafficking in a controlled substance and shall be punished** for a category A felony by imprisonment in the state prison :

(1) For ~~for~~ life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 ~~15~~ years has been served ~~14~~ ; or

(2) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served,

➔ and by a fine of not more than \$500,000.

2. As used in this section, "marijuana" does not include concentrated cannabis.

Sec. 9.5. NRS 453.3395 is hereby amended to read as follows:

453.3395 Except as otherwise provided in NRS 453.011 to 453.552, inclusive, and unless a greater penalty is provided pursuant to NRS 453.322, 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 any controlled substance which is listed in schedule II or any mixture which contains any such controlled substance, ~~shall be punished, unless a greater penalty is provided pursuant to NRS 453.322,~~ if the quantity involved:

1. Is 28 grams or more, but less than 200 grams, is guilty of level 1 drug possession and shall be punished for a category C felony as provided in NRS 193.130 and by a fine of not more than \$50,000.

2. Is 200 grams or more, but less than 400 grams, is guilty of level 2 drug possession and shall be punished 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 \$100,000.

3. Is 400 grams or more, is guilty of trafficking in a controlled substance and shall be punished for a category A felony by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served; or

(b) 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 \$250,000.

Sec. 10. NRS 453.3405 is hereby amended to read as follows:

453.3405 1. Except as otherwise provided in subsection 2, the adjudication of guilt and imposition of sentence of a person found guilty of level 1 drug possession, level 2 drug possession or trafficking in a controlled substance in violation of NRS 453.3385 ~~or~~ 453.339 or 453.3395, as applicable, must not be suspended and the person is not eligible for parole until the person has actually served the mandatory minimum term of imprisonment prescribed by the section under which the person was convicted.

2. The court, upon an appropriate motion, may reduce or suspend the sentence of any person convicted of violating ~~any of~~ the provisions of :

(a) Paragraph (a) of subsection 1 of NRS 453.3385; or

(b) Paragraph (b) or (c) of subsection 1 of NRS 453.3385 ~~or~~ 453.339 or 453.3395 if the court finds that the convicted person rendered substantial assistance in the investigation or prosecution of any offense ~~or if the~~

~~person proves by clear and convincing evidence that his or her only participation in the offense consisted of the transportation of a controlled substance and such participation was the result of duress because of a threat made against the person or a member of his or her family.]~~

➡ The arresting agency must be given an opportunity to be heard before the motion is granted. Upon good cause shown, the motion may be heard in camera.

3. Any appropriate reduction or suspension of a sentence ~~for rendering substantial assistance in the investigation or prosecution of any offense~~ pursuant to subsection 2 must be determined by the court, for reasons stated by the court that may include, without limitation, consideration of the following ~~1-1~~, if applicable:

(a) The court's evaluation of the significance and usefulness of the convicted person's assistance, taking into consideration the prosecuting attorney's evaluation of the assistance rendered;

(b) The truthfulness, completeness and reliability of any information or testimony provided by the convicted person;

(c) The nature and extent of the convicted person's assistance;

(d) Any injury suffered or any danger or risk of injury to the convicted person or his or her family resulting from his or her assistance; and

(e) The timeliness of the convicted person's assistance.

Sec. 10.5. NRS 453.411 is hereby amended to read as follows:

453.411 1. It is unlawful for a person knowingly to use or be under the influence of a controlled substance except in accordance with a lawfully issued prescription.

2. It is unlawful for a person knowingly to use or be under the influence of a controlled substance except when administered to the person at a rehabilitation clinic established or licensed by the Division of Public and Behavioral Health of the Department, or a hospital certified by the Department.

3. Unless a greater penalty is provided in NRS 212.160, a person who violates this section shall be punished ~~1-~~

~~—(a) If the controlled substance is listed in schedule I, II, III or IV, for a category E felony as provided in NRS 193.130.~~

~~—(b) If the controlled substance is listed in schedule V,] for a [gross] misdemeanor. [by imprisonment in the county jail for not more than 364 days, and may be further punished by a fine of not more than \$1,000.]~~

Sec. 11. [NRS 453C.150 is hereby amended to read as follows:

~~453C.150 1. Notwithstanding any other provision of law, a person who, in good faith, seeks medical assistance for a person who is experiencing a drug or alcohol overdose or other medical emergency or who seeks such assistance for himself or herself, or who is the subject of a good faith request for such assistance may not be arrested, charged, prosecuted or convicted, or have his or her property subjected to forfeiture, or be otherwise penalized for violating;~~

~~— (a) Except as otherwise provided in subsection 4, a provision of chapter 453 of NRS relating to:~~

~~— (1) Drug paraphernalia, including, without limitation, NRS 453.554 to 453.566, inclusive;~~

~~— (2) Possession, unless it is for the purpose of sale or violates the provisions of NRS 453.3385, subsection 2 of NRS 453.3393 [, 453.3395] or NRS 453.3405; or~~

~~— (3) Use of a controlled substance, including, without limitation, NRS 453.336;~~

~~— (b) A local ordinance as described in NRS 453.3361 that establishes an offense that is similar to an offense set forth in NRS 453.336;~~

~~— (c) A restraining order; or~~

~~— (d) A condition of the person's parole or probation;~~

~~— if the evidence to support the arrest, charge, prosecution, conviction, seizure or penalty was obtained as a result of the person seeking medical assistance.~~

~~— 2. A court, before sentencing a person who has been convicted of a violation of chapter 453 of NRS for which immunity is not provided by this section, shall consider in mitigation any evidence or information that the defendant, in good faith, sought medical assistance for a person who was experiencing a drug or alcohol overdose or other life threatening emergency in connection with the events that constituted the violation.~~

~~— 3. For the purposes of this section, a person seeks medical assistance if the person:~~

~~— (a) Reports a drug or alcohol overdose or other medical emergency to a member of a law enforcement agency, a 911 emergency service, a poison control center, a medical facility or a provider of emergency medical services;~~

~~— (b) Assists another person making such a report;~~

~~— (c) Provides care to a person who is experiencing a drug or alcohol overdose or other medical emergency while awaiting the arrival of medical assistance; or~~

~~— (d) Delivers a person who is experiencing a drug or alcohol overdose or other medical emergency to a medical facility and notifies the appropriate authorities.~~

~~— 4. The provisions of this section do not prohibit any governmental entity from taking any actions required or authorized by chapter 432B of NRS relating to the abuse or neglect of a child.~~

~~— 5. As used in this section, "drug or alcohol overdose" means a condition, including, without limitation, extreme physical illness, a decreased level of consciousness, respiratory depression, coma, mania or death which is caused by the consumption or use of a controlled substance or alcohol, or another substance with which a controlled substance or alcohol was combined, or that an ordinary layperson would reasonably believe to be a drug or alcohol overdose that requires medical assistance.~~ **(Deleted by amendment.)**

Sec. 12. ~~[NRS 179A.075 is hereby amended to read as follows:~~

~~179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the General Services Division of the Department.~~

~~2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:~~

~~(a) Collect and maintain records, reports and compilations of statistical data required by the Department; and~~

~~(b) Submit the information collected to the Central Repository in the manner approved by the Director of the Department;~~

~~3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates, issues or collects, and any information in its possession relating to the DNA profile of a person from whom a biological specimen is obtained pursuant to NRS 176.09123 or 176.0913, to the Division. The information must be submitted to the Division:~~

~~(a) Through an electronic network;~~

~~(b) On a medium of magnetic storage; or~~

~~(c) In the manner prescribed by the Director of the Department,~~

~~within 60 days after the date of the disposition of the case. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.~~

~~4. The Division shall, in the manner prescribed by the Director of the Department:~~

~~(a) Collect, maintain and arrange all information submitted to it relating to:~~

~~(1) Records of criminal history; and~~

~~(2) The DNA profile of a person from whom a biological specimen is obtained pursuant to NRS 176.09123 or 176.0913.~~

~~(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him or her.~~

~~(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.~~

~~(d) Upon request, provide, in paper or electronic form, the information that is contained in the Central Repository to a multidisciplinary team to review the death of the victim of a crime that constitutes domestic violence organized or sponsored by the Attorney General pursuant to NRS 228.495.~~

~~5. The Division may:~~

~~(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;~~

~~— (b) Enter into cooperative agreements with repositories of the United States and other states to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and~~

~~— (c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints or other biometric identifier the Central Repository submits to the Federal Bureau of Investigation and;~~

~~— (1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;~~

~~— (2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;~~

~~— (3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;~~

~~— (4) For whom such information is required or authorized to be obtained pursuant to NRS 62B.270, 62C.223, 62C.353, 424.031, 432A.170, 432B.198, 433B.183, 449.123 and 449.4329; or~~

~~— (5) About whom any agency of the State of Nevada or any political subdivision thereof is authorized by law to have accurate personal information for the protection of the agency or the persons within its jurisdiction;~~

~~— 6. To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to subsection 5, the Central Repository must receive:~~

~~— (a) The person's complete set of fingerprints for the purposes of:~~

~~— (1) Booking the person into a city or county jail or detention facility;~~

~~— (2) Employment;~~

~~— (3) Contractual services; or~~

~~— (4) Services related to occupational licensing;~~

~~— (b) One or more of the person's fingerprints for the purposes of mobile identification by an agency of criminal justice; or~~

~~— (c) Any other biometric identifier of the person as it may require for the purposes of:~~

~~— (1) Arrest; or~~

~~— (2) Criminal investigation;~~

~~— from the agency of criminal justice or agency of the State of Nevada or any political subdivision thereof and submit the received data to the Federal Bureau of Investigation for its report.~~

~~— 7. The Central Repository shall:~~

~~— (a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.~~

~~— (b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.~~

~~— (c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository;~~

~~— (d) Investigate the criminal history of any person who:~~

~~— (1) Has applied to the Superintendent of Public Instruction for the issuance or renewal of a license;~~

~~— (2) Has applied to a county school district, charter school or private school for employment; or~~

~~— (3) Is employed by a county school district, charter school or private school;~~

~~— and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385 [,] or 453.339 , [or 453.3395,] or convicted of a felony or any offense involving moral turpitude.~~

~~— (e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:~~

~~— (1) Investigated pursuant to paragraph (d); or~~

~~— (2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation;~~

~~— who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385 [,] or 453.339 , [or 453.3395,] or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.~~

~~— (f) Investigate the criminal history of each person who submits one or more fingerprints or other biometric identifier or has such data submitted pursuant to NRS 62B.270, 62G.223, 62G.353, 424.031, 432A.170, 432B.198, 433B.183, 449.122, 449.123 or 449.4329;~~

~~— (g) On or before July 1 of each year, prepare and post on the Central Repository's Internet website an annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be posted to the Central Repository's Internet website throughout the year regarding specific areas of crime if they are approved by the Director of the Department.~~

~~— (h) On or before July 1 of each year, prepare and post on the Central Repository's Internet website a report containing statistical data about domestic violence in this State.~~

~~—(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2 and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency;~~

~~—(j) Adopt regulations governing biometric identifiers and the information and data derived from biometric identifiers, including, without limitation:~~

~~—(1) Their collection, use, safeguarding, handling, retention, storage, dissemination and destruction; and~~

~~—(2) The methods by which a person may request the removal of his or her biometric identifiers from the Central Repository and any other agency where his or her biometric identifiers have been stored.~~

~~—8. The Central Repository may:~~

~~—(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.~~

~~—(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.~~

~~—(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.~~

~~—9. As used in this section:~~

~~—(a) “Biometric identifier” means a fingerprint, palm print, scar, bodily mark, tattoo, voiceprint, facial image, retina image or iris image of a person.~~

~~—(b) “Mobile identification” means the collection, storage, transmission, reception, search, access or processing of a biometric identifier using a handheld device.~~

~~—(c) “Personal identifying information” means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:~~

~~—(1) The name, driver’s license number, social security number, date of birth and photograph or computer generated image of a person; and~~

~~—(2) A biometric identifier of a person.~~

~~—(d) “Private school” has the meaning ascribed to it in NRS 394.103.]~~

(Deleted by amendment.)

Sec. 13. ~~[NRS 207.360 is hereby amended to read as follows:~~

~~—207.360 “Crime related to racketeering” means the commission of, attempt to commit or conspiracy to commit any of the following crimes:~~

- ~~1. Murder;~~
- ~~2. Manslaughter, except vehicular manslaughter as described in NRS 484B.657;~~
- ~~3. Mayhem;~~
- ~~4. Battery which is punished as a felony;~~
- ~~5. Kidnapping;~~
- ~~6. Sexual assault;~~
- ~~7. Arson;~~
- ~~8. Robbery;~~
- ~~9. Taking property from another under circumstances not amounting to robbery;~~
- ~~10. Extortion;~~
- ~~11. Statutory sexual seduction;~~
- ~~12. Extortionate collection of debt in violation of NRS 205.322;~~
- ~~13. Forgery;~~
- ~~14. Any violation of NRS 199.280 which is punished as a felony;~~
- ~~15. Burglary;~~
- ~~16. Grand larceny;~~
- ~~17. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;~~
- ~~18. Battery with intent to commit a crime in violation of NRS 200.400;~~
- ~~19. Assault with a deadly weapon;~~
- ~~20. Any violation of NRS 453.232, 453.316 to [453.3395,] 453.339, inclusive, [except a violation of NRS 453.3393,] or NRS 453.375 to 453.401, inclusive;~~
- ~~21. Receiving or transferring a stolen vehicle;~~
- ~~22. Any violation of NRS 202.260, 202.275 or 202.350 which is punished as a felony;~~
- ~~23. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of NRS;~~
- ~~24. Receiving, possessing or withholding stolen goods valued at \$650 or more;~~
- ~~25. Embezzlement of money or property valued at \$650 or more;~~
- ~~26. Obtaining possession of money or property valued at \$650 or more, or obtaining a signature by means of false pretenses;~~
- ~~27. Perjury or subornation of perjury;~~
- ~~28. Offering false evidence;~~
- ~~29. Any violation of NRS 201.300, 201.320 or 201.360;~~
- ~~30. Any violation of NRS 90.570, 91.230 or 686A.290, or insurance fraud pursuant to NRS 686A.291;~~
- ~~31. Any violation of NRS 205.506, 205.920 or 205.930;~~
- ~~32. Any violation of NRS 202.445 or 202.446;~~
- ~~33. Any violation of NRS 205.377;~~
- ~~34. Involuntary servitude in violation of any provision of NRS 200.463 or 200.464 or a violation of any provision of NRS 200.465; or~~

~~25. Trafficking in persons in violation of any provision of NRS 200.467 or 200.468. (Deleted by amendment.)~~

Sec. 14. ~~[NRS 453.3395 and 453.411 are hereby repealed.] (Deleted by amendment.)~~

f

~~TEXT OF REPEALED SECTIONS~~

~~453.3395 Trafficking in controlled substances: Schedule II substances. 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 any controlled substance which is listed in schedule II or any mixture which contains any such controlled substance shall be punished, unless a greater penalty is provided pursuant to NRS 453.322, if the quantity involved:~~

~~1. Is 28 grams or more, but less than 200 grams, for a category C felony as provided in NRS 193.130 and by a fine of not more than \$50,000.~~

~~2. Is 200 grams or more, but less than 400 grams, 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 \$100,000.~~

~~3. Is 400 grams or more, for a category A felony by imprisonment in the state prison:~~

~~(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served; or~~

~~(b) 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 \$250,000.~~

~~[453.411 Unlawful use of controlled substance; penalties.~~

~~1. It is unlawful for a person knowingly to use or be under the influence of a controlled substance except in accordance with a lawfully issued prescription.~~

~~2. It is unlawful for a person knowingly to use or be under the influence of a controlled substance except when administered to the person at a rehabilitation clinic established or licensed by the Division of Public and Behavioral Health of the Department, or a hospital certified by the Department.~~

~~3. Unless a greater penalty is provided in NRS 212.160, a person who violates this section shall be punished:~~

~~(a) If the controlled substance is listed in schedule I, II, III or IV, for a category E felony as provided in NRS 193.130.~~

~~(b) If the controlled substance is listed in schedule V, for a gross misdemeanor by imprisonment in the county jail for not more than 364 days, and may be further punished by a fine of not more than \$1,000.]]~~

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 439.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 295.

AN ACT relating to taxes on retail sales; revising provisions governing taxation of the sale, storage, use or other consumption of tangible personal property by a licensed veterinarian; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Sales and Use Tax Act and the Local School Support Tax Law impose certain taxes on the sale, storage, use or other consumption in this State of tangible personal property. The taxes must be paid by the consumer of the property. (Chapters 372 and 374 of NRS)

This bill requires the Department of Taxation, in administering the provisions of the Sales and Use Tax Act and the Local School Support Tax Law, to consider a licensed veterinarian to be a consumer and not a retailer of the tangible personal property used, furnished or dispensed by him or her in providing medical care or treatment to animals as part of the performance of his or her professional services in the practice of veterinary medicine.

Any amendment to the Local School Support Tax Law also applies to other sales and use taxes imposed under existing law. (NRS 354.705, 374A.020, 376A.060, 377.040, 377A.030, 377B.110, 377C.100 and various special and local acts)

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

Section 1. Chapter 372 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *In administering the provisions of this chapter, the Department shall consider a licensed veterinarian to be a consumer and not a retailer of the tangible personal property used, furnished or dispensed by him or her in providing medical care or treatment to animals as part of the performance of his or her professional services in the practice of veterinary medicine.*

2. *As used in this section:*

(a) *"Licensed veterinarian" means:*

(1) *A person who holds a license to engage in the practice of veterinary medicine issued pursuant to chapter 638 of NRS; and*

(2) *An office, clinic or facility through which a licensed veterinarian engages in his or her practice.*

(b) *“Practice of veterinary medicine” has the meaning ascribed to it in NRS 638.008.*

Sec. 2. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *In administering the provisions of this chapter, the Department shall consider a licensed veterinarian to be a consumer and not a retailer of the tangible personal property used, furnished or dispensed by him or her in providing medical care or treatment to animals as part of the performance of his or her professional services in the practice of veterinary medicine.*

2. *As used in this section:*

(a) *“Licensed veterinarian” means:*

(1) *A person who holds a license to engage in the practice of veterinary medicine issued pursuant to chapter 638 of NRS; and*

(2) *An office, clinic or facility through which a licensed veterinarian engages in his or her practice.*

(b) *“Practice of veterinary medicine” has the meaning ascribed to it in NRS 638.008.*

Sec. 3. This act becomes effective on July 1, 2017.

Assemblywoman Neal moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 440.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 425.

AN ACT relating to mental health; authorizing a proceeding for the involuntary court-ordered admission of a criminal defendant to a program of community-based or outpatient services to be commenced by the district court or by motion of the defendant or the district attorney, ~~to~~ **under certain circumstances; requiring the court to dismiss the charges against the defendant if the defendant successfully completes such a program to the satisfaction of the court;** requiring certain judges to hear proceedings for involuntary court-ordered admission; requiring a district court ~~under certain circumstances~~ to request an evaluation of a person alleged to be a person with mental illness by an evaluation team; ~~providing that the district court and family court have concurrent jurisdiction over a proceeding for involuntary court-ordered admission under certain circumstances;~~ **revising requirements concerning courses of instruction for certain judges;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that a proceeding for an involuntary court-ordered admission of a person may be commenced by the filing of a petition for the involuntary admission to a mental health facility or to a program of

community-based or outpatient services with the clerk of the district court of the county where the person resides. (NRS 433A.200) **Section 1** of this bill additionally authorizes a proceeding for the involuntary court-ordered admission of a person who is the defendant in a criminal proceeding in the district court to a program of community-based or outpatient services to be commenced by the district court, on its own motion, or by motion of the defendant or the district attorney, ~~if certain conditions are met.~~ **Section 4.3 of this bill specifies the circumstances under which the court may suspend the criminal proceedings against a defendant and order the defendant to a program of community-based or outpatient services. Under section 4.3, if the defendant successfully completes a program of community-based or outpatient services, the district court shall dismiss the criminal charges against the defendant with prejudice.** Sections 2-4 of this bill make conforming changes. **Section 2** provides that, if the Chief Judge of a district court has designated a district court judge or hearing master to preside over involuntary commitment hearings, that district court judge or hearing master must preside over such hearings. ~~Section 5 of this bill provides that if the Chief Judge has assigned a judge or hearing master who is not a judge or hearing master of the family court to hear such cases, the family court does not have original, exclusive jurisdiction over such cases.~~

~~Upon the filing of a petition to commence involuntary commitment proceedings, existing law requires a district court to: (1) cause two or more physicians or psychologists, one of whom must always be a physician, to examine the person alleged to be a person with mental illness; or (2) request an evaluation by an evaluation team from the Division of Public and Behavioral Health of the Department of Health and Human Services of that person. (NRS 433A.240) Section 3 requires the district court to request an evaluation by such an evaluation team if the person who is the subject of proceedings for involuntary court-ordered admission to a program of community-based or outpatient services is also a criminal defendant.~~

Existing law requires district judges assigned to the family court for a period of 90 or more days to attend instruction at the National Council of Juvenile and Family Court Judges in Reno, Nevada. (NRS 3.0105) Section 4.5 of this bill exempts a district judge or hearing master specifically assigned to hear certain involuntary commitment proceedings from the requirement to attend such instruction.

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

Section 1. NRS 433A.200 is hereby amended to read as follows:

433A.200 1. Except as otherwise provided in **subsection 3 and** NRS 432B.6075, a proceeding for an involuntary court-ordered admission of any person in the State of Nevada may be commenced by the filing of a petition for the involuntary admission to a mental health facility or to a program of

community-based or outpatient services with the clerk of the district court of the county where the person who is to be treated resides. The petition may be filed by the spouse, parent, adult children or legal guardian of the person to be treated or by any physician, physician assistant, psychologist, social worker or registered nurse, by an accredited agent of the Department or by any officer authorized to make arrests in the State of Nevada. The petition must be accompanied:

(a) By a certificate of a physician, a licensed psychologist, a physician assistant under the supervision of a psychiatrist, a clinical social worker who has the psychiatric training and experience prescribed by the Board of Examiners for Social Workers pursuant to NRS 641B.160, an advanced practice registered nurse who has the psychiatric training and experience prescribed by the State Board of Nursing pursuant to NRS 632.120 or an accredited agent of the Department stating that he or she has examined the person alleged to be a person with mental illness and has concluded that the person has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty or if not required to participate in a program of community-based or outpatient services; or

(b) By a sworn written statement by the petitioner that:

(1) The petitioner has, based upon the petitioner's personal observation of the person alleged to be a person with mental illness, probable cause to believe that the person has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty or if not required to participate in a program of community-based or outpatient services; and

(2) The person alleged to be a person with mental illness has refused to submit to examination or treatment by a physician, psychiatrist or licensed psychologist.

2. Except as otherwise provided in NRS 432B.6075, if the person to be treated is a minor and the petitioner is a person other than a parent or guardian of the minor, ~~the~~ **a petition submitted pursuant to subsection 1** must, in addition to the certificate or statement required by ~~subsection 1,~~ **that subsection**, include a statement signed by a parent or guardian of the minor that the parent or guardian does not object to the filing of the petition.

3. A proceeding for the involuntary court-ordered admission of a person who is the defendant in a criminal proceeding in the district court to a program of community-based or outpatient services may be commenced by the district court, on its own motion, or by motion of the defendant or the district attorney ~~if~~ if:

(a) The defendant has been examined in accordance with NRS 178.415;

(b) The defendant is not eligible for commitment to the custody of the Administrator pursuant to NRS 178.461; and

(c) The Division makes a clinical determination that placement in a program of community-based or outpatient services is appropriate.

Sec. 2. NRS 433A.220 is hereby amended to read as follows:

433A.220 1. Immediately after the clerk of the district court receives any petition filed pursuant to NRS 433A.200 or 433A.210, the clerk shall transmit the petition to the appropriate district judge, who shall set a time, date and place for its hearing. ***Immediately after a motion is made pursuant to subsection 3 of NRS 433A.200, the district judge shall set a time, date and place for its hearing.*** The date must be within 5 judicial days after the date on which the petition is received by the clerk ~~or the motion is made,~~ ***as applicable. If the Chief Judge, if any, of the district court has assigned a district court judge or hearing master to preside over such hearings, that judge or hearing master must preside over the hearing.***

2. The court shall give notice of the petition ***or motion*** and of the time, date and place of any proceedings thereon to the subject of the petition ~~or~~ ***motion***, his or her attorney, if known, the person's legal guardian, the petitioner, ***if applicable***, the district attorney of the county in which the court has its principal office, the local office of an agency or organization that receives money from the Federal Government pursuant to 42 U.S.C. §§ 10801 et seq., to protect and advocate the rights of persons with mental illness and the administrative office of any public or private mental health facility in which the subject of the petition ***or motion*** is detained.

3. The provisions of this section do not preclude a facility from discharging a person before the time set pursuant to this section for the hearing concerning the person, if appropriate. If the person has a legal guardian, the facility shall notify the guardian prior to discharging the person from the facility. The legal guardian has discretion to determine where the person will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the legal guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.

Sec. 3. NRS 433A.240 is hereby amended to read as follows:

433A.240 1. ~~After ***Except as otherwise provided in this subsection, after*** the filing of a petition to commence proceedings for the involuntary court-ordered admission of a person pursuant to NRS 433A.200 or 433A.210, the court shall promptly cause two or more physicians or licensed psychologists, one of whom must always be a physician, to examine the person alleged to be a person with mental illness, or request an evaluation by an evaluation team from the Division of the person alleged to be a person with mental illness. ***If the person who is the subject of a petition for involuntary court-ordered admission to a program of community-based or outpatient services is also a criminal defendant, the court shall request an evaluation by an evaluation team from the Division.***~~

2. ***After the filing of a motion pursuant to subsection 3 of NRS 433A.200, the court shall promptly request an evaluation by an evaluation***

team from the Division of the person alleged to be a person with mental illness.

3. To conduct the examination of a person who is not being detained at a mental health facility or hospital under emergency admission pursuant to an application made pursuant to NRS 433A.160, the court may order a peace officer to take the person into protective custody and transport the person to a mental health facility or hospital where the person may be detained until a hearing is had upon the petition ~~1-1~~ **or motion, as applicable.**

~~1-1~~ 4. If the person is not being detained under an emergency admission pursuant to an application made pursuant to NRS 433A.160, the person may be allowed to remain in his or her home or other place of residence pending an ordered examination or examinations and to return to his or her home or other place of residence upon completion of the examination or examinations. The person may be accompanied by one or more of his or her relations or friends to the place of examination.

~~1-1~~ 5. Each physician and licensed psychologist who examines a person pursuant to subsection 1 **or 2** shall, in conducting such an examination, consider the least restrictive treatment appropriate for the person.

~~1-1~~ 6. Except as otherwise provided in this subsection, each physician and licensed psychologist who examines a person pursuant to subsection 1 shall, not later than 48 hours before the hearing set pursuant to NRS 433A.220, submit to the court in writing a summary of his or her findings and evaluation regarding the person alleged to be a person with mental illness. If the person alleged to be a person with mental illness is admitted under an emergency admission pursuant to an application made pursuant to NRS 433A.160, the written findings and evaluation must be submitted to the court not later than 24 hours before the hearing set pursuant to subsection 1 of NRS 433A.220.

Sec. 4. NRS 433A.280 is hereby amended to read as follows:

433A.280 In proceedings for involuntary court-ordered admission, the court shall hear and consider all relevant testimony, including, but not limited to, the testimony of examining personnel who participated in the evaluation of the person alleged to be a person with mental illness and the certificates of physicians or certified psychologists accompanying the petition ~~1-1~~ , **if applicable.** The court may consider testimony relating to any past actions of the person alleged to be a person with mental illness if such testimony is probative of the question of whether the person is presently mentally ill and presents a clear and present danger of harm to himself or herself or others.

Sec. 4.3. NRS 433A.310 is hereby amended to read as follows:

433A.310 1. Except as otherwise provided in **subsection 2 and** NRS 432B.6076 and 432B.6077, if the district court finds, after proceedings for the involuntary court-ordered admission of a person:

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness or exhibits observable behavior such that the person is likely to harm himself or herself

or others if allowed his or her liberty or if not required to participate in a program of community-based or outpatient services, the court shall enter its finding to that effect and the person must not be involuntarily admitted to a public or private mental health facility or to a program of community-based or outpatient services.

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty or if not required to participate in a program of community-based or outpatient services, the court may order the involuntary admission of the person for the most appropriate course of treatment, including, without limitation, admission to a public or private mental health facility or participation in a program of community-based or outpatient services. The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to NRS 433A.390.

2. If the district court finds, after proceedings for the involuntary court-ordered admission of a defendant in a criminal proceeding pursuant to subsection 3 of NRS 433A.200:

(a) That there is not clear and convincing evidence that the defendant with respect to whom the hearing was held has a mental illness or exhibits observable behavior such that the defendant is likely to harm himself or herself or others if allowed his or her liberty or if not required to participate in a program of community-based or outpatient services, the court shall enter its finding to that effect and the person must not be involuntarily admitted to a program of community-based or outpatient services.

(b) That there is clear and convincing evidence that the defendant with respect to whom the hearing was held has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty or if not required to participate in a program of community-based or outpatient services, except as otherwise provided in this paragraph, the court shall order the involuntary admission of the defendant for participation in a program of community-based or outpatient services and suspend further proceedings in the criminal proceeding against the defendant until the defendant completes or is removed from the program. If the offense allegedly committed by the defendant is a category A or B felony or involved the use or threatened use of force or violence, the court may not order the involuntary admission of the defendant for participation in a program pursuant to this paragraph unless the prosecuting attorney stipulates to the assignment. The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to NRS 433A.390. If the defendant successfully completes a program of community-based or outpatient services to the satisfaction of the court, the

court shall dismiss the criminal charges against the defendant with prejudice.

3. If, pursuant to NRS 176A.400, the district court issues an order granting probation to a defendant in a criminal proceeding with a condition that the defendant submit to mental health treatment and comply with instructions, admission to a program of community-based or outpatient services may be used to satisfy such a condition if the Division makes a clinical determination that placement in a program of community-based or outpatient services is appropriate.

4. A court shall not admit a person to a program of community-based or outpatient services unless:

(a) A program of community-based or outpatient services is available in the community in which the person resides or is otherwise made available to the person;

(b) The person is 18 years of age or older;

(c) The person has a history of noncompliance with treatment for mental illness;

(d) The person is capable of surviving safely in the community in which he or she resides with available supervision;

(e) The court determines that, based on the person's history of treatment for mental illness, the person needs to be admitted to a program of community-based or outpatient services to prevent further disability or deterioration of the person which is likely to result in harm to himself or herself or others;

(f) The current mental status of the person or the nature of the person's illness limits or negates his or her ability to make an informed decision to seek treatment for mental illness voluntarily or to comply with recommended treatment for mental illness;

(g) The program of community-based or outpatient services is the least restrictive treatment which is in the best interest of the person; and

(h) The court has approved a plan of treatment developed for the person pursuant to NRS 433A.315.

~~3.1~~ 5. Except as otherwise provided in NRS 432B.608, an involuntary admission pursuant to paragraph (b) of subsection 1 or paragraph (b) of subsection 2 automatically expires at the end of 6 months if not terminated previously by the medical director of the public or private mental health facility as provided for in subsection 2 of NRS 433A.390 or by the professional responsible for providing or coordinating the program of community-based or outpatient services as provided for in subsection 3 of NRS 433A.390. Except as otherwise provided in NRS 432B.608, at the end of the court-ordered period of treatment, the Division, any mental health facility that is not operated by the Division or a program of community-based or outpatient services may petition to renew the involuntary admission of the person for additional periods not to exceed 6 months each. For each renewal, the petition must include evidence which meets the same standard set forth in

subsection 1 or 2 that was required for the initial period of admission of the person to a public or private mental health facility or to a program of community-based or outpatient services.

~~{4}~~ 6. Before issuing an order for involuntary admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment, including involuntary admission to a program of community-based or outpatient services, as suggested by the evaluation team who evaluated the person, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the person.

~~{5}~~ 7. If the court issues an order involuntarily admitting a person to a public or private mental health facility or to a program of community-based or outpatient services pursuant to this section, the court shall, notwithstanding the provisions of NRS 433A.715, cause, within 5 business days after the order becomes final pursuant to this section, on a form prescribed by the Department of Public Safety, a record of the order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

~~{6}~~ 8. As used in this section, “National Instant Criminal Background Check System” has the meaning ascribed to it in NRS 179A.062.

Sec. 4.7. NRS 3.0105 is hereby amended to read as follows:

3.0105 1. There is hereby established, in each judicial district that includes a county whose population is 100,000 or more, a family court as a division of the district court.

2. If the caseload of the family court so requires, the Chief Judge may assign one or more district judges of the judicial district to act temporarily as judges of the family court.

3. If for any reason a judge of the family court is unable to act, any other district judge of the judicial district may be assigned as provided in subsection 2 to act temporarily as judge of the family court.

4. A district judge assigned to the family court pursuant to subsection 2 or 3 for a period of 90 or more days, **except for a district judge or hearing master assigned to hear proceedings brought pursuant to NRS 433A.200 to 433A.330, inclusive,** must attend the instruction required pursuant to subsection 1 of NRS 3.028. District judges must not be assigned to the family court pursuant to subsections 2 and 3 on a rotating basis.

Sec. 5. ~~NRS 3.223 is hereby amended to read as follows:~~

~~3.223 1. Except if the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. §§ 1901 et seq., in each judicial district in which it is established, the family court has original, exclusive jurisdiction in any proceeding:~~

~~(a) Brought pursuant to title 5 of NRS or chapter 31A, 123, 125, 125A, 125B, 125C, 126, 127, 128, 129, 130, 159, 425 or 432B of NRS, except to~~

~~the extent that a specific statute authorizes the use of any other judicial or administrative procedure to facilitate the collection of an obligation for support.~~

~~—(b) Brought pursuant to NRS 442.255 and 442.2555 to request the court to issue an order authorizing an abortion.~~

~~—(c) For judicial approval of the marriage of a minor.~~

~~—(d) Otherwise within the jurisdiction of the juvenile court.~~

~~—(e) To establish the date of birth, place of birth or parentage of a minor.~~

~~—(f) To change the name of a minor.~~

~~—(g) For a judicial declaration of the sanity of a minor.~~

~~—(h) To approve the withholding or withdrawal of life-sustaining procedures from a person as authorized by law.~~

~~—(i) [Brought] Except as otherwise provided in subsection 4, brought pursuant to NRS 433A.200 to 433A.330, inclusive, for an involuntary court-ordered admission to a mental health facility.~~

~~—(j) Brought pursuant to NRS 441A.510 to 441A.720, inclusive, for an involuntary court-ordered isolation or quarantine.~~

~~2. The family court, where established and, except as otherwise provided in paragraph (m) of subsection 1 of NRS 4.370, the justice court have concurrent jurisdiction over actions for the issuance of a temporary or extended order for protection against domestic violence.~~

~~3. The family court, where established, and the district court have concurrent jurisdiction over any action for damages brought pursuant to NRS 41.134 by a person who suffered injury as the proximate result of an act that constitutes domestic violence.~~

~~4. The family court, where established, does not have original, exclusive jurisdiction over a proceeding brought pursuant to NRS 433A.200 to 433A.330, inclusive, for an involuntary court-ordered admission to a mental health facility if the Chief Judge of the district court has assigned a judge or hearing master who is not a judge or hearing master of the family court to hear such cases as described in NRS 433A.220.~~ (Deleted by amendment.)

Assemblyman Sprinkle moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 449.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 347.

AN ACT relating to public lands; establishing the ~~third~~ **fourth** Saturday in ~~May~~ **September** of each year as “Public Lands Day” in the State of Nevada; ~~requiring~~ **authorizing** the Governor to issue annually a proclamation encouraging the observance of Public Lands Day; requiring the

Division of State Parks of the State Department of Conservation and Natural Resources to allow ~~each resident~~ **residents** of this State to enter, camp and boat in all state parks and recreational areas in this State without the payment of any fees during Public Lands Day; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, various days and weeks of observance are recognized in this State. (NRS 236.018-236.085) **Section 1** of this bill establishes the ~~third~~ **fourth** Saturday in ~~May~~ **September** of each year as "Public Lands Day" in the State of Nevada and ~~requires~~ **authorizes** the Governor to issue annually a proclamation encouraging the observance of Public Lands Day.

Existing law requires the Division of State Parks of the State Department of Conservation and Natural Resources to impose and collect, subject to approval by the Director of the Department, reasonable fees for entering, camping and boating in state parks and recreational areas in this State. (NRS 407.065) **Section 2** of this bill requires the Division to allow ~~each resident~~ **residents** of this State to enter, camp and boat in all state parks and recreational areas in this State without the payment of any fees during Public Lands Day. **Section 2 also provides that the free day of camping must include either the Friday night before Public Lands Day or overnight on the night of Public Lands Day, as determined by the Administrator of the Division for each state park and recreational area.**

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

Section 1. Chapter 236 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The ~~third~~ fourth Saturday in ~~May~~ September of each year is established as "Public Lands Day" in the State of Nevada.

2. The Governor ~~shall~~ may issue annually a proclamation encouraging the observance of Public Lands Day. The proclamation may, without limitation:

(a) Call upon the news media, state and local officers, private nonprofit groups and foundations, schools, businesses and other public and private entities to bring to the attention of the residents of this State the importance of public lands in the State of Nevada; and

(b) Recognize the economic, scenic and other value of public lands in this State.

Sec. 2. NRS 407.065 is hereby amended to read as follows:

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

(a) Except as otherwise provided in this paragraph and NRS 407.066, may establish, name, plan, operate, control, protect, develop and maintain state parks, monuments and recreational areas for the use of the general public. The name of an existing state park, monument or recreational area may not be changed unless the Legislature approves the change by statute.

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

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

(d) Except as otherwise provided in this ~~paragraph,~~ **section**, shall impose and collect reasonable fees for entering, camping and boating in state parks and recreational areas. The Division shall issue an annual permit for entering, camping and boating in all state parks and recreational areas in this State:

(1) Upon application therefor and proof of residency and age, to any person who is 65 years of age or older and has resided in this State for at least 5 years immediately preceding the date on which the application is submitted.

(2) Upon application therefor and proof of residency and proof of status as described in subsection 5 of NRS 361.091, to a bona fide resident of the State of Nevada who has incurred a permanent service-connected disability of 10 percent or more and has been honorably discharged from the Armed Forces of the United States.

➡ The permit must be issued without charge, except that the Division shall charge and collect an administrative fee for the issuance of the permit in an amount sufficient to cover the costs of issuing the permit.

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

(f) May rent or lease concessions located within the boundaries of state parks or of real property controlled or administered by the Division to public or private corporations, to groups of natural persons, or to natural persons for a valuable consideration upon such terms and conditions as the Division deems fit and proper, but no concessionaire may dominate any state park operation.

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

(h) In addition to any concession specified in paragraph (f), may establish concessions within the boundaries of any state park to provide for the sale of food, drinks, ice, publications, sundries, gifts and souvenirs, and other such related items as the Administrator determines are appropriately made available to visitors. Any money received by the Administrator for a concession established pursuant to this paragraph must be deposited in the

Account for State Park Interpretative and Educational Programs and Operation of Concessions created by NRS 407.0755.

2. The Administrator:

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

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

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

4. ***During each Public Lands Day observed pursuant to section 1 of this act, and upon proof of residency in this State, the Division shall allow a resident of this State to enter, camp and boat in ~~fall~~ any state ~~parks and~~ park or recreational ~~areas~~ area without the payment of any fees for those activities. The free day of camping authorized pursuant to this subsection must include either the Friday night before Public Lands Day or overnight on the night of Public Lands Day, as determined by the Administrator for each state park and recreational area. A person is not entitled to receive more than one free night of camping during each Public Lands Day pursuant to this subsection.***

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

Sec. 3. This act becomes effective on July 1, 2017.

Assemblywoman Swank moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 453.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 420.

SUMMARY—~~{Revises provisions relating to pleas}~~ **Establishes conditional plea agreements** in criminal cases. (BDR 14-1065)

AN ACT relating to criminal procedure; establishing ~~{certain requirements and rights relating to written plea agreements in criminal cases; revising the~~

~~contents of the suggested form of a written plea agreement;~~ **the procedure for a written conditional plea agreement;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Section 1 of this bill provides that when a prosecuting attorney enters into a written plea agreement with a defendant, the court must either accept the agreement without modification or reject the agreement. Section 1 provides that if the court rejects the agreement, the defendant may withdraw all pleas included in the agreement and proceed to trial on the applicable charges. Section 1 also provides that a written plea agreement is void if the defendant violates the agreement.~~

Existing law sets forth ~~suggested contents and form of a written plea agreement. (NRS 174.063) Section 2 of this bill revises the contents of that form to include the provisions of section 1 in a defendant's acknowledgment of his or her understanding of the terms of the agreement.~~ **the types of pleas and the procedure for entering pleas in criminal proceedings. (NRS 174.035) This bill establishes the procedure for a defendant and the district attorney to enter into a written conditional plea agreement.**

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

Section 1. ~~Chapter 174 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. If a prosecuting attorney enters into a written plea agreement with a defendant, the court may either:~~

~~(a) Accept the agreement without modification and enter an order consistent with the terms of the agreement; or~~

~~(b) Reject the agreement.~~

~~2. If the court rejects the agreement, the defendant has the right to withdraw all pleas that the defendant entered pursuant to the agreement and proceed to trial on the charges for which the defendant entered those pleas.~~

~~3. If the defendant violates the written plea agreement entered into pursuant to subsection 1, the agreement is void.~~ **(Deleted by amendment.)**

Sec. 2. ~~NRS 174.063 is hereby amended to read as follows:~~

~~174.063 1. If a plea of guilty or guilty but mentally ill is made in a written plea agreement, the agreement must be substantially in the following form:~~

Case No. _____

Dept. No. _____

IN THE _____ JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR THE COUNTY OF _____,

~~The State of Nevada,~~

~~PLAINTIFF,~~

~~v.~~

~~(Name of defendant),~~

~~DEFENDANT.~~

~~GUILTY OR GUILTY BUT MENTALLY ILL PLEA AGREEMENT~~

~~I hereby agree to plead guilty or guilty but mentally ill to: (List charges to which defendant is pleading guilty or guilty but mentally ill), as more fully alleged in the charging document attached hereto as Exhibit 1.~~

~~My decision to plead guilty or guilty but mentally ill is based upon the plea agreement in this case which is as follows:~~

~~(State the terms of the agreement.)~~

~~CONSEQUENCES OF THE PLEA~~

~~I understand that by pleading guilty or guilty but mentally ill I admit the facts which support all the elements of the offenses to which I now plead as set forth in Exhibit 1.~~

~~I understand that as a consequence of my plea of guilty or guilty but mentally ill I may be imprisoned for a period of not more than (maximum term of imprisonment) and that I (may or will) be fined up to (maximum amount of fine). I understand that the law requires me to pay an administrative assessment fee.~~

~~I understand that, if appropriate, I will be ordered to make restitution to the victim of the offenses to which I am pleading guilty or guilty but mentally ill and to the victim of any related offense which is being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to reimburse the State of Nevada for expenses relating to my extradition, if any.~~

~~I understand that I (am or am not) eligible for probation for the offense to which I am pleading guilty or guilty but mentally ill. (I understand that, except as otherwise provided by statute [.] or the recommendation of the State of Nevada as set forth in this agreement, the question of whether I receive probation is in the discretion of the sentencing judge, or I understand that I must serve a mandatory minimum term of (term of imprisonment) or pay a minimum mandatory fine of (amount of fine) or serve a mandatory minimum term (term of imprisonment) and pay a minimum mandatory fine of (amount of fine).)~~

~~I understand that if more than one sentence of imprisonment is imposed and I am eligible to serve the sentences concurrently, the sentencing judge has the discretion to order the sentences served concurrently or consecutively [.], except as otherwise provided by the recommendation of the State of Nevada as set forth in this agreement.~~

~~I understand that information regarding charges not filed, dismissed charges or charges to be dismissed pursuant to this agreement may be considered by the judge at sentencing.~~

~~I have not been promised or guaranteed any particular sentence by anyone. I know that my sentence is to be determined by the court within the limits prescribed by statute [I understand that if my attorney or the State of Nevada or both recommend any specific punishment to the court, the court is not obligated to accept the recommendation.] and the recommendation of the State of Nevada as set forth in this agreement.~~

~~I understand that the Division of Parole and Probation of the Department of Public Safety may or will prepare a report for the sentencing judge before sentencing. This report will include matters relevant to the issue of sentencing, including my criminal history. I understand that this report may contain hearsay information regarding my background and criminal history. My attorney (if represented by counsel) and I will each have the opportunity to comment on the information contained in the report at the time of sentencing.~~

~~I understand that if the court rejects this agreement, I have the right to withdraw all pleas which I entered pursuant to this agreement and proceed to trial on the charges for which I entered those pleas. I understand that if I violate this agreement, the agreement is void.~~

WAIVER OF RIGHTS

~~By entering my plea of guilty or guilty but mentally ill, I understand that I have waived the following rights and privileges:~~

~~1. The constitutional privilege against self incrimination, including the right to refuse to testify at trial, in which event the prosecution would not be allowed to comment to the jury about my refusal to testify.~~

~~2. The constitutional right to a speedy and public trial by an impartial jury, free of excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the assistance of an attorney, either appointed or retained. At trial, the State would bear the burden of proving beyond a reasonable doubt each element of the offense charged.~~

~~3. The constitutional right to confront and cross examine any witnesses who would testify against me.~~

~~4. The constitutional right to subpoena witnesses to testify on my behalf.~~

~~5. The constitutional right to testify in my own defense.~~

~~6. The right to appeal the conviction, with the assistance of an attorney, either appointed or retained, unless the appeal is based upon reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings and except as otherwise provided in subsection 3 of NRS 174.035.~~

~~VOLUNTARINESS OF PLEA~~

~~I have discussed the elements of all the original charges against me with my attorney (if represented by counsel) and I understand the nature of these charges against me.~~

~~I understand that the State would have to prove each element of the charge against me at trial.~~

~~I have discussed with my attorney (if represented by counsel) any possible defenses and circumstances which might be in my favor.~~

~~All of the foregoing elements, consequences, rights and waiver of rights have been thoroughly explained to me by my attorney (if represented by counsel).~~

~~I believe that pleading guilty or guilty but mentally ill and accepting this plea bargain is in my best interest and that a trial would be contrary to my best interest.~~

~~I am signing this agreement voluntarily, after consultation with my attorney (if represented by counsel) and I am not acting under duress or coercion or by virtue of any promises of leniency, except for those set forth in this agreement.~~

~~I am not now under the influence of intoxicating liquor, a controlled substance or other drug which would in any manner impair my ability to comprehend or understand this agreement or the proceedings surrounding my entry of this plea.~~

~~My attorney (if represented by counsel) has answered all my questions regarding this guilty or guilty but mentally ill plea agreement and its consequences to my satisfaction and I am satisfied with the services provided by my attorney.~~

~~Dated: This day of the month of of the year~~

~~.....

 Defendant.~~

~~Agreed to on this day of the month of of the year~~

~~.....

 Deputy District Attorney.~~

~~2. If the defendant is represented by counsel, the written plea agreement must also include a certificate of counsel that is substantially in the following form:~~

~~CERTIFICATE OF COUNSEL~~

~~I, the undersigned, as the attorney for the defendant named herein and as an officer of the court hereby certify that:~~

~~1. I have fully explained to the defendant the allegations contained in the charges to which guilty or guilty but mentally ill pleas are being entered.~~

~~2. I have advised the defendant of the penalties for each charge and the restitution that the defendant may be ordered to pay.~~

~~3. All pleas of guilty or guilty but mentally ill offered by the defendant pursuant to this agreement are consistent with all the facts known to me and are made with my advice to the defendant and are in the best interest of the defendant.~~

~~4. To the best of my knowledge and belief, the defendant:~~

~~(a) Is competent and understands the charges and the consequences of pleading guilty or guilty but mentally ill as provided in this agreement.~~

~~(b) Executed this agreement and will enter all guilty or guilty but mentally ill pleas pursuant hereto voluntarily.~~

~~(c) Was not under the influence of intoxicating liquor, a controlled substance or other drug at the time of the execution of this agreement.~~

~~Dated: This day of the month of of the year~~

~~.....~~
~~Attorney for defendant.} (Deleted by amendment.)~~

Sec. 3. NRS 174.035 is hereby amended to read as follows:

174.035 1. A defendant may plead not guilty, guilty, guilty but mentally ill or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty or guilty but mentally ill.

2. If a plea of guilty or guilty but mentally ill is made in a written plea agreement, the agreement must be in substantially the form prescribed in NRS 174.063. If a plea of guilty or guilty but mentally ill is made orally, the court shall not accept such a plea or a plea of nolo contendere without first addressing the defendant personally and determining that the plea is made voluntarily with understanding of the nature of the charge and consequences of the plea.

3. With the consent of the court and the district attorney, a defendant may enter a conditional plea of guilty, guilty but mentally ill or nolo contendere, reserving in writing the right, on appeal from the judgment, to a review of the adverse determination of any specified pretrial motion. A defendant who prevails on appeal must be allowed to withdraw the plea.

4. **Upon an unconditional waiver of a preliminary hearing, a defendant and the district attorney may enter into a written conditional plea agreement, subject to the court accepting the recommended sentence pursuant to the agreement.**

5. A plea of guilty but mentally ill must be entered not less than 21 days before the date set for trial. A defendant who has entered a plea of guilty but mentally ill has the burden of establishing the defendant's mental illness by a preponderance of the evidence. Except as otherwise provided by specific statute, a defendant who enters such a plea is subject to the same criminal, civil and administrative penalties and procedures as a defendant who pleads guilty.

~~{5}~~ 6. The defendant may, in the alternative or in addition to any one of the pleas permitted by subsection 1, plead not guilty by reason of insanity. A plea of not guilty by reason of insanity must be entered not less than 21 days before the date set for trial. A defendant who has not so pleaded may offer the defense of insanity during trial upon good cause shown. Under such a plea or defense, the burden of proof is upon the defendant to establish by a preponderance of the evidence that:

(a) Due to a disease or defect of the mind, the defendant was in a delusional state at the time of the alleged offense; and

(b) Due to the delusional state, the defendant either did not:

(1) Know or understand the nature and capacity of his or her act; or

(2) Appreciate that his or her conduct was wrong, meaning not authorized by law.

~~{6}~~ 7. If a defendant refuses to plead or if the court refuses to accept a plea of guilty or guilty but mentally ill or if a defendant corporation fails to appear, the court shall enter a plea of not guilty.

~~{7}~~ 8. A defendant may not enter a plea of guilty or guilty but mentally ill pursuant to a plea bargain for an offense punishable as a felony for which:

(a) Probation is not allowed; or

(b) The maximum prison sentence is more than 10 years,

↪ unless the plea bargain is set forth in writing and signed by the defendant, the defendant's attorney, if the defendant is represented by counsel, and the prosecuting attorney.

~~{8}~~ 9. If the court accepts a plea of guilty but mentally ill pursuant to this section, the court shall cause, within 5 business days after acceptance of the plea, on a form prescribed by the Department of Public Safety, a record of that plea to be transmitted to the Central Repository for Nevada Records of Criminal History along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

~~{9}~~ 10. As used in this section:

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

Sec. 4. NRS 175.533 is hereby amended to read as follows:

175.533 1. During a trial, upon a plea of not guilty by reason of insanity, the trier of fact may find the defendant guilty but mentally ill if the trier of fact finds all of the following:

(a) The defendant is guilty beyond a reasonable doubt of an offense;

(b) The defendant has established by a preponderance of the evidence that due to a disease or defect of the mind, the defendant was mentally ill at the time of the commission of the offense; and

(c) The defendant has not established by a preponderance of the evidence that the defendant is not guilty by reason of insanity pursuant to subsection ~~5~~ 6 of NRS 174.035.

2. Except as otherwise provided by specific statute, a defendant who is found guilty but mentally ill is subject to the same criminal, civil and administrative penalties and procedures as a defendant who is found guilty.

3. If the trier of fact finds a defendant guilty but mentally ill pursuant to subsection 1, the court shall cause, within 5 business days after the finding, on a form prescribed by the Department of Public Safety, a record of the finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

4. As used in this section:

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 454.

Bill read second time.

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

Amendment No. 533.

AN ACT relating to accountants; revising provisions relating to the qualifications and appointment of members of the Nevada State Board of Accountancy; revising provisions relating to the adoption or amendment of rules of professional conduct by the Board; revising the qualifications for a certificate of certified public accountant; revising certain educational and work experience requirements for a certificate of certified public accountant; authorizing the issuance of a cease and desist order to a person believed to be engaged in the unlawful practice of accounting; repealing provisions relating to the registration of public accountants and business entities formed by public accountants; increasing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally provides for the regulation of accountants in this State. (Chapter 628 of NRS) **Sections 1, 3 and 4** of this bill revise definitions relating to services to be performed by accountants to conform with the seventh edition of the Uniform Accountancy Act, published by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy.

Section 9 of this bill requires the Nevada State Board of Accountancy to provide notice of proposed new rules of professional conduct or amendments to rules of professional conduct to permit holders by electronic mail rather than by delivery by the United States Postal Service. **Section 10** of this bill removes the requirement that to qualify for a certificate of certified public accountant, the applicant must either be a resident of this State or designate an agent in this State to receive service of process for the applicant. **Sections 11-13** of this bill revise certain educational, work experience and examination requirements for a certificate of certified public accountant.

Section 28 of this bill authorizes the Board to provide another licensing board or agency with otherwise confidential and privileged records relating to a complaint if the Board is cooperating in an investigation by that board or agency. **Section 39** of this bill authorizes the Board to issue a cease and desist order to a person the Board believes to be engaging in certain unlawful acts relating to accounting. **Section 40** of this bill increases the penalty for committing certain unlawful acts relating to accounting from a misdemeanor to a gross misdemeanor.

Section 45 of this bill repeals provisions relating to the registration and regulation of registered public accountants and business entities formed by public accountants. **Sections 5, 6, 8, 14-27, 29-38 and 41-44** of this bill make conforming changes.

Under existing law, the Nevada Society of Certified Public Accountants is required to submit to the Governor the names of at least three persons qualified for membership on the Board for each position on the Board to be filled by a certified public accountant. (NRS 628.075) **Section 7** of this bill authorizes the Nevada Society of Certified Public Accountants to recommend to the Governor the reappointment of a current Board member who is eligible for reappointment without submitting other names for consideration.

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

Section 1. Chapter 628 of NRS is hereby amended by adding thereto a new section to read as follows:

“Report,” when used with respect to any attest or compilation service, means an opinion, report or other form of language that states or implies assurance as to the reliability of the attested information or compiled financial statements, and that also includes or is accompanied by a statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the attested information or complied

financial statements referred to, or special competence on the part of the person or firm issuing such language, including, without limitation, another form of language that is conventionally understood to imply such assurance or such special knowledge or competence.

Sec. 2. NRS 628.003 is hereby amended to read as follows:

628.003 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 628.005 to 628.033, inclusive, **and section 1 of this act** have the meanings ascribed to them in those sections.

Sec. 3. NRS 628.005 is hereby amended to read as follows:

628.005 “Attest,” “attesting” and “attestation” mean **providing** the ~~issuance of opinions, reports or other documents which state or imply assurance of the reliability of information when the opinions, reports or other documents are accompanied by or contain any name, title or wording which indicates that the person or other entity which has issued them is an accountant or auditor, or has expert knowledge in accounting or auditing. The terms include any disclaimer of an opinion when the disclaimer is in a form which is understood to imply any positive assurance of the reliability of the information and expertise on the part of the person making the disclaimer.~~ **following services:**

1. **An audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS) published by the American Institute of Certified Public Accountants.**

2. **A review of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS) published by the American Institute of Certified Public Accountants.**

3. **An examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE) published by the American Institute of Certified Public Accountants.**

4. **An engagement to be performed in accordance with the standards of the Public Company Accounting Oversight Board.**

5. **An examination, review or agreed upon procedures engagement to be performed in accordance with the SSAE, other than an examination described in subsection 3.**

Sec. 4. NRS 628.014 is hereby amended to read as follows:

628.014 “Compilation” means ~~the presentation, in the form of financial statements prepared~~ **providing a service to be performed** in accordance with the Statements on Standards for Accounting and Review Services (SSARS) published by the American Institute of Certified Public Accountants, ~~of information~~ that is ~~a representation by~~ **presented in** the ~~owner or management~~ **form of an entity** ~~financial statements, of information that is the representation of the owner or management~~ without undertaking to ~~state or imply assurance of the reliability of~~ **express any assurance on** the ~~information.~~ **statements.**

Sec. 5. NRS 628.0345 is hereby amended to read as follows:

628.0345 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a certificate issued pursuant to NRS 628.190 to 628.310, inclusive, ~~{any registration or license granted to a registered public accountant pursuant to NRS 628.350}~~ or a permit issued pursuant to NRS 628.380 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 certificate issued pursuant to NRS 628.190 to 628.310, inclusive, ~~{any registration or license granted to a registered public accountant pursuant to NRS 628.350}~~ or a permit issued pursuant to NRS 628.380 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 certificate ~~{, registration, license}~~ or permit; or

(b) A separate form prescribed by the Board.

3. A certificate ~~{, registration, license}~~ or permit 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. 6. NRS 628.045 is hereby amended to read as follows:

628.045 1. ~~{Except as otherwise provided in subsection 2, the}~~ **The** Governor shall appoint to the Board ~~{six}~~ :

(a) Six members who are certified public accountants ~~{in the State of Nevada and one member who is a registered public accountant}~~ in the State of Nevada ~~{, Of the six members who are certified public accountants:}~~ **of whom:**

~~{(a)}~~ **(1)** One member must be employed by the government or by private industry; and

~~[(b)]~~ (2) Five members must be engaged in the practice of public accounting.

~~[2. Whenever the total number of registered public accountants who practice is 10 or fewer, the Board must consist of six members who are certified public accountants and the member who is a registered public accountant until that member's term of office expires. Thereafter, the Board must consist of:~~

~~—(a) Six members who are certified public accountants, one of whom must be employed by the government or by private industry.]~~

(b) One member who represents the public. This member must not be:

(1) A certified public accountant ~~[(a)]~~ or a public accountant ; ~~for a registered public accountant;]~~ or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a certified public accountant ~~[(a)]~~ or a public accountant . ~~for a registered public accountant.~~

~~—3.]~~ 2. No person may be appointed to the Board unless he or she is:

(a) Engaged in active practice as a certified public accountant ~~for registered public accountant]~~ and holds a live permit to practice public accounting in this State, or is appointed as the member who represents the public.

(b) A resident of the State of Nevada.

Sec. 7. NRS 628.075 is hereby amended to read as follows:

628.075 1. ~~[(The)]~~ ***Except as otherwise provided in subsection 2, the Nevada Society of Certified Public Accountants shall, at least 30 days before the beginning of any term, or within 30 days after a position on the Board becomes vacant, submit to the Governor the names of at least three persons qualified for membership on the Board for each position to be filled by a certified public accountant. The Governor shall appoint new members or fill the vacancy from the list, or request a new list. If the Nevada Society of Certified Public Accountants fails to submit timely nominations for a position on the Board, the Board may submit nominations to the Governor, who shall appoint members from among the nominees or request a new list.***

2. If the term of a current member of the Board is expiring and that member is eligible for reappointment to the Board, the Nevada Society of Certified Public Accountants may recommend to the Governor the reappointment of that member without having to submit additional names for consideration to the Governor.

3. The Governor may appoint any qualified person who is a resident of this State to the position which is to be occupied by a person who represents the public.

Sec. 8. NRS 628.130 is hereby amended to read as follows:

628.130 The Board shall:

1. Have a seal of which judicial notice must be taken.

2. Keep records of its proceedings. In any proceedings in court, civil or criminal, arising out of or founded upon any provision of this chapter, copies

of those records certified as correct under the seal of the Board are admissible in evidence as tending to prove the contents of the records.

3. Maintain a website on the Internet or its successor and post on its website:

(a) The names arranged alphabetically by classifications of all accountants and business entities holding ~~licenses,~~ certificates, registrations or permits under this chapter.

(b) The names of the members of the Board.

(c) Such other matter as may be deemed proper by the Board.

Sec. 9. NRS 628.160 is hereby amended to read as follows:

628.160 1. The Board may by regulation adopt and amend rules of professional conduct appropriate to establish and maintain a high standard of quality, integrity and dignity in the profession of public accountancy.

2. In addition to the requirements of chapter 233B of NRS, the Board shall ~~at least 60 days before the adoption of any such rule or amendment, mail copies of the~~ **provide notice of any such** proposed rule or amendment to each holder of a live permit, to the **electronic mail** address shown in the records of the Board, ~~together~~ **along** with ~~a notice~~ **information** advising the holder of the permit of the date, time and place of the hearing on the proposed rule or amendment and requesting that he or she submit any comments thereon at least 15 days before the hearing. The comments are advisory only. ~~Failure by inadvertence or error to mail the rule, amendment or notice to each holder of a permit does not affect the validity of any rule or amendment if the Board has made an effort in good faith to mail the notice to all holders of permits.~~ **The Board shall also make available on its Internet website the proposed rule or amendment.**

3. The Board may adopt regulations concerning the professional conduct of corporations, partnerships and limited-liability companies practicing certified public accounting or public accounting which it deems consistent with or required by the public welfare, including regulations:

(a) Governing the style, name and title of the corporations, partnerships and limited-liability companies.

(b) Governing the affiliation of the corporations, partnerships and limited-liability companies with any other organizations.

Sec. 10. NRS 628.190 is hereby amended to read as follows:

628.190 1. Except as otherwise provided in this section and NRS 628.310, a certificate of certified public accountant must be granted by the Board to any person who:

(a) Is ~~a resident of this State or, if not a resident, has designated to the Board an agent who is a resident for notification and service of process;~~

~~(b) Is a person who is~~ without any history of acts involving dishonesty or moral turpitude;

~~(c)~~ **(b)** Complies with the requirements of education and **work** experience as provided in NRS 628.200;

~~[(d)]~~ (c) Has submitted to the Board a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

~~[(e)]~~ (d) Has passed the examination prescribed by the Board.

2. The Board may refuse to grant a certificate of certified public accountant to an applicant if he or she has been convicted of a felony in this State or an offense in another state or jurisdiction which would be a felony if committed in this State.

3. The Board may issue a provisional certificate to an applicant until the Board receives the report from the Federal Bureau of Investigation.

Sec. 11. NRS 628.200 is hereby amended to read as follows:

628.200 1. Except as otherwise provided in subsection 4, the requirements of education for a certificate of certified public accountant are:

(a) At least 150 semester hours or an equivalent number of quarter hours; and

(b) A baccalaureate degree or an equivalent degree from a college or university recognized by the Board:

(1) With a major in accounting, or what the Board determines to be substantially the equivalent of a major in accounting; or

(2) With a major other than accounting supplemented by what the Board determines to be substantially the equivalent of an accounting major, including related courses in other areas of business administration.

2. The requirement for **work** experience for a certificate of certified public accountant is:

(a) Two years of public accounting experience in a partnership, corporation, limited-liability company or sole proprietorship engaged in the practice of public accounting under the direct supervision of a person who is a certified public accountant; or

(b) ~~Experience~~ **Other work experience** ~~in internal auditing work or governmental performing the services typically provided in a firm engaged in the practice of public accounting and auditing work~~ **under the direct supervision of a person engaged in active practice as a certified public accountant**, of a character and for a length of time sufficient in the opinion of the Board to be substantially equivalent to the requirements of paragraph (a).

3. The Board:

(a) Shall adopt regulations concerning:

(1) The number of semester hours or an equivalent number of quarter hours in accounting and other courses required by an applicant to satisfy the requirements of subsection 1.

(2) The public accounting experience ~~in internal auditing work, and governmental accounting and auditing~~ **or other work experience** required by an applicant to satisfy the requirements of subsection 2.

(b) May provide by regulation for the substitution of qualified programs of continuing education to satisfy partially the requirement of **work** experience described in paragraph (b) of subsection 2 or may add any program to the requirement of **work** experience.

4. Notwithstanding any provision of this section to the contrary, an applicant for a certificate of certified public accountant who has received conditional credit pursuant to NRS 628.260 for passing a section of the examination required for a certificate, and who applies that credit to subsequent passage of the examination, is subject to the educational requirements to receive a certificate that were in effect on the date on which the applicant ~~first received the conditional credit.~~ **passed all sections of the examination.**

Sec. 12. NRS 628.240 is hereby amended to read as follows:

628.240 A candidate for a certificate of certified public accountant who has met the educational requirements as prescribed by the Board pursuant to NRS 628.230 is eligible to take the examination without waiting until he or she meets the requirements of **work** experience if the candidate also meets the requirements of ~~paragraphs~~ **paragraph (a) and (b)** of subsection 1 of NRS 628.190.

Sec. 13. NRS 628.310 is hereby amended to read as follows:

628.310 1. The Board may waive the examination, the requirements for education or the requirements for **work** experience, or any combination thereof, required under NRS 628.190, and may issue a certificate as a certified public accountant to any person who is the holder of a certificate as a certified public accountant then in effect issued under the laws of any state or other jurisdiction of the United States approved by the Board, constituting a recognized qualification for the practice of public accounting comparable to that of a certified public accountant of this State, if:

(a) The person has passed an examination that is substantially the same as the examination conducted pursuant to NRS 628.230 with a grade that would have been a passing grade in this State on the date on which the person received his or her original certificate;

(b) The person has experience in the practice of public accountancy, either as a certified public accountant or as a staff accountant employed by a partnership, corporation, limited-liability company or sole proprietorship engaged in the practice of public accounting and working under the direct supervision of a person who is a certified public accountant, while holding a certificate as a certified public accountant for more than 4 of the 10 years immediately preceding his or her making application pursuant to this chapter; and

(c) The requirements for education of the state or other jurisdiction from which the person received his or her original certificate are determined by the Board to satisfy the requirements for education of this State.

2. The Board may ~~waive the examination, the requirements for education or the requirements for experience, or any combination thereof,~~

~~under NRS 628.190, and may~~ issue a certificate as a certified public accountant to any person who is the holder of an equivalent certificate then in effect issued by a foreign country if:

(a) Persons who are certified as public accountants in this State are granted similar privileges by the foreign country in which the applicant is certified;

(b) The applicant's certificate:

(1) Was issued by the appropriate authority that regulates the practice of public accountancy in the foreign country in which the certificate was issued;

(2) Has not expired or been revoked or suspended; and

(3) Authorizes the applicant to issue reports upon financial statements;

(c) The requirements for education and examination of the regulatory authority of the foreign country were substantially equivalent to the requirements for education and examination of this State on the date on which the applicant received his or her certificate;

(d) The applicant:

(1) Complied with requirements for experience in the foreign country in which the certificate was issued that are substantially equivalent to the requirements set forth in NRS 628.200; or

(2) Has completed in any state at least 4 years of public accounting experience, or equivalent experience determined to be appropriate by the Board, within the 10 years immediately preceding his or her making application for certification in this State;

(e) The applicant has passed a written examination on national standards for public accounting and ethics that is acceptable to the Board; and

(f) The applicant submits with the application a list of all jurisdictions in which he or she has applied for and received a certificate to practice public accounting.

3. A person who is granted a certificate as a certified public accountant pursuant to subsection 2 shall notify the Board, in writing, within 30 days after:

(a) The person is issued an equivalent certificate to practice public accounting by another jurisdiction or is denied the issuance of such a certificate;

(b) A certificate to practice public accounting issued to the person by another jurisdiction is revoked or suspended; or

(c) Another jurisdiction in which the person is certified to practice public accounting commences any type of disciplinary action against the person.

Sec. 14. NRS 628.325 is hereby amended to read as follows:

628.325 1. One or more natural persons may organize a corporation for the practice of public accounting under the Professional Entities and Associations Act, chapter 89 of NRS. The corporation is not required to have more directors than shareholders, but at least one director must be a shareholder. The other directors need not, but may, be shareholders.

2. One or more natural persons may:

- (a) Organize a corporation pursuant to chapter 78 of NRS;
 - (b) Qualify to do business as a foreign corporation pursuant to chapter 80 of NRS;
 - (c) Organize a limited-liability company pursuant to chapter 86 of NRS;
 - or
 - (d) Register as a foreign limited-liability company pursuant to chapter 86 of NRS,
- to practice public accounting.

3. The organization, qualification or registration of a corporation or company pursuant to subsection 2:

- (a) Does not modify:
 - (1) The relationship between an accountant and a client;
 - (2) The liability arising out of that relationship; or
 - (3) The compliance of the corporation or company with this chapter or any regulations adopted pursuant thereto.
- (b) Does not render:
 - (1) A person liable in tort for any act in which he or she has not personally participated.

(2) The manager, a member or an employee of a limited-liability company liable in contract for any contract which the person executes on behalf of a limited-liability company within the limits of his or her authority.

4. Notwithstanding any specific statute to the contrary, a simple majority of the ownership of a corporation, partnership or limited-liability company organized for the practice of public accounting in this State, in terms of the financial interests and voting rights of all shareholders, partners, officers, members and principals thereof, must belong to persons who are certified public accountants in any state . ~~for registered public accountants in this State.~~ Each shareholder, partner, officer, member or principal whose principal place of business is in this State and who performs professional services in this State must be ~~for~~:

~~—(a) If the corporation, partnership or limited liability company registered with the Board is a corporation, partnership or limited liability company of certified public accountants,~~ a certified public accountant in this State in good standing . ~~for~~ and

~~—(b) If the corporation, partnership or limited liability company registered with the Board is a corporation, partnership or limited liability company of public accountants, a certified public accountant or registered public accountant in this State in good standing.~~

5. A corporation, partnership or limited-liability company organized for the practice of public accounting in this State may have as a shareholder, partner, officer, member or principal any natural person who is not a certified public accountant in any state ~~for a registered public accountant in this State~~ if:

(a) The natural person is actively engaged in the business of the corporation, partnership or limited-liability company, or any affiliate thereof; and

(b) The corporation, partnership or limited-liability company complies with any other requirements that the Board by regulation may impose.

Sec. 15. NRS 628.370 is hereby amended to read as follows:

628.370 1. Each office established or maintained in this State for the practice of public accounting in this State by a certified public accountant or a partnership, corporation or limited-liability company composed of certified public accountants ~~or by a registered public accountant or a partnership, corporation or limited-liability company composed of registered public accountants,~~ must be registered annually under this chapter with the Board. The Board may charge a fee for the registration of an office in an amount set by regulation.

2. The Board shall by regulation prescribe the procedure to be followed in registering offices.

Sec. 16. NRS 628.375 is hereby amended to read as follows:

628.375 1. Before a certified public accountant ~~or a registered public accountant~~ or a partnership, corporation or limited-liability company composed of certified public accountants ~~or registered public accountants~~ with an office in this State engages in the practice of public accounting in this State under a fictitious name, the person or entity must register the fictitious name with the Board.

2. The Board shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations that prescribe:

(a) The procedure for registering a fictitious name with the Board; and

(b) The fee for registering a fictitious name with the Board.

Sec. 17. NRS 628.380 is hereby amended to read as follows:

628.380 1. Permits to engage in the practice of public accounting in this State must be issued by the Board to holders of the certificate of certified public accountant issued under NRS 628.190 to 628.310, inclusive, ~~and to registered public accountants registered or licensed pursuant to NRS 628.350,~~ if all offices of the holder of a certificate ~~or registrant~~ are maintained and registered as required under NRS 628.370, and if the holder of a certificate ~~or registrant~~ has complied with the continuing education requirements provided in this chapter and in the Board's regulations.

2. All permits expire on December 31 of each year and may be renewed annually for a period of 1 year by holders of certificates ~~and registrants~~ in good standing upon payment of an annual renewal fee set by the Board by regulation.

3. Failure of a holder of a certificate ~~or registrant~~ to apply for an annual permit to practice deprives him or her of the right to a permit, unless the Board, in its discretion, determines that the failure was caused by excusable neglect.

4. The Board shall adopt a regulation specifying the fee for the renewal of a permit after January 31 of each year.

5. The Board may provide by regulation for the placing of certificates ~~and registrations~~ on a retired or inactive status. The regulation may provide for a procedure for applying for retired or inactive status and for applying to return to active status, and must specify fees, if any, to accompany the applications.

Sec. 18. NRS 628.385 is hereby amended to read as follows:

628.385 The Legislature finds that:

1. The explosion of knowledge and the increasing complexity of practice make it essential that certified public accountants ~~and public accountants~~ continue to develop their competence and maintain the general quality of the practice of their profession.

2. The public interest requires that certified public accountants ~~and registered public accountants~~ provide competent service in all areas of their practice.

3. Formal programs of continuing education provide certified public accountants ~~and public accountants~~ with the opportunity to maintain the general quality of the practice of their profession.

4. It is in the public interest to require that certified public accountants ~~and registered public accountants~~ who have certificates ~~and who have been registered, respectively,~~ under the provisions of this chapter comply with requirements for continuing education adopted by the Board as a prerequisite to the issuance or renewal of permits to engage in the practice of public accounting pursuant to NRS 628.380.

Sec. 19. NRS 628.386 is hereby amended to read as follows:

628.386 1. The Board may by regulation prescribe, amend or repeal rules, including, but not limited to:

(a) A definition of basic requirements for continuing education;

(b) A delineation of qualifying programs;

(c) A system of control and reporting; and

(d) A program to ensure that licensees ~~certificate holders~~ are maintaining the standards of the profession.

2. In exercising its power under this section, the Board shall establish standards which will assure reasonable currency of knowledge as a basis for a high standard of practice by certified public accountants . ~~and registered public accountants.~~ The standards must be established in a manner to assure that a variety of alternatives are available to certificate holders ~~and registrants~~ to comply with the requirements of continuing education for renewal of permits and must take cognizance of specialized areas of practice.

Sec. 20. NRS 628.387 is hereby amended to read as follows:

628.387 The Board may, in accordance with the intent of this chapter, make exceptions from continuing education requirements for certificate holders ~~for registrants~~ not engaged in public practice, or for reasons of health, military service or other good cause, except that if such certificate

holder ~~{or registrant}~~ returns to the practice of public accounting he or she shall meet such continuing education requirements as the Board may determine.

Sec. 21. NRS 628.388 is hereby amended to read as follows:

628.388 The Board may appoint a Committee on Continuing Education consisting of certified public accountants ~~{and registered public accountants}~~ in active practice and holding live permits. Upon assignment and as directed by the Board, the Committee shall assist the Board in the administration of the provisions of this chapter for continuing education.

Sec. 22. NRS 628.390 is hereby amended to read as follows:

628.390 1. After giving notice and conducting a hearing, the Board may revoke, or may suspend for a period of not more than 5 years, any certificate issued under NRS 628.190 to 628.310, inclusive, any practice privileges granted pursuant to NRS 628.315 or 628.335 ~~{, any registration or license granted to a registered public accountant under NRS 628.350,}~~ or any registration of a partnership, corporation, limited-liability company, sole proprietorship or office, or may revoke, suspend or refuse to renew any permit issued under NRS 628.380, or may publicly censure the holder of any permit ~~{, license}~~ certificate or registration or any natural person granted practice privileges pursuant to NRS 628.315, for any one or any combination of the following causes:

(a) Fraud or deceit in obtaining a certificate as a certified public accountant ~~{, or in obtaining registration or a license as a public accountant under this chapter}~~ or in obtaining a permit to practice public accounting under this chapter.

(b) Dishonesty, fraud or gross negligence by a certified ~~{or registered}~~ public accountant or a natural person granted practice privileges pursuant to NRS 628.315.

(c) Violation of any of the provisions of this chapter.

(d) Violation of a regulation or rule of professional conduct adopted by the Board under the authority granted by this chapter.

(e) Conviction of a felony relating to the practice of public accounting under the laws of any state or jurisdiction.

(f) Conviction of any crime:

- (1) An element of which is dishonesty or fraud; or
- (2) Involving moral turpitude,

↪ under the laws of any state or jurisdiction.

(g) Cancellation, revocation, suspension, placing on probation or refusal to renew authority to practice as a certified public accountant ~~{or a registered public accountant}~~ by any other state, for any cause other than failure to pay an annual registration fee or to comply with requirements for continuing education or review of his or her practice in the other state.

(h) Suspension, revocation or placing on probation of the right to practice before any state or federal agency.

(i) Unless the person has been placed on inactive or retired status, failure to obtain an annual permit under NRS 628.380, within:

(1) Sixty days after the expiration date of the permit to practice last obtained or renewed by the holder of a certificate ; ~~for registrant;~~ or

(2) Sixty days after the date upon which the holder of a certificate ~~for registrant~~ was granted the certificate , ~~for registration,~~ if no permit was ever issued to the person, unless the failure has been excused by the Board.

(j) Conduct discreditable to the profession of public accounting or which reflects adversely upon the fitness of the person to engage in the practice of public accounting.

(k) Making a false or misleading statement in support of an application for a certificate ~~for registration~~ or permit of another person.

(l) Committing an act in another state or jurisdiction which would be subject to discipline in that state.

2. After giving notice and conducting a hearing, the Board may deny an application to take the examination prescribed by the Board pursuant to NRS 628.190, deny a person admission to such an examination, invalidate a grade received for such an examination or deny an application for a certificate issued pursuant to NRS 628.190 to 628.310, inclusive, to a person who has:

(a) Made any false or fraudulent statement, or any misleading statement or omission relating to a material fact in an application:

(1) To take the examination prescribed by the Board pursuant to NRS 628.190; or

(2) For a certificate issued pursuant to NRS 628.190 to 628.310, inclusive;

(b) Cheated on an examination prescribed by the Board pursuant to NRS 628.190 or any such examination taken in another state or jurisdiction of the United States;

(c) Aided, abetted or conspired with any person in a violation of the provisions of paragraph (a) or (b); or

(d) Committed any combination of the acts set forth in paragraphs (a), (b) and (c).

3. In addition to other penalties prescribed by this section, the Board may impose a civil penalty of not more than \$5,000 for each violation of this section.

4. The Board shall not privately censure the holder of any permit ~~for license,~~ or certificate ~~for registration~~ or any natural person granted practice privileges pursuant to NRS 628.315.

5. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 23. NRS 628.393 is hereby amended to read as follows:

628.393 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 certificate issued pursuant to NRS 628.190 to

628.310, inclusive, ~~for a registration or license granted to a registered public accountant pursuant to NRS 628.350~~ or a permit issued pursuant to NRS 628.380, the Board shall deem the certificate ~~for registration, license~~ or permit 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 certificate ~~for registration, license~~ or permit by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate ~~for registration, license~~ or permit has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a certificate issued pursuant to NRS 628.190 to 628.310, inclusive, ~~for a registration or license granted to a registered public accountant pursuant to NRS 628.350~~ or a permit issued pursuant to NRS 628.380 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 certificate ~~for registration, license~~ or permit was suspended stating that the person whose certificate ~~for registration, license~~ or permit was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 24. NRS 628.395 is hereby amended to read as follows:

628.395 In addition to any penalty which it may assess pursuant to NRS 628.390, the Board may suspend any of the provisions of an order issued pursuant to that section and place the certified ~~for registered~~ public accountant on probation, subject to limitations and conditions specified by the Board, which may include requirements for continuing education or for a review of the accountant's practice, either periodically or continuously.

Sec. 25. NRS 628.400 is hereby amended to read as follows:

628.400 1. After giving notice and conducting a hearing, the Board shall revoke the registration of a partnership, corporation or limited-liability company if at any time it does not have all the qualifications prescribed by the section of this chapter under which it qualified for registration.

2. After giving notice and conducting a hearing, the Board may revoke or suspend the registration of a partnership, corporation or limited-liability company, or may censure the partnership, corporation or limited-liability company, or impose a sanction authorized by NRS 628.390 ~~for~~ or 628.395, for any of the causes enumerated in subsection 1 of NRS 628.390 ~~for 628.395~~ or for one or both of the following additional causes:

(a) The revocation or suspension of the certificate or registration or the revocation or suspension or refusal to renew the permit to practice of any partner or shareholder who is personally engaged in the practice of public accounting in this State, whether or not he or she holds a live permit in this State.

(b) The cancellation, revocation, suspension or refusal to renew the authority of the partnership, corporation or limited-liability company, or any

partner, shareholder or member thereof to practice public accounting in any other state for any cause other than failure to pay an annual registration fee or comply with a requirement for continuing education or practice review in the other state.

Sec. 26. NRS 628.410 is hereby amended to read as follows:

628.410 1. The Board may initiate proceedings under this chapter:

- (a) On its own motion;
- (b) On the complaint of any person; or
- (c) On a complaint made by a board of accountancy of another state.

2. A written notice of the hearing must be served on the respondent not less than 30 days before the date of the hearing, either personally or by mailing a copy thereof by registered or certified mail to the address of the respondent last known to the Board.

3. If, after having been served with the notice of hearing, the respondent fails to appear at the hearing and defend, the Board may proceed to hear evidence against the respondent and may enter such order as is justified by the evidence. The order is final unless the respondent petitions for a review thereof. Within 30 days after the date of any order, upon a showing of good cause for failing to appear and defend, the Board may reopen the proceedings and may permit the respondent to submit evidence in his or her behalf.

4. At any hearing, a respondent may be represented before the Board by counsel or by a certified public accountant ~~for registered public accountant~~ of this State in good standing. The respondent is entitled, on application to the Board, to the issuance of subpoenas to compel the attendance of witnesses on his or her behalf.

5. The Board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents. In case of disobedience to a subpoena, the Board may invoke the aid of any court of this State in requiring the attendance and testimony of witnesses and the production of documentary evidence.

6. A hearing may be conducted by:

(a) The Board, less any member or members who have been disqualified, without the appointment of persons to hear the case in place of the disqualified members; or

(b) A member of the Board appointed by the Board as a hearing officer, with the remaining members of the Board, less any member or members who have been disqualified, to review the record, make a final decision and issue the order,

↪ unless the Board, after disqualifications, consists of less than three members to hear or review the case, in which circumstance the Governor must appoint one or more qualified persons so that the panel which hears or reviews the case consists of at least three persons.

7. A stenographic record of the hearing must be kept and a transcript thereof filed with the Board.

8. At all hearings, the Attorney General or a deputy designated by the Attorney General or such other legal counsel as may be employed shall appear and represent the Board.

9. The decision of the Board must be by majority vote thereof.

Sec. 27. NRS 628.415 is hereby amended to read as follows:

628.415 1. Any disciplinary action taken by a hearing officer or panel pursuant to NRS 628.140 is subject to the same procedural requirements which apply to disciplinary actions taken by the Board, and the officer or panel has those powers and duties given to the Board in relation thereto.

2. A decision of the hearing officer or panel relating to the imposition of a civil penalty, costs and attorney's fees is a final decision in a contested case. Any party aggrieved by a decision of the officer or panel to place a certified ~~for registered~~ public accountant on probation or revoke or suspend a certificate ~~or~~ permit ~~registration or license~~ may appeal that decision to the Board.

Sec. 28. NRS 628.418 is hereby amended to read as follows:

628.418 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential ~~and privileged~~.

2. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. *The provisions of this section do not prohibit the Board or an employee of the Board from cooperating with another licensing board or any other agency that is investigating a person who holds a certificate or a permit issued pursuant to NRS 628.380 or a partnership, corporation, limited-liability company or sole proprietorship that is registered with the Board pursuant to NRS 628.335, by providing documents or other information relating to a complaint.*

Sec. 29. NRS 628.420 is hereby amended to read as follows:

628.420 Upon application in writing and after a hearing, the Board may:

1. Issue a new certificate to a certified public accountant whose certificate has been revoked;

2. ~~Permit the reregistration of a public accountant whose registration has been revoked;~~

~~3.~~ Reissue or modify the suspension of any permit to practice public accounting which has been revoked or suspended, unless the permit was suspended pursuant to NRS 425.540; or

~~4.~~ 3. Modify any action taken against any person or any order which it has issued pursuant to NRS 628.390.

Sec. 30. NRS 628.430 is hereby amended to read as follows:

628.430 All statements, records, schedules, working papers and memoranda made by a certified public accountant ~~or a registered public~~

~~accountant~~ or a natural person granted practice privileges pursuant to NRS 628.315 incident to or in the course of professional service to clients by the accountant, except reports submitted by a certified public accountant ~~to a registered public accountant~~ or a natural person granted practice privileges pursuant to NRS 628.315 to a client, are the property of the accountant, in the absence of an express agreement between the accountant and the client to the contrary. No such statement, record, schedule, working paper or memorandum may be sold, transferred or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than one or more surviving partners or new partners of the accountant or to his or her corporation.

Sec. 31. NRS 628.435 is hereby amended to read as follows:

628.435 1. A practitioner shall comply with all professional standards for accounting and documentation related to an attestation applicable to particular engagements.

2. Except as otherwise provided in this section and in all professional standards for accounting and documentation related to an attestation applicable to particular engagements, a practitioner shall retain all documentation related to an attestation for not less than 5 years after the date of the report containing the attestation.

3. Documentation related to an attestation that, at the end of the retention period set forth in subsections 1 and 2, is a part of or subject to a pending investigation of, or disciplinary action against, a practitioner must be retained and must not be destroyed until the practitioner has been notified in writing that the investigation or disciplinary action has been closed or concluded.

4. As used in this section:

(a) "Documentation related to an attestation" includes, without limitation:

(1) All documentation relating to consultations and resolutions of any differences of professional opinion regarding the exercise of professional judgment relating to an attestation; and

(2) Documentation of the findings or issues related to the attestation that, based on the judgment of the practitioner after an objective analysis of the facts and circumstances, is determined to be significant, regardless of whether the documentation includes information or data that is inconsistent with the final conclusions of the practitioner.

(b) "Practitioner" means:

(1) A holder of a certificate issued pursuant to NRS 628.190 to 628.310, inclusive, ~~any registration or license granted to a registered public accountant pursuant to NRS 628.350~~ or a permit issued pursuant to NRS 628.380;

(2) A partnership, corporation, limited-liability company or sole proprietorship registered pursuant to NRS 628.335; or

(3) A natural person granted practice privileges pursuant to NRS 628.315.

Sec. 32. NRS 628.440 is hereby amended to read as follows:

628.440 This chapter does not prohibit any person from serving as an employee of, or an assistant to, a certified public accountant ~~for registered public accountant~~ who holds a live permit, or a partnership, corporation or limited-liability company composed of certified public accountants ~~for registered public accountants registered pursuant to NRS 628.360, 628.363 or 628.365~~ if the employee or assistant does not issue any accounting or financial statement over his or her name.

Sec. 33. NRS 628.470 is hereby amended to read as follows:

628.470 A natural person shall not assume or use the title or designation “public ~~accountant,~~” “~~registered public~~ accountant” or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that he or she is a public accountant unless the person:

1. ~~Is a registered public accountant, holds a live permit and all of the person's offices in this State for the practice of public accounting are maintained and registered as required under NRS 628.370;~~

~~—2.1~~ Has received a certificate as a certified public accountant under NRS 628.190 to 628.310, inclusive, holds a live permit and all of the person's offices in this State for the practice of public accounting are maintained and registered as required under NRS 628.370; or

~~{3.1}~~ 2. Is a natural person granted practice privileges pursuant to NRS 628.315.

Sec. 34. NRS 628.480 is hereby amended to read as follows:

628.480 A partnership, corporation, limited-liability company or sole proprietorship shall not assume or use the title or designation “public accountant” or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the partnership, corporation, limited-liability company or sole proprietorship is composed of public accountants unless the partnership, corporation, limited-liability company or sole proprietorship is:

1. Registered as a partnership, corporation, limited-liability company or sole proprietorship of ~~{registered public accountants or as a partnership, corporation, limited liability company or sole proprietorship of}~~ certified public accountants and all offices of the partnership, corporation, limited-liability company or sole proprietorship in this State for the practice of public accounting are maintained and registered as required under NRS 628.370; or

2. Performing services within the practice of public accounting pursuant to the provisions of subsection 3 of NRS 628.335.

Sec. 35. NRS 628.510 is hereby amended to read as follows:

628.510 1. Except as otherwise provided in subsection 2, a person shall not sign or affix his or her name or the name of a partnership, corporation, limited-liability company or sole proprietorship, or any trade or assumed name used by the person or by the partnership, corporation, limited-liability company or sole proprietorship in business, with any wording indicating that he or she is an accountant or auditor, or that the partnership, corporation,

limited-liability company or sole proprietorship is authorized to practice as an accountant or auditor or with any wording indicating that the person or the partnership, corporation, limited-liability company or sole proprietorship has expert knowledge in accounting or auditing, to any accounting or financial statement, or attest to any accounting or financial statement, unless:

(a) The person holds a live permit or the partnership, corporation, limited-liability company or sole proprietorship is registered pursuant to NRS 628.335 ~~1, 628.360, 628.363 or 628.365~~ and all of the person's offices in this State for the practice of public accounting are maintained and registered under NRS 628.370;

(b) The person is a natural person granted practice privileges pursuant to NRS 628.315; or

(c) The partnership, corporation, limited-liability company or sole proprietorship is performing services within the practice of public accounting pursuant to the provisions of subsection 3 of NRS 628.335.

2. The provisions of subsection 1 do not prohibit:

(a) Any officer, employee, partner, principal or member of any organization from affixing his or her signature to any statement or report in reference to the financial affairs of that organization with any wording designating the position, title or office which he or she holds in the organization.

(b) Any act of a public official or public employee in the performance of his or her duties as such.

(c) Any person who does not hold a live permit from preparing a financial statement or issuing a report if the statement or report, respectively, includes a disclosure that:

(1) The person who prepared the statement or issued the report does not hold a live permit issued by the Board; and

(2) The statement or report does not purport to have been prepared in compliance with the professional standards of accounting adopted by the Board.

Sec. 36. NRS 628.520 is hereby amended to read as follows:

628.520 A person shall not sign or affix the name of a partnership, corporation, limited-liability company or sole proprietorship with any wording indicating that it is a partnership, corporation, limited-liability company or sole proprietorship composed of accountants or auditors or persons having expert knowledge or special expertise in accounting or auditing, to any accounting or financial statement, or attest to any accounting or financial statement, unless the partnership, corporation, limited-liability company or sole proprietorship is:

1. Registered pursuant to NRS 628.335 ~~1, 628.360, 628.363 or 628.365~~ and all of its offices in this State for the practice of public accounting are maintained and registered as required under NRS 628.370; or

2. Performing services within the practice of public accounting pursuant to the provisions of subsection 3 of NRS 628.335.

Sec. 37. NRS 628.540 is hereby amended to read as follows:

628.540 1. Except as otherwise provided in subsection 2, a person, partnership, corporation, limited-liability company or sole proprietorship shall not engage in the practice of public accounting or hold himself, herself or itself out to the public as an “accountant” or “auditor” by use of either or both of those words ~~[-, or by use of the word “accounting,”]~~ **in connection with any other language which implies that such a person or firm holds a certificate, permit or registration or has special competence as an accountant or auditor** on any sign, card, letterhead or in any advertisement or directory unless:

(a) If a natural person, he or she holds a live permit or has been granted practice privileges pursuant to NRS 628.315; or

(b) If a partnership, corporation, limited-liability company or sole proprietorship, it is registered pursuant to NRS 628.335 ~~[-, 628.360, 628.363 or 628.365]~~ or is performing services within the practice of public accounting pursuant to the provisions of subsection 3 of NRS 628.335.

2. The provisions of subsection 1 do not prohibit:

(a) Any officer, employee, partner, shareholder, principal or member of any organization from describing himself or herself by the position, title or office he or she holds in that organization.

(b) Any act of a public official or public employee in the performance of his or her duties as such.

Sec. 38. NRS 628.550 is hereby amended to read as follows:

628.550 1. A person shall not assume or use the title or designation “certified public accountant” or “public accountant” in conjunction with names indicating or implying that there is a partnership, corporation or limited-liability company, or in conjunction with the designation “and Company” or “and Co.” or a similar designation, if there is in fact no bona fide partnership, corporation or limited-liability company:

(a) Registered under NRS 628.335 ; ~~[-, 628.360, 628.363 or 628.365;]~~ or

(b) Performing services within the practice of public accounting pursuant to the provisions of subsection 3 of NRS 628.335.

~~[↪ A sole proprietor or partnership lawfully using a title or designation in conjunction with any names or designation on April 1, 1960, may continue to do so if the sole proprietor or partnership otherwise complies with the provisions of this chapter.]~~

2. A person, partnership, corporation or limited-liability company shall not engage in the practice of public accounting under any name which is misleading as to:

(a) The legal form of the firm;

(b) The persons who are partners, officers, shareholders or members; or

(c) Any other matter.

↪ The names of past partners, shareholders or members may be included in the name of a firm or its successors.

Sec. 39. NRS 628.570 is hereby amended to read as follows:

628.570 Whenever in the judgment of the Board any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of NRS 628.435 or 628.450 to 628.550, inclusive, the Board may ***issue and serve on the person an order to cease and desist or*** make application to an appropriate court for an order enjoining the acts or practices, and upon a showing by the Board that the person has engaged, or is about to engage, in any of those acts or practices, an injunction, restraining order or such order as may be appropriate must be granted by the court without a bond.

Sec. 40. NRS 628.580 is hereby amended to read as follows:

628.580 1. Any person who violates any provision of NRS 628.435 or 628.450 to 628.550, inclusive, is guilty of a ***gross*** misdemeanor.

2. Whenever the Board has reason to believe that any person is liable to punishment under this section , it may certify the facts to the Attorney General or other appropriate enforcement officer, who may, in his or her discretion, cause appropriate proceedings to be brought.

Sec. 41. NRS 628A.010 is hereby amended to read as follows:

628A.010 As used in this chapter, unless the context otherwise requires:

1. “Client” means a person who receives advice from a financial planner.
 2. “Compensation” means a fee for services provided by a financial planner to a client or a commission or other remuneration derived by a financial planner from a person other than the client as the result of the purchase of a good or service by the client.

3. “Financial planner” means a person who for compensation advises others upon the investment of money or upon provision for income to be needed in the future, or who holds himself or herself out as qualified to perform either of these functions, but does not include:

(a) An attorney and counselor at law admitted by the Supreme Court of this State;

(b) A certified public accountant ~~for a public accountant licensed~~ ***who holds a certificate issued*** pursuant to NRS 628.190 to 628.310, inclusive ; ~~to 628.350;~~

(c) A broker-dealer or sales representative licensed pursuant to NRS 90.310 or exempt under NRS 90.320;

(d) An investment adviser licensed pursuant to NRS 90.330 or exempt under NRS 90.340; or

(e) A producer of insurance licensed pursuant to chapter 683A of NRS or an insurance consultant licensed pursuant to chapter 683C of NRS,
 ➡ whose advice upon investment or provision of future income is incidental to the practice of his or her profession or business.

Sec. 42. NRS 172.205 is hereby amended to read as follows:

172.205 The grand jury shall have the power, with the consent of the board of county commissioners, to engage the services of an attorney other than and in addition to the district attorney, certified ~~for registered~~ public

accountants, and such other skilled persons as may be necessary in the performance of its inquisitorial powers.

Sec. 43. NRS 361.375 is hereby amended to read as follows:

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

2. The Governor shall appoint:

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

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

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

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

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

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

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

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

7. Each member of the State Board of Equalization is entitled to receive a salary of not more than \$80, as fixed by the Board, for each day actually employed on the work of the Board.

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

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

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

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

Sec. 44. NRS 678.390 is hereby amended to read as follows:

678.390 1. The board may appoint an audit committee to make an annual audit of the financial records of the credit union and any interim audits as may be deemed necessary by the board or as may be directed by the Commissioner. A copy of the report must be submitted to the board and the

Commissioner and a summary presented to the members at the next annual meeting.

2. The audit committee may by unanimous vote suspend any director, officer or member of the credit union following an audit, for any violation of this chapter, the charter or bylaws or for any other practice which the audit committee deems to be unsafe or unauthorized. In such cases, the audit committee shall call a special meeting of the members not less than 7 nor more than 21 days following the suspension and the suspension must be ratified or overturned by the members.

3. Any member of the audit committee may be suspended by the board for the same reasons and in the same manner as provided in subsection 2.

4. The audit committee may by a majority vote call a special meeting of the members to consider any violation of this chapter, the charter or bylaws or any practice of the credit union deemed by the audit committee to be unsafe or unauthorized.

5. The board of directors or the audit committee may employ the services of a certified public accountant ~~for a registered public accountant~~ to complete the necessary audit of the records of the credit union.

Sec. 45. NRS 628.029, 628.350, 628.360, 628.363 and 628.365 are hereby repealed.

Sec. 46. This act becomes effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS

628.029 “Registered public accountant” defined.

628.350 Requirements for issuance of license as public accountant.

628.360 Requirements for registration as partnership of public accountants.

628.363 Requirements for registration as corporation of public accountants.

628.365 Requirements for registration as limited-liability company of public accountants.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 457.

Bill read second time.

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

Amendment No. 600.

AN ACT relating to professional licensing; requiring the Board of Psychological Examiners, the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors, the Board of Examiners for

Social Workers and the Board of Examiners for Alcohol, Drug and Gambling Counselors to report certain information to the Commission on Behavioral Health; requiring new members of those boards to complete an orientation; requiring those boards to adopt certain policies and regulations ~~and~~ ; **authorizing those boards to** enter into certain agreements; authorizing a person aggrieved by certain actions of those boards to appeal to the Commission; requiring the Commission to review all regulations adopted by those boards; **revising the qualifications of certain members of the Commission**; prohibiting certain persons from serving on the Commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes: (1) the Board of Psychological Examiners, which regulates psychologists, behavior analysts and assistant behavior analysts; (2) the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors, which regulates marriage and family therapists and clinical professional counselors; (3) the Board of Examiners for Social Workers, which regulates social workers; and (4) the Board of Examiners for Alcohol, Drug and Gambling Counselors, which regulates alcohol, drug and problem gambling counselors. (Chapters 641-641C of NRS) **Sections 2, 11, 18 and 25** of this bill require those boards to submit an annual report to the Commission on Behavioral Health concerning investigations ~~of disciplinary actions~~ and review of applications for the issuance or renewal of a license or certificate. **Sections 3, 12, 19 and 26** of this bill: (1) require each new member of those boards to complete an orientation within 60 days after appointment; and (2) require each board to establish policies concerning compensation and reviewing the performance of the staff of the board. **Sections 4, 13, 20 and 27** of this bill ~~require~~ **authorize** the boards to enter into agreements with the Department of Health and Human Services or a division thereof ~~when necessary~~ to carry out or improve the performance of the boards' duties.

Sections 5, 16, 21 and 28 of this bill require the same boards to adopt online application forms for the issuance or renewal of a license or certificate. **Sections 6, 14, 22, 29 and 34** of this bill ~~authorize a person aggrieved by an order of any of those boards in refusing to issue or renew a license or certificate or imposing disciplinary action to appeal that order to the Commission on Behavioral Health~~ ~~and (2) allow the Commission to review and modify or rescind such orders on its own motion.~~ **Sections 7, 15, 23 and 30** of this bill require each of the boards to adopt regulations establishing: (1) standards concerning the locations at which ~~licensees and holders of certificates~~ **interns** provide services; (2) standards concerning the supervision of interns working at remote sites; and (3) a manner in which the qualifications for issuance or renewal of a license will be made available to the public. **Sections 7, 15, 23, 30 and 34** also require the Commission to review **and make recommendations concerning** all regulations adopted by the boards ~~before such regulations are submitted to the Legislative~~

~~Commission for approval.]~~ **Section 32 of this bill : (1) revises the qualifications of certain members of the Commission; and (2)** prohibits a member of any of those boards from serving concurrently as a member of the Commission ~~for Behavioral Health.]~~ **Section 35 of this bill requires each of the boards to submit a report to the Commission ~~for Behavioral Health]~~ on or before January 1, 2018, concerning the costs of the board, the fees imposed by the board and the efforts of the board to recognize licenses, certificates and other credentials from jurisdictions outside this State and to carry out the provisions of this bill.**

WHEREAS, Licensing boards that issue licenses and certificates to behavioral health professionals have an obligation to protect the safety of the public, promote the provision of high-quality behavioral health care and facilitate the licensure and certification of behavioral health professionals; and

WHEREAS, To achieve these objectives, such boards must develop and implement fair and transparent policies and procedures for the licensing, certification and regulation of behavioral health professionals; and

WHEREAS, The implementation of such policies and procedures will increase the availability and accessibility of high-quality behavioral health services to the residents of this State; now, therefore,

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

Section 1. Chapter 641 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *On or before February 1 of each year, the Board shall submit to the Commission on Behavioral Health a report which must include:*

1. The number of complaints received, ~~investigations initiated and~~ investigations completed ~~and the number and type of disciplinary actions imposed by the Board]~~, cases dismissed, cases settled and cases for which hearings were held within the immediately preceding calendar year; and

2. The number of applications for the issuance or renewal of a license received by the Board during the immediately preceding calendar year and the number of those applications for which the Board conducted additional review beyond the standard review regularly conducted by the Board . ~~[during the immediately preceding calendar year, the percentage of total applications received by the Board during the immediately preceding calendar year for which the Board conducted such additional review and the reasons such additional review was conducted.]~~

Sec. 3. *The Board shall:*

1. Require each new member of the Board to complete orientation within 60 days after his or her appointment to the Board. The orientation must include, without limitation, instruction concerning:

(a) *The purposes of the Board and the duties of its members;*
 (b) *Applicable laws and regulations, including, without limitation, the provisions of NRS 641.230 to 641.320, inclusive, and section 6 of this act and the importance of complying with applicable laws and regulations in a timely manner; and*

(c) *Requirements concerning managing the finances of the Board.*

2. *Establish policies concerning compensation and reviewing the performance of the staff of the Board.*

Sec. 4. The Board ~~shall~~ may enter into an agreement with the Department of Health and Human Services or a division thereof to provide services ~~when necessary~~ to carry out or improve any function of the Board. Such services may include, without limitation:

1. *Assistance in processing applications for the issuance or renewal of licenses;*

2. *Technical assistance;*

3. *Facilitating cooperation with other boards and licensing entities in this State or any other jurisdiction;*

4. *Recommendations to improve and standardize procedures used by the Board; and*

5. *Assistance in identifying resources for improving the operations of the Board.*

Sec. 5. The Board shall prescribe forms for applying for the issuance or renewal of a license. The forms must:

1. *Be available to be completed on the Internet website maintained by the Board;*

2. *Provide immediate, automatic feedback to the applicant concerning whether the applicant has submitted all required information; and*

3. *Automatically store the data submitted by the applicant upon completion of the application.*

Sec. 6. 1. ~~Not later than 30 days after the Board issues an order refusing to issue or renew~~ denies an application for the issuance or renewal of a license or issues an order imposing disciplinary action against a licensee, the applicant or licensee aggrieved by the order may submit an appeal to the Commission on Behavioral Health. The Commission shall notify the Board not later than 10 days after receiving such an appeal.

2. The Commission shall, upon an appeal submitted pursuant to subsection 1, ~~for its own motion,~~ investigate the refusal of the Board to issue or renew a license or any disciplinary action imposed by the Board. The action of the Board remains in effect until the Commission renders a decision pursuant to subsection 3.

3. After conducting ~~such~~ an investigation ~~for~~ pursuant to subsection 2, the Commission shall render a decision on the appeal. In rendering a decision, the Commission shall presume that the action of the Board was proper and shall not substitute its judgment for that of the Board concerning the weight of evidence on a question of fact. The Commission

may order the Board to issue or renew the license or modify or ~~repeal~~ set aside the disciplinary action, as applicable ~~to~~

~~3.~~ only if the Commission finds that the action of the Board:

- (a) Violates constitutional or statutory provisions;
- (b) Exceeds the statutory authority of the agency;
- (c) Was made upon unlawful procedure;
- (d) Is affected by other error of law;
- (e) Is clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) Is arbitrary or capricious or characterized by abuse of discretion.

4. An investigation conducted by the Commission pursuant to the provisions of this section is limited to the application for the issuance or renewal of a license and any information submitted in conjunction with the application or the record of the disciplinary proceeding created by the Board, as applicable. The Board shall provide those records to the Commission upon request. Unless the information is deemed a public record under the provisions of NRS 641.090 or 641.240 or other applicable law, the Commission shall keep the information confidential.

Sec. 7. NRS 641.100 is hereby amended to read as follows:

641.100 1. The Board shall adopt regulations prescribing:

(a) Uniform standards concerning the locations at which ~~licensees~~ interns provide services;

(b) Standards concerning the electronic supervision of interns working at remote sites; and

(c) A manner by which the qualifications for the issuance or renewal of a license under the provisions of this chapter will be made available to the public such that those qualifications are clearly defined and easily understood.

2. The Board may make and promulgate **any other** rules and regulations not inconsistent with the provisions of this chapter governing its procedure, the examination and licensure of applicants, the granting, refusal, revocation or suspension of licenses, the practice of psychology and the practice of applied behavior analysis.

3. ~~Any regulation adopted by~~ On the date that the Board ~~must be submitted~~ gives notice pursuant to NRS 233B.060 of its intent to adopt, amend or repeal a regulation, the Board shall submit the regulation to the Commission on Behavioral Health for review. ~~and approved by the Commission on Behavioral Health before being submitted to the Legislative Commission for review pursuant to NRS 233B.0633 or 233B.067.~~ The Commission shall review the regulation and make recommendations to the Board concerning the advisability of adopting, amending or repealing the regulation and any changes that the Commission deems advisable.

Sec. 8. NRS 641.160 is hereby amended to read as follows:

641.160 1. Each person desiring a license must:

(a) Make application to the Board upon a form, and in a manner, prescribed by the Board ~~and~~ **pursuant to section 5 of this act**. The application must be accompanied by the application fee prescribed by the Board and include all information required to complete the application.

(b) As part of the application and at his or her own expense:

(1) Arrange to have a complete set of fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Board; and

(2) Submit to the Board:

(I) 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 a report on the applicant's background, and to such other law enforcement agencies as the Board deems necessary for a report on the applicant's background; or

(II) Written verification, on a form prescribed by the Board, stating that the set of fingerprints of the applicant was taken and directly forwarded electronically or by other means to the Central Repository for Nevada Records of Criminal History and that the applicant provided written permission authorizing the law enforcement agency or other authorized entity taking the fingerprints to submit the 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 Board deems necessary for a report on the applicant's background.

2. The Board may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to sub-subparagraph (II) of subparagraph (2) of paragraph (b) of subsection 1, submit those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Board deems necessary; and

(b) Request from each agency to which the Board submits the fingerprints any information regarding the applicant's background as the Board deems necessary.

3. An application is not considered complete and received for purposes of evaluation pursuant to subsection 4 of NRS 641.170 until the Board receives a complete set of fingerprints or verification that the fingerprints have been forwarded electronically or by other means to the Central Repository for Nevada Records of Criminal History, and written authorization from the applicant pursuant to this section.

Sec. 9. NRS 641.312 is hereby amended to read as follows:

641.312 1. Any person who has been placed on probation or whose license has been limited, suspended or revoked , **and whose appeal pursuant to section 6 of this act has been denied**, is entitled to judicial review of the order.

2. Every order which limits the practice of psychology or suspends or revokes a license is effective from the date the Board certifies the order until the date the order is modified or reversed by ***an order of the Commission on Behavioral Health pursuant to section 6 of this act or*** a final judgment of the court.

3. The district court shall give a petition for judicial review of the order priority over other civil matters which are not expressly given priority by law.

Sec. 10. Chapter 641A of NRS is hereby amended by adding thereto the provisions set forth as sections 11 to 14, inclusive, of this act.

Sec. 11. ***On or before February 1 of each year, the Board shall submit to the Commission on Behavioral Health a report which must include:***

1. The number of complaints received, ~~investigations initiated and investigations completed (and the number and type of disciplinary actions imposed by the Board), cases dismissed, cases settled and cases for which hearings were held~~ within the immediately preceding calendar year; and

2. The number of applications for the issuance or renewal of a license received by the Board during the immediately preceding calendar year and the number of those applications for which the Board conducted additional review beyond the standard review regularly conducted by the Board. ~~(during the immediately preceding calendar year, the percentage of total applications received by the Board during the immediately preceding calendar year for which the Board conducted such additional review and the reasons such additional review was conducted.)~~

Sec. 12. ***The Board shall:***

1. Require each new member of the Board to complete orientation within 60 days after his or her appointment to the Board. The orientation must include, without limitation, instruction concerning:

(a) The purposes of the Board and the duties of its members;

(b) Applicable laws and regulations, including, without limitation, the provisions of NRS 641A.310 to 641A.400, inclusive, and section 14 of this act and the importance of complying with applicable laws and regulations in a timely manner; and

(c) Requirements concerning managing the finances of the Board.

2. Establish policies concerning compensation and reviewing the performance of the staff of the Board.

Sec. 13. ***The Board ~~shall~~ may enter into an agreement with the Department of Health and Human Services or a division thereof to provide services ~~(when necessary)~~ to carry out or improve any function of the Board. Such services may include, without limitation:***

1. Assistance in processing applications for the issuance or renewal of licenses;

2. Technical assistance;

3. Facilitating cooperation with other boards and licensing entities in this State or any other jurisdiction;

4. Recommendations to improve and standardize procedures used by the Board; and

5. Assistance in identifying resources for improving the operations of the Board.

Sec. 14. 1. Not later than 30 days after the Board ~~issues an order refusing to issue or renew~~ denies an application for the issuance or renewal of a license or issues an order imposing disciplinary action against a licensee, the applicant or licensee aggrieved by the order may submit an appeal to the Commission on Behavioral Health. The Commission shall notify the Board not later than 10 days after receiving such an appeal.

2. The Commission shall, upon an appeal submitted pursuant to subsection 1 or its own motion, investigate the refusal of the Board to issue or renew a license or any disciplinary action imposed by the Board. The action of the Board remains in effect until the Commission renders a decision pursuant to subsection 3.

3. After conducting ~~such~~ an investigation ~~for~~ pursuant to subsection 2, the Commission shall render a decision on the appeal. In rendering a decision, the Commission shall presume that the action of the Board was proper and shall not substitute its judgment for that of the Board concerning the weight of evidence on a question of fact. The Commission may order the Board to issue or renew the license or modify or ~~rescind~~ set aside the disciplinary action, as applicable ~~for~~

~~3.1~~, only if the Commission finds that the action of the Board:

(a) Violates constitutional or statutory provisions;

(b) Exceeds the statutory authority of the agency;

(c) Was made upon unlawful procedure;

(d) Is affected by other error of law;

(e) Is clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or

(f) Is arbitrary or capricious or characterized by abuse of discretion.

4. An investigation conducted by the Commission pursuant to the provisions of this section is limited to the application for the issuance or renewal of a license and any information submitted in conjunction with the application or the record of the disciplinary proceeding created by the Board, as applicable. The Board shall provide those records to the Commission upon request. Unless the information is deemed a public record under the provisions of NRS 641A.191 or 641A.320 or other applicable law, the Commission shall keep the information confidential.

~~4.1~~ 5. An order of the Board suspending or revoking a license or imposing other disciplinary action against a licensee is final for purposes of judicial review upon the denial of an appeal pursuant to this section.

Sec. 15. NRS 641A.160 is hereby amended to read as follows:

641A.160 1. The Board shall adopt regulations not inconsistent with the provisions of this chapter governing its procedure, the examination and licensing of applicants, the granting, refusal, revocation or suspension of

licenses, and the practice of marriage and family therapy and the practice of clinical professional counseling as those practices apply to this chapter.

2. The regulations adopted pursuant to subsection 1 must prescribe:

(a) Uniform standards concerning the locations at which ~~licensees~~ interns provide services;

(b) Standards concerning the electronic supervision of interns working at remote sites; and

(c) A manner by which the qualifications for the issuance or renewal of a license under the provisions of this chapter will be made available to the public such that those qualifications are clearly defined and easily understood.

3. ~~[Any regulation adopted by] On the date that the Board [must be submitted] gives notice pursuant to NRS 233B.060 of its intent to adopt, amend or repeal a regulation, the Board shall submit the regulation to the Commission on Behavioral Health for review. [and approved by the Commission on Behavioral Health before being submitted to the Legislative Commission for review pursuant to NRS 233B.0633 or 233B.067.] The Commission shall review the regulation and make recommendations to the Board concerning the advisability of adopting, amending or repealing the regulation and any changes that the Commission deems advisable.~~

Sec. 16. NRS 641A.210 is hereby amended to read as follows:

641A.210 1. Each person desiring a license must apply to the Board upon a form, and in a manner, prescribed by the Board. The application must be accompanied by the application fee prescribed by the Board and all information required to complete the application.

2. The Board shall prescribe forms for applying for the issuance or renewal of a license. The forms must:

(a) Be available to be completed on the Internet website maintained by the Board;

(b) Provide immediate, automatic feedback to the applicant concerning whether the applicant has submitted all required information; and

(c) Automatically store the data submitted by the applicant upon completion of the application.

Sec. 17. Chapter 641B of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to 22, inclusive, of this act.

Sec. 18. On or before February 1 of each year, the Board shall submit to the Commission on Behavioral Health a report which must include:

1. The number of complaints received, ~~investigations initiated and investigations completed [and the number and type of disciplinary actions imposed by the Board], cases dismissed, cases settled and cases for which hearings were held within the immediately preceding calendar year; and~~

2. The number of applications for the issuance or renewal of a license received by the Board during the immediately preceding calendar year and the number of those applications for which the Board conducted additional

~~review beyond the standard review regularly conducted by the Board .
[during the immediately preceding calendar year, the percentage of total
applications received by the Board during the immediately preceding
calendar year for which the Board conducted such additional review and
the reasons such additional review was conducted.]~~

Sec. 19. The Board shall:

1. Require each new member of the Board to complete orientation within 60 days after his or her appointment to the Board. The orientation must include, without limitation, instruction concerning:

(a) The purposes of the Board and the duties of its members;
(b) Applicable laws and regulations, including, without limitation, the provisions of NRS 641B.400 to 641B.450, inclusive, and section 22 of this act and the importance of complying with applicable laws and regulations in a timely manner; and

(c) Requirements concerning managing the finances of the Board.

2. Establish policies concerning compensation and reviewing the performance of the staff of the Board.

Sec. 20. The Board ~~shall~~ may enter into an agreement with the Department of Health and Human Services or a division thereof to provide services ~~[when necessary]~~ to carry out or improve any function of the Board. Such services may include, without limitation:

1. Assistance in processing applications for the issuance or renewal of licenses;

2. Technical assistance;

3. Facilitating cooperation with other boards and licensing entities in this State or any other jurisdiction;

4. Recommendations to improve and standardize procedures used by the Board; and

5. Assistance in identifying resources for improving the operations of the Board.

Sec. 21. The Board shall prescribe forms for applying for the issuance or renewal of a license. The forms must:

1. Be available to be completed on the Internet website maintained by the Board;

2. Provide immediate, automatic feedback to the applicant concerning whether the applicant has submitted all required information; and

3. Automatically store the data submitted by the applicant upon completion of the application.

Sec. 22. 1. Not later than 30 days after the Board ~~issues an order refusing to issue or renew~~ denies an application for the issuance or renewal of a license or issues an order imposing disciplinary action against a licensee, the applicant or licensee aggrieved by the order may submit an appeal to the Commission on Behavioral Health. The Commission shall notify the Board not later than 10 days after receiving such an appeal.

2. The Commission shall, upon an appeal submitted pursuant to subsection 1 or its own motion, investigate the refusal of the Board to issue or renew a license or any disciplinary action imposed by the Board. The action of the Board remains in effect until the Commission renders a decision pursuant to subsection 3.

3. ~~After conducting ~~such~~ an investigation ~~it~~ pursuant to subsection 2,~~ the Commission shall render a decision on the appeal. In rendering a decision, the Commission shall presume that the action of the Board was proper and shall not substitute its judgment for that of the Board concerning the weight of evidence on a question of fact. The Commission may order the Board to issue or renew the license or modify or ~~repeal~~ set aside the disciplinary action, as applicable ~~it~~

~~3.1~~ , only if the Commission finds that the action of the Board:

- (a) Violates constitutional or statutory provisions;
- (b) Exceeds the statutory authority of the agency;
- (c) Was made upon unlawful procedure;
- (d) Is affected by other error of law;
- (e) Is clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) Is arbitrary or capricious or characterized by abuse of discretion.

4. An investigation conducted by the Commission pursuant to the provisions of this section is limited to the application for the issuance or renewal of a license and any information submitted in conjunction with the application or the record of the disciplinary proceeding created by the Board, as applicable. The Board shall provide those records to the Commission upon request. Unless the information is deemed a public record under the provisions of NRS 641B.170 or 641B.430 or other applicable law, the Commission shall keep the information confidential.

~~4.1~~ 5. An order of the Board suspending or revoking a license or imposing other disciplinary action against a licensee is final for purposes of judicial review upon the denial of an appeal pursuant to this section.

Sec. 23. NRS 641B.160 is hereby amended to read as follows:

641B.160 1. The Board shall adopt:

~~1.1~~ (a) Such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter; ~~and~~

~~2.1~~ (b) Regulations establishing reasonable standards for the psychiatric training and experience necessary for a clinical social worker to be authorized to make the certifications described in NRS 433A.170, 433A.195 and 433A.200 ~~it~~;

(c) Regulations prescribing uniform standards concerning the locations at which ~~licensees~~ interns provide services;

(d) Regulations prescribing standards concerning the electronic supervision of interns working at remote sites; and

(e) Regulations prescribing the manner by which the qualifications for the issuance or renewal of a license under the provisions of this chapter

will be made available to the public such that those qualifications are clearly defined and easily understood.

2. ~~{Any regulation adopted by}~~ On the date that the Board {must be submitted} gives notice pursuant to NRS 233B.060 of its intent to adopt, amend or repeal a regulation, the Board shall submit the regulation to the Commission on Behavioral Health for review. ~~{and approved by the Commission on Behavioral Health before being submitted to the Legislative Commission for review pursuant to NRS 233B.0633 or 233B.067.}~~ The Commission shall review the regulation and make recommendations to the Board concerning the advisability of adopting, amending or repealing the regulation and any changes that the Commission deems advisable.

Sec. 24. Chapter 641C of NRS is hereby amended by adding thereto the provisions set forth as sections 25 to 29, inclusive, of this act.

Sec. 25. On or before February 1 of each year, the Board shall submit to the Commission on Behavioral Health a report which must include:

1. The number of complaints received, ~~{investigations initiated and}~~ investigations completed ~~{and the number and type of disciplinary actions imposed by the Board}~~, cases dismissed, cases settled and cases for which hearings were held within the immediately preceding calendar year; and

2. The number of applications for the issuance or renewal of a license or certificate received by the Board during the immediately preceding calendar year and the number of those applications for which the Board conducted additional review beyond the standard review regularly conducted by the Board. ~~{during the immediately preceding calendar year, the percentage of total applications received by the Board during the immediately preceding calendar year for which the Board conducted such additional review and the reasons such additional review was conducted.}~~

Sec. 26. The Board shall:

1. Require each new member of the Board to complete orientation within 60 days after his or her appointment to the Board. The orientation must include, without limitation, instruction concerning:

(a) The purposes of the Board and the duties of its members;

(b) Applicable laws and regulations, including, without limitation, the provisions of NRS 641C.700 to 641C.760, inclusive, and section 29 of this act and the importance of complying with applicable laws and regulations in a timely manner; and

(c) Requirements concerning managing the finances of the Board.

2. Establish policies concerning compensation and reviewing the performance of the staff of the Board.

Sec. 27. The Board ~~{shall}~~ may enter into an agreement with the Department of Health and Human Service or a division thereof to provide services ~~{when necessary}~~ to carry out or improve any function of the Board. Such services may include, without limitation:

1. Assistance in processing applications for the issuance or renewal of licenses and certificates;
2. Technical assistance;
3. Facilitating cooperation with other boards and licensing entities in this State or any other jurisdiction;
4. Recommendations to improve and standardize procedures used by the Board; and
5. Assistance in identifying resources for improving the operations of the Board.

Sec. 28. The Board shall prescribe forms for applying for the issuance or renewal of a license or certificate. The forms must:

1. Be available to be completed on the Internet website maintained by the Board;
2. Provide immediate, automatic feedback to the applicant concerning whether the applicant has submitted all required information; and
3. Automatically store the data submitted by the applicant upon completion of the application.

Sec. 29. 1. ~~Not later than 30 days after the Board issues an order refusing to issue or renew,~~ denies an application for the issuance or renewal of a license or certificate or issues an order imposing disciplinary action against a licensee or the holder of a certificate, the applicant, licensee or holder of a certificate aggrieved by the order may submit an appeal to the Commission on Behavioral Health. The Commission shall notify the Board not later than 10 days after receiving such an appeal.

2. The Commission shall, upon an appeal submitted pursuant to subsection 1 or its own motion, investigate the refusal of the Board to issue or renew a license or certificate or any disciplinary action imposed by the Board. The action of the Board remains in effect until the Commission renders a decision pursuant to subsection 3.

3. ~~After conducting such an investigation, if~~ After conducting such an investigation, if ~~pursuant to subsection 2,~~ pursuant to subsection 2, the Commission shall render a decision on the appeal. In rendering a decision, the Commission shall presume that the action of the Board was proper and shall not substitute its judgment for that of the Board concerning the weight of evidence on a question of fact. The Commission may order the Board to issue or renew the license or certificate or modify or rescind set aside the disciplinary action, as applicable, if
~~3.1~~ , only if the Commission finds that the action of the Board:

- (a) Violates constitutional or statutory provisions;
- (b) Exceeds the statutory authority of the agency;
- (c) Was made upon unlawful procedure;
- (d) Is affected by other error of law;
- (e) Is clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) Is arbitrary or capricious or characterized by abuse of discretion.

4. *An investigation conducted by the Commission pursuant to the provisions of this section is limited to the application for the issuance or renewal of a license or certificate and any information submitted in conjunction with the application or the record of the disciplinary proceeding created by the Board, as applicable. The Board shall provide those records to the Commission upon request. Unless the information is deemed a public record under the provisions of NRS 641C.720 or 641C.760 or other applicable law, the Commission shall keep the information confidential.*

~~4.1~~ 5. *An order of the Board suspending or revoking a license or certificate or imposing other disciplinary action against a licensee or the holder of a certificate is final for purposes of judicial review upon the denial of an appeal pursuant to this section.*

Sec. 30. NRS 641C.200 is hereby amended to read as follows:

641C.200 1. The Board shall adopt such regulations as are necessary to carry out the provisions of this chapter, including, without limitation, regulations that prescribe:

(a) The ethical standards for licensed and certified counselors and certified interns; ~~and~~

(b) The requirements for continuing education for the renewal, restoration or reinstatement of a license or certificate ~~;~~;

(c) Uniform standards concerning the locations at which ~~licensees and holders of certificates~~ interns provide services;

(d) Standards concerning the electronic supervision of interns working at remote sites; and

(e) The manner by which the qualifications for the issuance or renewal of a license or certificate under the provisions of this chapter will be made available to the public such that those qualifications are clearly defined and easily understood.

2. The Board may adopt regulations that prescribe:

(a) The contents of a written and oral examination concerning the practice of counseling problem gamblers;

(b) The grounds for initiating disciplinary action against a certified problem gambling counselor or certified problem gambling counselor intern; and

(c) Disciplinary procedures for certified problem gambling counselors and certified problem gambling counselor interns, including the suspension, revocation and reinstatement of a certificate as a problem gambling counselor or problem gambling counselor intern.

3. Any regulations adopted by the Board pursuant to this section must be consistent ~~;~~

~~(a) Consistent~~ with the provisions of chapter 622A of NRS ~~;~~ ~~and~~

~~(b) Submitted for review and approved by the Commission on Behavioral Health before being submitted to the Legislative Commission for review pursuant to NRS 233B.0633 or 233B.067.~~

4. On the date that the Board gives notice pursuant to NRS 233B.060 of its intent to adopt, amend or repeal a regulation, the Board shall submit the regulation to the Commission on Behavioral Health for review. The Commission shall review the regulation and make recommendations to the Board concerning the advisability of adopting, amending or repealing the regulation and any changes that the Commission deems advisable.

Sec. 31. NRS 641C.260 is hereby amended to read as follows:

641C.260 Each applicant for a license or certificate must submit to the Board:

1. An application on a form ~~provided~~ **prescribed** by the Board ~~to~~ **pursuant to section 28 of this act;**

2. 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; and

3. The application fee prescribed in NRS 641C.470.

Sec. 32. NRS 232.361 is hereby amended to read as follows:

232.361 1. There is hereby created in the Department a Commission on Behavioral Health consisting of 10 members appointed by the Governor, at least 3 of whom have training or experience in dealing with intellectual disabilities.

2. The Governor shall appoint:

(a) A psychiatrist licensed to practice medicine in this State, from a list of three candidates submitted by the Nevada Psychiatric Association;

(b) A psychologist licensed to practice in this State and experienced in clinical practice, from a list of four candidates submitted by the Nevada Psychological Association, two of whom must be from northern Nevada and two of whom must be from southern Nevada;

(c) A physician, other than a psychiatrist, licensed to practice medicine in this State and who has experience in dealing with intellectual disabilities, from a list of three candidates submitted by the Nevada State Medical Association;

(d) A **clinical** social worker **licensed to practice in this State** who ~~has a master's degree and~~ has experience in dealing with mental illness or intellectual disabilities, or both;

(e) A registered nurse licensed to practice in this State who has experience in dealing with mental illness or intellectual disabilities, or both, from a list of three candidates submitted by the Nevada Nurses Association;

(f) A marriage and family therapist **or clinical professional counselor** licensed ~~to practice in this State, from a list of three candidates submitted by the Nevada Association for Marriage and Family Therapy,~~ **pursuant to chapter 641A of NRS;**

(g) A person who ~~has knowledge and experience in the prevention of alcohol and drug abuse and the treatment and recovery of alcohol and drug abusers through a program or service provided,~~ **is licensed or certified**

pursuant to chapter ~~[458]~~ **641C** of NRS ~~[, from a list of three candidates submitted by the Division of Public and Behavioral Health of the Department,]~~ **who is not an intern;**

(h) A current or former recipient of mental health services provided by the State or any agency thereof;

(i) A representative of the general public who has a special interest in the field of mental health; and

(j) A representative of the general public who has a special interest in the field of intellectual disabilities.

3. The Governor shall appoint the Chair of the Commission from among its members.

4. After the initial terms, each member shall serve a term of 4 years. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this section to replace that member for the remainder of the unexpired term.

5. A person may not serve concurrently as a member of the Commission and a member of the Board of Psychological Examiners, the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors, the Board of Examiners for Social Workers or the Board of Examiners for Alcohol, Drug and Gambling Counselors.

Sec. 33. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **and sections 6, 14, 22 and 29 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. 34. NRS 433.314 is hereby amended to read as follows:

433.314 The Commission shall:

1. Establish policies to ensure adequate development and administration of services for persons with mental illness, persons with intellectual disabilities and persons with related conditions, persons with substance use disorders or persons with co-occurring disorders, including services to prevent mental illness, intellectual disabilities and related conditions, substance use disorders and co-occurring disorders, and services provided without admission to a facility or institution;

2. Set policies for the care and treatment of persons with mental illness, persons with intellectual disabilities and persons with related conditions, persons with substance use disorders or persons with co-occurring disorders provided by all state agencies;

3. Review the programs and finances of the Division; ~~and~~

4. Report at the beginning of each year to the Governor and at the beginning of each odd-numbered year to the Legislature on the quality of the care and treatment provided for persons with mental illness, persons with intellectual disabilities and persons with related conditions, persons with substance use disorders or persons with co-occurring disorders in this State and on any progress made toward improving the quality of that care and treatment ~~and~~;

5. *Hear appeals, conduct investigations and issue orders pursuant to sections 6, 14, 22 and 29 of this act; and*

6. ~~Review and approve or reject~~ make recommendations concerning regulations submitted to the Commission for review pursuant to NRS 641.100, 641A.160, 641B.160 and 641C.200.

Sec. 35. 1. On or before January 1, 2018, the Board of Psychological Examiners, the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors, the Board of Examiners for ~~Clinical~~ Social Workers and the Board of Examiners for Alcohol, Drug and Gambling Counselors, respectively, shall each:

(a) Conduct an analysis of the necessity of the costs of the Board, whether the fees charged by the Board are necessary and sufficient to pay those costs, the Board's compliance with applicable law and the need for revision of the regulations of the Board. The analysis must include, without limitation, an analysis of the Board's:

(1) Recognition of licenses, certificates and other credentials from jurisdictions outside this State, including, without limitation, the number of licenses by endorsement it has issued during the 3-year period ending on December 1, 2017; and

(2) Efforts to comply with the amendatory provisions of this act.

(b) Submit to the Commission on Behavioral Health a report containing the results of the analysis conducted pursuant to paragraph (a).

2. On or before June 30, 2018, the Commission shall review the reports submitted to subsection 1 and require the Board of Psychological Examiners, the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors, the Board of Examiners for ~~Clinical~~ Social Workers or the Board of Examiners for Alcohol, Drug and Gambling Counselors, as applicable, to take any action necessary to comply with existing law or improve the processes used by the board.

Sec. 35.5. Not later than March 1, 2018, each person who is serving on January 1, 2018, as a member of the Board of Psychological Examiners, the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors, the Board of Examiners for Social Workers or the Board of Examiners for Alcohol, Drug and Gambling Counselors, shall complete the orientation required for a new member of the Board of which he or she is a member pursuant to section 3, 12, 19 or 26 of this act, respectively.

Sec. 36. 1. The term of any member of the Commission on Behavioral Health who is serving on the Commission pursuant to paragraph (d) or (g) of subsection 2 of NRS 232.361 on October 1, 2017, who does not meet the qualifications prescribed by paragraph (d) or (g) of subsection 2, as applicable, of NRS 232.361, as amended by section 32 of this act, expires on that date. The Governor shall appoint a person who meets the qualifications prescribed by paragraph (d) or (g) of subsection 2, as applicable, of NRS 232.361, as amended by section 32 of this act, to serve the remainder of that term.

2. The term of any member of the Commission on Behavioral Health who is serving on the Commission in violation of subsection 5 of NRS 232.361, as amended by section 32 of this act, on October 1, ~~2018,~~ 2017, expires on that date. The Governor shall appoint a person similarly qualified to serve the remainder of that term.

Sec. 37. 1. This section and sections 1 to 31, inclusive, 33, 34, ~~and~~ 35 and 35.5 of this act become effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act and on January 1, 2018, for all other purposes.

2. Sections 32 and 36 of this act become effective on October 1, 2017.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 458.

Bill read second time.

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

Amendment No. 552.

AN ACT relating to industrial insurance; providing that certain phrases relating to a claim for compensation may be used interchangeably; authorizing an injured employee to obtain an independent medical examination under certain circumstances; setting forth the manner in which a vocational rehabilitation counselor is to be appointed; increasing the amount of medical benefits required to be paid during the first 12 months after a claim is opened; revising provisions relating to permanent partial disability; revising provisions concerning the payment in lump sum for a permanent partial disability; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill specifies that a physician or chiropractor may use interchangeably certain phrases that relate to a claim for compensation when determining the causation of an industrial injury or occupational disease.

Existing law authorizes a hearing officer or appeals officer to order an independent medical examination if such an examination is necessary to resolve a medical question concerning an injured employee's condition or to determine the necessity of treatment for which authorization for payment has been denied. In such situations, an injured employee may choose any physician or chiropractor, whether or not the physician or chiropractor is on the insurer's panel of providers of health care. (NRS 616C.330, 616C.360) **Section 3** of this bill sets forth that an injured employee is entitled to an independent medical examination for a claim for compensation that is open or when the closure of a claim is under dispute. **Section 3** further authorizes

the injured employee to obtain an independent medical examination: (1) when a dispute arises from a determination issued by the insurer; (2) within 30 days after the injured employee receives a certain report generated by a medical examination; or (3) by leave of a hearing officer or appeals officer.

Section 3 additionally requires an injured employee to select a physician or chiropractor from the panel of physicians or chiropractors established by the Administrator of the Division of Industrial Relations of the Department of Business and Industry. **Section 3** further requires the insurer to: **(1) pay for an independent medical examination ; and (2) upon request, receive a copy of any report or other document that is generated as a result of the independent medical examination.** **Section 3 additionally** allows the injured employee to obtain ~~(not more than)~~ **only** one independent medical examination per **calendar** year.

Existing law provides that the primary obligation of a vocational rehabilitation counselor is to the injured employee. (NRS 616C.547) Existing law authorizes an insurer or injured employee to request a vocational rehabilitation counselor to prepare a written assessment of the injured employee. (NRS 616C.550) Existing law requires the vocational rehabilitation counselor to develop a plan for a program of vocational rehabilitation for each eligible injured employee. (NRS 616C.555) **Section 4** of this bill provides for a vocational rehabilitation counselor to be appointed by the insurer and injured employee when a written assessment is requested or when a plan for a program of vocational rehabilitation is required.

Existing law requires, where there is a previous disability, the percentage of disability for a subsequent injury to be determined by deducting from the entire disability of the person the percentage of previous disability as it existed at the time of the subsequent injury. (NRS 616C.490) The Division of Industrial Relations of the Department of Business and Industry previously implemented a regulation that required an apportionment to be made by subtracting the percentage of previous disability as it existed at the time of the previous disability from the percentage of present disability as it existed at the time of the present disability. (NAC 616C.490) The Nevada Supreme Court in *Pub. Agency Comp. Trust v. Blake*, 127 Nev. 863 (2011), found this regulation to be invalid since it was in conflict with the existing statute. **Section 8** of this bill incorporates the substance of the regulation at issue into existing law.

Existing law authorizes an insurer, after sending notice to the claimant, to close a claim if, during the first 12 months after a claim is opened, the medical benefits required to be paid for the claim are less than \$300. Existing law further requires an insurer to send to a claimant who receives less than \$300 in medical benefits within 6 months after the claim is opened a written notice that explains how the claim may be closed if, during the first 12 months after the claim is opened, the medical benefits required to be paid for the claim are less than \$300.

(NRS 616C.235) Section 7.3 of this bill increases the amount of medical benefits required to be paid for the claim from \$300 to \$800.

Existing law sets forth that if an employee's claim is reopened, the employee is not entitled to vocational rehabilitation services or benefits for a temporary total disability if, before the claim was reopened, the employee retired for reasons unrelated to the injury for which the claim was originally made. (NRS 616C.390) Section 7.7 of this bill defines the term "retired" for the purposes of these existing provisions.

Existing law authorizes an award for a permanent partial disability to be paid in a lump sum. Existing law further provides how a lump sum amount is to be calculated and requires the tables used in this calculation to be reviewed annually by a consulting actuary. (NRS 616C.495) **Section 9** of this bill specifies the maximum amount of a lump sum that a person injured **on or after July 1, 1995, and before January 1, 2016, on or after January 1, 2016, and before July 1, 2017, and** on or after July 1, 2017, may elect to receive as his or her compensation. **Section 9** additionally requires the tables used to calculate the lump sum to be adjusted on July 1 of each year.

~~[Sections 5-7 of this bill make conforming changes.]~~

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

Section 1. Chapter 616C of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *Certain phrases relating to a claim for compensation for an industrial injury or occupational disease and used by a physician or chiropractor when determining the causation of an industrial injury or occupational disease are deemed to be equivalent and may be used interchangeably. Those phrases are:*

1. *"Directly connect this injury or occupational disease as job incurred"; and*

2. *"A degree of reasonable medical probability that the condition in question was caused by the industrial injury."*

Sec. 3. 1. *An injured employee may obtain an independent medical examination:*

(a) *Except as otherwise provided in subsections 2 and 3, whenever a dispute arises from a determination issued by the insurer regarding the approval of care, the direction of a treatment plan or the scope of the claim;*

(b) *Within 30 days after an injured employee receives any report generated pursuant to a medical examination requested by the insurer pursuant to NRS 616C.140; or*

(c) *At any time by leave of a hearing officer or appeals officer after the denial of any therapy or treatment.*

2. *An injured employee is entitled to an independent medical examination pursuant to paragraph (a) of subsection 1 only:*

- (a) For a claim for compensation that is open;
- (b) When the closure of a claim for compensation is under dispute pursuant to NRS 616C.235; or
- (c) When a hearing or appeal is pending pursuant to NRS 616C.330 or 616C.360.

3. An injured employee is entitled to only one independent medical examination per calendar year pursuant to paragraph (a) of subsection 1.

4. Except as otherwise provided in subsection 5, an independent medical examination must not involve treatment and must be conducted by a physician or chiropractor selected by the injured employee from the panel of physicians and chiropractors established pursuant to subsection 1 of NRS 616C.090.

5. If the dispute concerns the rating of a permanent disability, an independent medical examination may be conducted by a rating physician or chiropractor. The injured employee must select the next rating physician or chiropractor in rotation from the list of qualified physicians and chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor.

6. The insurer shall ~~pay~~:

(a) Pay the costs of any independent medical examination conducted pursuant to this section in accordance with NRS 616C.260 ~~to~~; and

(b) Upon request, receive a copy of any report or other document that is generated as a result of the independent medical examination.

7. The provisions of this section do not apply to an independent medical examination ordered by a hearing officer pursuant to subsection 3 of NRS 616C.330 or by an appeals officer pursuant to subsection 3 of NRS 616C.360.

Sec. 4. Where a written assessment is requested pursuant to NRS 616C.550 or where a plan for a program of vocational rehabilitation is required pursuant to NRS 616C.555, a vocational rehabilitation counselor must be appointed as follows:

1. The insurer and the injured employee or personal or legal representative of the injured employee shall agree on the selection of a vocational rehabilitation counselor;

2. If the insurer or injured employee or personal or legal representative of the injured employee are unable to agree on the appointment of a vocational rehabilitation counselor, the insurer shall submit a list of at least three vocational rehabilitation counselors to the injured employee or personal or legal representative of the injured employee;

3. The injured employee or personal or legal representative of the injured employee shall select a vocational rehabilitation counselor from the list provided by the insurer pursuant to subsection 2 within ~~14~~ 7 days after receiving the list provided by the insurer pursuant to subsection 2;

4. *The vocational rehabilitation counselor that is selected by the injured employee or personal or legal representative of the injured employee pursuant to subsection 1 or 3 must be assigned to provide all vocational rehabilitation services for the claim pursuant to this section and NRS 616C.530 to 616C.600, inclusive; and*

5. *After a vocational rehabilitation counselor is selected and assigned pursuant to this section, an injured employee or personal or legal representative of the injured employee may only rescind the selection of the vocational rehabilitation counselor with the consent of the insurer.*

Sec. 5. ~~NRS 616C.225 is hereby amended to read as follows:~~

~~616C.225 1. Except as otherwise provided in this section, if an insurer determines that an employee has knowingly misrepresented or concealed a material fact to obtain any benefit or payment under the provisions of chapters 616A to 616D, inclusive, of NRS, the insurer may deduct from any benefits or payments due to the employee, the amount obtained by the employee because of the misrepresentation or concealment of a material fact. The employee shall reimburse the insurer for all benefits or payments received because of the willful misrepresentation or concealment of a material fact.~~

~~2. An employee who is aggrieved by a determination of an insurer made pursuant to subsection 1 may appeal that determination pursuant to NRS 616C.315 to 616C.385, inclusive [.] , and section 3 of this act. If the final decision by an appeals officer is favorable to the employee, the Administrator shall order the insurer to pay \$2,000 to that employee, in addition to any benefits or payments the employee is entitled to receive, if the Administrator determines that the insurer had no reasonable basis for believing that the employee knowingly misrepresented or concealed a material fact to obtain any benefit or payment.~~

~~3. If an employee elects to receive an award for a permanent partial disability in a lump sum pursuant to NRS 616C.495 and a criminal action is brought against the employee for an alleged violation of NRS 616D.300, the insurer shall, upon receiving notice of the action and until a judgment is entered in the action, pay reasonable portions of the lump sum award in monthly installments. If the employee is not convicted of the alleged violation, the insurer shall pay the employee the balance of the award in a lump sum. The provisions of subsection 2 do not apply to require any additional payment at the conclusion of a criminal action.~~

~~4. This section does not preclude an insurer from making an investigation pursuant to, or pursuing the remedies provided by, NRS 616D.300.] (Deleted by amendment.)~~

Sec. 6. ~~NRS 616C.320 is hereby amended to read as follows:~~

~~616C.320 If an employee of a self-insured employer, an employer who is a member of an association of self-insured public or private employers or an employer insured by a private carrier is dissatisfied with a decision of his or her employer, the association or the private carrier, the employee may seek to~~

~~resolve the dispute pursuant to NRS 616C.305 and 616C.315 to 616C.385, inclusive [1], and section 3 of this act.] (Deleted by amendment.)~~

~~Sec. 7. [NRS 616C.475 is hereby amended to read as follows:~~

~~616C.475 1. Except as otherwise provided in this section, NRS 616C.175 and 616C.390, every employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by accident arising out of and in the course of employment, or his or her dependents, is entitled to receive for the period of temporary total disability, 66 2/3 percent of the average monthly wage.~~

~~2. Except as otherwise provided in NRS 616B.028 and 616B.029, an injured employee or his or her dependents are not entitled to accrue or be paid any benefits for a temporary total disability during the time the injured employee is incarcerated. The injured employee or his or her dependents are entitled to receive such benefits when the injured employee is released from incarceration if the injured employee is certified as temporarily totally disabled by a physician or chiropractor.~~

~~3. If a claim for the period of temporary total disability is allowed, the first payment pursuant to this section must be issued by the insurer within 14 working days after receipt of the initial certification of disability and regularly thereafter.~~

~~4. Any increase in compensation and benefits effected by the amendment of subsection 1 is not retroactive.~~

~~5. Payments for a temporary total disability must cease when:~~

~~(a) A physician or chiropractor determines that the employee is physically capable of any gainful employment for which the employee is suited, after giving consideration to the employee's education, training and experience;~~

~~(b) The employer offers the employee light duty employment or employment that is modified according to the limitations or restrictions imposed by a physician or chiropractor pursuant to subsection 7; or~~

~~(c) Except as otherwise provided in NRS 616B.028 and 616B.029, the employee is incarcerated.~~

~~6. Each insurer may, with each check that it issues to an injured employee for a temporary total disability, include a form approved by the Division for the injured employee to request continued compensation for the temporary total disability.~~

~~7. A certification of disability issued by a physician or chiropractor must:~~

~~(a) Include the period of disability and a description of any physical limitations or restrictions imposed upon the work of the employee;~~

~~(b) Specify whether the limitations or restrictions are permanent or temporary; and~~

~~(c) Be signed by the treating physician or chiropractor authorized pursuant to NRS 616B.527 or appropriately chosen pursuant to subsection 3 or 4 of NRS 616C.090.~~

~~8. If the certification of disability specifies that the physical limitations or restrictions are temporary, the employer of the employee at the time of the~~

~~employee's accident may offer temporary, light duty employment to the employee. If the employer makes such an offer, the employer shall confirm the offer in writing within 10 days after making the offer. The making, acceptance or rejection of an offer of temporary, light duty employment pursuant to this subsection does not affect the eligibility of the employee to receive vocational rehabilitation services, including compensation, and does not exempt the employer from complying with NRS 616C.545 to 616C.575, inclusive, and section 4 of this act and 616C.590 or the regulations adopted by the Division governing vocational rehabilitation services. Any offer of temporary, light duty employment made by the employer must specify a position that:~~

~~— (a) Is substantially similar to the employee's position at the time of his or her injury in relation to the location of the employment and the hours the employee is required to work;~~

~~— (b) Provides a gross wage that is:~~

~~— (1) If the position is in the same classification of employment, equal to the gross wage the employee was earning at the time of his or her injury; or~~

~~— (2) If the position is not in the same classification of employment, substantially similar to the gross wage the employee was earning at the time of his or her injury; and~~

~~— (c) Has the same employment benefits as the position of the employee at the time of his or her injury.] (Deleted by amendment.)~~

Sec. 7.3. NRS 616C.235 is hereby amended to read as follows:

616C.235 1. Except as otherwise provided in subsections 2, 3 and 4:

(a) When the insurer determines that a claim should be closed before all benefits to which the claimant may be entitled have been paid, the insurer shall send a written notice of its intention to close the claim to the claimant by first-class mail addressed to the last known address of the claimant and, if the insurer has been notified that the claimant is represented by an attorney, to the attorney for the claimant by first-class mail addressed to the last known address of the attorney. The notice must include, on a separate page, a statement describing the effects of closing a claim pursuant to this section and a statement that if the claimant does not agree with the determination, the claimant has a right to request a resolution of the dispute pursuant to NRS 616C.305 and 616C.315 to 616C.385, inclusive, including, without limitation, a statement which prominently displays the limit on the time that the claimant has to request a resolution of the dispute as set forth in NRS 616C.315. A suitable form for requesting a resolution of the dispute must be enclosed with the notice. The closure of a claim pursuant to this subsection is not effective unless notice is given as required by this subsection.

(b) If the insurer does not receive a request for the resolution of the dispute, it may close the claim.

(c) Notwithstanding the provisions of NRS 233B.125, if a hearing is conducted to resolve the dispute, the decision of the hearing officer may be served by first-class mail.

2. If, during the first 12 months after a claim is opened, the medical benefits required to be paid for a claim are less than ~~[\$300]~~ \$800, the insurer may close the claim at any time after the insurer sends, by first-class mail addressed to the last known address of the claimant, written notice that includes a statement which prominently displays that:

- (a) The claim is being closed pursuant to this subsection;
- (b) The injured employee may appeal the closure of the claim pursuant to the provisions of NRS 616C.305 and 616C.315 to 616C.385, inclusive; and
- (c) If the injured employee does not appeal the closure of the claim or appeals the closure of the claim but is not successful, the claim cannot be reopened.

3. In addition to the notice described in subsection 2, an insurer shall send to each claimant who receives less than ~~[\$300]~~ \$800 in medical benefits within 6 months after the claim is opened a written notice that explains the circumstances under which a claim may be closed pursuant to subsection 2. The written notice provided pursuant to this subsection does not create any right to appeal the contents of that notice. The written notice must be:

- (a) Sent by first-class mail addressed to the last known address of the claimant; and
- (b) A document that is separate from any other document or form that is used by the insurer.

4. The closure of a claim pursuant to subsection 2 is not effective unless notice is given as required by subsections 2 and 3.

5. In addition to the requirements of this section, an insurer shall include in the written notice described in subsection 2:

- (a) If an evaluation for a permanent partial disability has been scheduled pursuant to NRS 616C.490, a statement to that effect; or
- (b) If an evaluation for a permanent partial disability will not be scheduled pursuant to NRS 616C.490, a statement explaining that the reason is because the insurer has determined there is no possibility of a permanent impairment of any kind.

Sec. 7.7. NRS 616C.390 is hereby amended to read as follows:

616C.390 Except as otherwise provided in NRS 616C.392:

1. If an application to reopen a claim to increase or rearrange compensation is made in writing more than 1 year after the date on which the claim was closed, the insurer shall reopen the claim if:

- (a) A change of circumstances warrants an increase or rearrangement of compensation during the life of the claimant;
- (b) The primary cause of the change of circumstances is the injury for which the claim was originally made; and
- (c) The application is accompanied by the certificate of a physician or a chiropractor showing a change of circumstances which would warrant an increase or rearrangement of compensation.

2. After a claim has been closed, the insurer, upon receiving an application and for good cause shown, may authorize the reopening of the

claim for medical investigation only. The application must be accompanied by a written request for treatment from the physician or chiropractor treating the claimant, certifying that the treatment is indicated by a change in circumstances and is related to the industrial injury sustained by the claimant.

3. If a claimant applies for a claim to be reopened pursuant to subsection 1 or 2 and a final determination denying the reopening is issued, the claimant shall not reapply to reopen the claim until at least 1 year after the date on which the final determination is issued.

4. Except as otherwise provided in subsection 5, if an application to reopen a claim is made in writing within 1 year after the date on which the claim was closed, the insurer shall reopen the claim only if:

(a) The application is supported by medical evidence demonstrating an objective change in the medical condition of the claimant; and

(b) There is clear and convincing evidence that the primary cause of the change of circumstances is the injury for which the claim was originally made.

5. An application to reopen a claim must be made in writing within 1 year after the date on which the claim was closed if:

(a) The claimant did not meet the minimum duration of incapacity as set forth in NRS 616C.400 as a result of the injury; and

(b) The claimant did not receive benefits for a permanent partial disability.

➡ If an application to reopen a claim to increase or rearrange compensation is made pursuant to this subsection, the insurer shall reopen the claim if the requirements set forth in paragraphs (a), (b) and (c) of subsection 1 are met.

6. If an employee's claim is reopened pursuant to this section, the employee is not entitled to vocational rehabilitation services or benefits for a temporary total disability if, before the claim was reopened, the employee:

(a) Retired; or

(b) Otherwise voluntarily removed himself or herself from the workforce,
➡ for reasons unrelated to the injury for which the claim was originally made.

7. One year after the date on which the claim was closed, an insurer may dispose of the file of a claim authorized to be reopened pursuant to subsection 5, unless an application to reopen the claim has been filed pursuant to that subsection.

8. An increase or rearrangement of compensation is not effective before an application for reopening a claim is made unless good cause is shown. The insurer shall, upon good cause shown, allow the cost of emergency treatment the necessity for which has been certified by a physician or a chiropractor.

9. A claim that closes pursuant to subsection 2 of NRS 616C.235 and is not appealed or is unsuccessfully appealed pursuant to the provisions of NRS 616C.305 and 616C.315 to 616C.385, inclusive, may not be reopened pursuant to this section.

10. The provisions of this section apply to any claim for which an application to reopen the claim or to increase or rearrange compensation is

made pursuant to this section, regardless of the date of the injury or accident to the claimant. If a claim is reopened pursuant to this section, the amount of any compensation or benefits provided must be determined in accordance with the provisions of NRS 616C.425.

11. As used in this section:

(a) “Governmental program” means any program or plan under which a person receives payments from a public form of retirement. Such payments from a public form of retirement include, without limitation:

(1) Social security received as a result of the Social Security Act, as defined in NRS 287.120;

(2) Payments from the Public Employees’ Retirement System, as established by NRS 286.110;

(3) Payments from the Retirees’ Fund, as defined in NRS 287.04064;

(4) A disability retirement allowance, as defined in NRS 1A.040 and 286.031;

(5) A retirement allowance, as defined in NRS 218C.080; and

(6) A service retirement allowance, as defined in NRS 1A.080 and 286.080.

(b) “Retired” means a person who, on the date he or she filed for reopening a claim pursuant to this section:

(1) Is not employed or earning wages; and

(2) Receives benefits or payments for retirement from a:

(I) Pension or retirement plan;

(II) Governmental program; or

(III) Plan authorized by 26 U.S.C. § 401(a), 401(k), 403(b), 457 or 3121.

(c) “Wages” means any remuneration paid by an employer to an employee for the personal services of the employee, including, without limitation:

(1) Commissions and bonuses; and

(2) Remuneration payable in any medium other than cash.

Sec. 8. NRS 616C.490 is hereby amended to read as follows:

616C.490 1. Except as otherwise provided in NRS 616C.175, every employee, in the employ of an employer within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by an accident arising out of and in the course of employment is entitled to receive the compensation provided for permanent partial disability. As used in this section, “disability” and “impairment of the whole person” are equivalent terms.

2. Within 30 days after receiving from a physician or chiropractor a report indicating that the injured employee may have suffered a permanent disability and is stable and ratable, the insurer shall schedule an appointment with the rating physician or chiropractor selected pursuant to this subsection to determine the extent of the employee’s disability. Unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor:

(a) The insurer shall select the rating physician or chiropractor from the list of qualified rating physicians and chiropractors designated by the Administrator, to determine the percentage of disability in accordance with the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted and supplemented by the Division pursuant to NRS 616C.110.

(b) Rating physicians and chiropractors must be selected in rotation from the list of qualified physicians and chiropractors designated by the Administrator, according to their area of specialization and the order in which their names appear on the list unless the next physician or chiropractor is currently an employee of the insurer making the selection, in which case the insurer must select the physician or chiropractor who is next on the list and who is not currently an employee of the insurer.

3. If an insurer contacts the treating physician or chiropractor to determine whether an injured employee has suffered a permanent disability, the insurer shall deliver to the treating physician or chiropractor that portion or a summary of that portion of the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 that is relevant to the type of injury incurred by the employee.

4. At the request of the insurer, the injured employee shall, before an evaluation by a rating physician or chiropractor is performed, notify the insurer of:

(a) Any previous evaluations performed to determine the extent of any of the employee's disabilities; and

(b) Any previous injury, disease or condition sustained by the employee which is relevant to the evaluation performed pursuant to this section.

➡ The notice must be on a form approved by the Administrator and provided to the injured employee by the insurer at the time of the insurer's request.

5. Unless the regulations adopted pursuant to NRS 616C.110 provide otherwise, a rating evaluation must include an evaluation of the loss of motion, sensation and strength of an injured employee if the injury is of a type that might have caused such a loss. Except in the case of claims accepted pursuant to NRS 616C.180, no factors other than the degree of physical impairment of the whole person may be considered in calculating the entitlement to compensation for a permanent partial disability.

6. The rating physician or chiropractor shall provide the insurer with his or her evaluation of the injured employee. After receiving the evaluation, the insurer shall, within 14 days, provide the employee with a copy of the evaluation and notify the employee:

(a) Of the compensation to which the employee is entitled pursuant to this section; or

(b) That the employee is not entitled to benefits for permanent partial disability.

7. Each 1 percent of impairment of the whole person must be compensated by a monthly payment:

(a) Of 0.5 percent of the claimant's average monthly wage for injuries sustained before July 1, 1981;

(b) Of 0.6 percent of the claimant's average monthly wage for injuries sustained on or after July 1, 1981, and before June 18, 1993;

(c) Of 0.54 percent of the claimant's average monthly wage for injuries sustained on or after June 18, 1993, and before January 1, 2000; and

(d) Of 0.6 percent of the claimant's average monthly wage for injuries sustained on or after January 1, 2000.

➡ Compensation must commence on the date of the injury or the day following the termination of temporary disability compensation, if any, whichever is later, and must continue on a monthly basis for 5 years or until the claimant is 70 years of age, whichever is later.

8. Compensation benefits may be paid annually to claimants who will be receiving less than \$100 a month.

9. ~~Where~~ **Except as otherwise provided in subsection 10, if** there is a previous disability, as the loss of one eye, one hand, one foot, or any other previous permanent disability, the percentage of disability for a subsequent injury must be determined by computing the percentage of the entire disability and deducting therefrom the percentage of the previous disability as it existed at the time of the subsequent injury.

10. ***If a rating evaluation was completed for a previous disability involving a condition, organ or anatomical structure that is identical to the condition, organ or anatomical structure being evaluated for the present disability, the percentage of disability for a subsequent injury must be determined by deducting the percentage of the previous disability from the percentage of the present disability, regardless of the edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 used to determine the percentage of the previous disability. The compensation awarded for a permanent disability on a subsequent injury must be reduced only by the awarded or agreed upon percentage of disability actually received by the injured employee for the previous injury regardless of the percentage of the previous disability.***

11. The Division may adopt schedules for rating permanent disabilities resulting from injuries sustained before July 1, 1973, and reasonable regulations to carry out the provisions of this section.

~~{11.}~~ 12. The increase in compensation and benefits effected by the amendment of this section is not retroactive for accidents which occurred before July 1, 1973.

~~{12.}~~ 13. This section does not entitle any person to double payments for the death of an employee and a continuation of payments for a permanent partial disability, or to a greater sum in the aggregate than if the injury had been fatal.

Sec. 9. NRS 616C.495 is hereby amended to read as follows:

616C.495 1. Except as otherwise provided in NRS 616C.380, an award for a permanent partial disability may be paid in a lump sum under the following conditions:

(a) A claimant injured on or after July 1, 1973, and before July 1, 1981, who incurs a disability that does not exceed 12 percent may elect to receive his or her compensation in a lump sum. A claimant injured on or after July 1, 1981, and before July 1, 1995, who incurs a disability that does not exceed 30 percent may elect to receive his or her compensation in a lump sum.

(b) The spouse, or in the absence of a spouse, any dependent child of a deceased claimant injured on or after July 1, 1973, who is not entitled to compensation in accordance with NRS 616C.505, is entitled to a lump sum equal to the present value of the deceased claimant's undisbursed award for a permanent partial disability.

(c) Any claimant injured on or after July 1, 1981, and before July 1, 1995, who incurs a disability that exceeds 30 percent may elect to receive his or her compensation in a lump sum equal to the present value of an award for a disability of 30 percent. If the claimant elects to receive compensation pursuant to this paragraph, the insurer shall pay in installments to the claimant that portion of the claimant's disability in excess of 30 percent.

(d) Any claimant injured on or after July 1, 1995, ~~and before July 1, 2017, may elect to receive his or her compensation in a lump sum in accordance with regulations adopted by the Administrator and approved by the Governor. The Administrator shall adopt regulations for determining the eligibility of such a claimant to receive all or any portion of his or her compensation in a lump sum. Such regulations may include the manner in which an award for a permanent partial disability may be paid to such a claimant in installments. Notwithstanding the provisions of NRS 233B.070, any regulation adopted pursuant to this paragraph does not become effective unless it is first approved by the Governor.~~ January 1, 2016, who incurs a disability that:

(1) Does not exceed 25 percent may elect to receive his or her compensation in a lump sum.

(2) Exceeds 25 percent may:

(I) Elect to receive his or her compensation in a lump sum equal to the present value of an award for a disability of 25 percent. If the claimant elects to receive compensation pursuant to this sub-subparagraph, the insurer shall pay in installments to the claimant that portion of the claimant's disability in excess of 25 percent.

(II) To the extent that the insurer has offered to provide compensation in a lump sum up to the present value of an award for disability of 30 percent, elect to receive his or her compensation in a lump sum up to the present value of an award for a disability of 30 percent. If the claimant elects to receive compensation pursuant to this sub-subparagraph,

the insurer shall pay in installments to the claimant that portion of the claimant's disability in excess of 30 percent.

(e) Any claimant injured on or after January 1, 2016, and before July 1, 2017, who incurs a disability that:

(1) Does not exceed 30 percent may elect to receive his or her compensation in a lump sum.

(2) Exceeds 30 percent may elect to receive his or her compensation in a lump sum equal to the present value of an award for a disability of 30 percent. If the claimant elects to receive compensation pursuant to this subparagraph, the insurer shall pay in installments to the claimant that portion of the claimant's disability in excess of 30 percent.

(f) Any claimant injured on or after July 1, 2017, who incurs a disability that exceeds 30 percent may elect to receive his or her compensation in a lump sum equal to the present value of an award for a disability of up to 30 percent. If the claimant elects to receive compensation pursuant to this paragraph, the insurer shall pay in installments to the claimant that portion of the claimant's disability in excess of 30 percent.

~~##~~ (g) If the permanent partial disability rating of a claimant seeking compensation pursuant to this section would, when combined with any previous permanent partial disability rating of the claimant that resulted in an award of benefits to the claimant, result in the claimant having a total permanent partial disability rating in excess of 100 percent, the claimant's disability rating upon which compensation is calculated must be reduced by such percentage as required to limit the total permanent partial disability rating of the claimant for all injuries to not more than 100 percent.

2. If the claimant elects to receive his or her payment for a permanent partial disability in a lump sum pursuant to subsection 1, all of the claimant's benefits for compensation terminate. The claimant's acceptance of that payment constitutes a final settlement of all factual and legal issues in the case. By so accepting the claimant waives all of his or her rights regarding the claim, including the right to appeal from the closure of the case or the percentage of his or her disability, except:

(a) The right of the claimant to:

(1) Reopen his or her claim in accordance with the provisions of NRS 616C.390; or

(2) Have his or her claim considered by his or her insurer pursuant to NRS 616C.392;

(b) Any counseling, training or other rehabilitative services provided by the insurer; and

(c) The right of the claimant to receive a benefit penalty in accordance with NRS 616D.120.

➔ The claimant, when he or she demands payment in a lump sum, must be provided with a written notice which prominently displays a statement describing the effects of accepting payment in a lump sum of an entire permanent partial disability award, any portion of such an award or any

uncontested portion of such an award, and that the claimant has 20 days after the mailing or personal delivery of the notice within which to retract or reaffirm the demand, before payment may be made and the claimant's election becomes final.

3. Any lump-sum payment which has been paid on a claim incurred on or after July 1, 1973, must be supplemented if necessary to conform to the provisions of this section.

4. Except as otherwise provided in this subsection, the total lump-sum payment for disablement must not be less than one-half the product of the average monthly wage multiplied by the percentage of disability. If the claimant received compensation in installment payments for his or her permanent partial disability before electing to receive payment for that disability in a lump sum, the lump-sum payment must be calculated for the remaining payment of compensation.

5. The lump sum payable must be equal to the present value of the compensation awarded, less any advance payment or lump sum previously paid. The present value must be calculated using monthly payments in the amounts prescribed in subsection 7 of NRS 616C.490 and actuarial annuity tables adopted by the Division. The tables must be reviewed annually by a consulting actuary ~~{} and must be adjusted accordingly on July 1 of each year by the Division using:~~

(a) *The most recent unisex "Static Mortality Tables for Defined Benefit Pension Plans" published by the Internal Revenue Service; and*

(b) *The average 30-Year Treasury Constant Maturity Rate for March of the current year as reported by the Board of Governors of the Federal Reserve System.*

6. If a claimant would receive more money by electing to receive compensation in a lump sum than the claimant would if he or she receives installment payments, the claimant may elect to receive the lump-sum payment.

Sec. 10. This act becomes effective on July 1, 2017.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 470.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 599.

SUMMARY—Creates a preprosecution diversion ~~program.~~ **program for defendants charged with certain misdemeanor offenses.** (BDR 14-1062)

AN ACT relating to criminal procedure; creating a preprosecution diversion program ~~{} for defendants charged with certain misdemeanor offenses;~~ establishing qualifications for participation in the program;

requiring discharge of the defendant and dismissal of the original charge upon the successful completion of the program; requiring a defendant who fails to complete the program to enter a plea on the original charge; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates a diversion program for certain offenders who have violated the terms of their probation. (NRS 209.4291) Existing law authorizes a court to assign such an offender to a program of treatment for mental illness or substance abuse issues. (NRS 209.4293) Existing law also authorizes a person who has successfully completed a preprosecution diversion program to request that any biological or DNA sample which was provided by the person to the State be destroyed. (NRS 176.09125) **Sections 2-5** of this bill create a preprosecution diversion program for certain persons who have been accused of committing a crime which is punishable as a misdemeanor. ~~[, gross misdemeanor or felony.]~~ **Section 2** provides that a defendant is eligible to complete a preprosecution diversion program if the defendant: ~~is: (1) [less than 30 years of age at the time of the offense; (2) has not been charged with]~~ is charged with a misdemeanor other than a violent [or sexual] crime [,] or driving under the influence of intoxicating liquor or a controlled substance [or the burglary of a dwelling; (3)]; ~~(2) has not previously been convicted of [an offense that is in the same or higher classification of] a crime [,] other than a minor traffic offense; and [(4)]~~ (3) has not been previously ordered by a court to complete a preprosecution diversion program in this State. [If the defendant is eligible for the program and the charge or charges against the defendant are based on the same incident, section 2 requires a court to order the defendant to complete a preprosecution diversion program.] **Section 2** authorizes, but does not require, a justice court or municipal court to order a defendant to complete a preprosecution diversion program ~~[if the defendant is eligible for the program and the charge or charges against the defendant are not based on the same incident. Section 2]~~ and provides that the decision of the court relating to the participation of a defendant in the program may not be appealed.

Section 3 of this bill requires a justice court or municipal court to establish the terms and conditions which ~~[the] a~~ a defendant must complete as part of a preprosecution diversion program ~~[, if a defendant is ordered to complete such a program pursuant to section 2. Section 3 [requires a probation officer to interview the defendant to determine: (1) the nature and facts of the offense; (2) the motivation of the defendant relating to the offense; (3) the impact of the offense on the victim; and (4) the characteristics of the defendant, including, without limitation, any substance abuse issues. Section 3 requires the probation officer, the district attorney and the defendant to appear at a hearing to determine whether the defendant could be rehabilitated by]~~ authorizes the court to include in the terms and conditions that the defendant complete a program of treatment and to ~~[determine]~~ impose any appropriate sanctions ~~[to be imposed]~~ on the

defendant, which may include, without limitation, community service, restitution or a curfew. **Section 3** ~~also~~ requires the court to issue an order containing the terms and conditions for successful completion of the preprosecution diversion program. **Section 3** provides that the defendant must: (1) complete the program before the date established by the court in the order, which must not be more than 18 months after the date of the order; and (2) appear before the court at least once every 3 months for a status hearing. **Section 4** of this bill requires the court to dismiss the charge or charges against the defendant if he or she successfully completes the terms and conditions of the preprosecution diversion program. Finally, **section 4** of this bill requires a defendant who fails to complete the terms and conditions of the preprosecution diversion program to be dismissed from the program and be prosecuted in the normal manner provided by law.

Existing law requires the criminal records of a defendant to be sealed and treated as confidential if a defendant is acquitted or the charges are dropped, a certain period of time has passed since the conviction or if he or she completes a program for reentry or a program of treatment for: (1) veterans and the members of the military; (2) persons with mental illness or intellectual disabilities; or (3) substance abuse issues. (NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365, 458.330) **Sections 5 and 10-12** of this bill similarly provide that the criminal records of a defendant who has successfully completed ~~the~~ a preprosecution diversion program are sealed and confidential except as otherwise required by law. **Section 7** of this bill authorizes the defendant to request that any biological or DNA sample provided to the State by the defendant be destroyed upon the successful completion of the preprosecution diversion program.

Existing law authorizes a court to establish a program of treatment for certain offenders who are charged with specified offenses, including, without limitation, veterans and members of the military, persons with mental illness or intellectual disabilities or persons with substance abuse issues. (NRS 176A.250, 176A.280, 453.580) **Sections 3, 8, 9 and 13** of this bill authorize a justice court or municipal court, as part of a preprosecution diversion program, to require a defendant to complete a program of treatment. **Section 3** provides that such a program of treatment may include, without limitation, a program of treatment for veterans and members of the military, persons with mental illness or intellectual disabilities or persons with substance abuse issues, educational programs, participation in a support group, anger management therapy or counseling.

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

Section 1. Chapter 174 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. 1. At the arraignment of a defendant ~~in~~ in justice court or municipal court, but before the entry of a plea, the court shall determine

whether the defendant is eligible to complete a preprosecution diversion program.

2. A defendant is eligible to complete a preprosecution diversion program if the defendant:

~~(a) Was not more than 30 years of age at the time the offense was committed;~~

~~(b) Has not been charged with;~~ Is charged with a misdemeanor other than:

(1) A crime of violence as defined in NRS 200.408; or

(2) ~~A sexual offense as defined in NRS 179D.097;~~

~~(3) Driving under the influence of intoxicating liquor or a controlled substance in violation of NRS 484C.110, 484C.120 or 484C.130; for~~

~~(4) Burglary of a dwelling in violation of NRS 205.060;~~

~~(c) Has not previously been convicted in this State, or in another jurisdiction which prohibits the same or similar conduct, of an offense which is within the same classification of crime or a higher classification as described in NRS 193.120;~~ and

~~(d) (b) Has not previously been ordered;~~

(1) Convicted of violating any criminal law other than a minor traffic offense; or

(2) Ordered by a court to complete a preprosecution diversion program in this State.

3. If a defendant is eligible to complete a preprosecution diversion program pursuant to subsection 2, ~~and the charge or charges against the defendant~~

~~(a) Are based on the same act, transaction or occurrence, the court shall immediately order the defendant to complete a preprosecution diversion program pursuant to section 3 of this act~~

~~(b) Are not based on the same act, transaction or occurrence,~~ the justice court or municipal court may ~~after consultation with the district attorney and counsel for the defendant,~~ order the defendant to complete a preprosecution diversion program pursuant to section 3 of this act.

4. If a defendant is ordered to complete a preprosecution diversion program, the defendant must be immediately released from custody upon his or her own recognizance.

5. ~~Except as otherwise provided in paragraph (a) of subsection 3, a~~ A defendant has no right to complete a preprosecution diversion program or to appeal the decision of the justice court or municipal court relating to the participation of the defendant in such program.

Sec. 3. 1. If a defendant is ordered by a justice court or municipal court to complete a preprosecution diversion program pursuant to section 2 of this act, the court shall ~~require~~ develop an appropriate preprosecution diversion program for the defendant ~~by a probation officer and~~ The court shall receive input from the ~~district attorney to appear for a hearing as soon as possible after the arraignment to determine~~ prosecuting attorney,

the attorney for the defendant and the defendant relating to the terms and conditions of the program.

~~2. [Before a hearing is held pursuant to subsection 1, a probation officer must interview the defendant and the victim, if any, to determine the:~~

~~— (a) Nature and facts of the offense;~~

~~— (b) Motivation of the defendant relating to the offense;~~

~~— (c) The impact of the offense on the victim, if any, including, without limitation, any economic loss suffered by the victim; and~~

~~— (d) The characteristics of the defendant, including, without limitation, any addiction to alcohol or drugs, anger management issues, education, employment status and remorse relating to the offense.~~

~~3. If the probation officer determines that the defendant may have an addiction to alcohol or drugs, the probation officer shall order the examination of the defendant by the Department of Health and Human Services or by a person or entity designated by the Director of the Department to determine whether the defendant is addicted to alcohol or drugs and is likely to be rehabilitated by a program of treatment. The probation officer shall provide a report of the examination to the court before a hearing is held pursuant to subsection 1.~~

~~4. At the hearing held pursuant to subsection 1, the court shall receive input from the defendant, the probation officer and the district attorney relating to:~~

~~— (a) Any~~ A preprosecution diversion program created by a justice court or municipal court pursuant to this section may include, without limitation:

(a) A program of treatment which may rehabilitate the defendant, including, without limitation, educational programs, participation in a support group, anger management therapy, counseling or a program of treatment for veterans and members of the military, mental illness or intellectual disabilities or the abuse of alcohol or drugs;

(b) Any appropriate sanctions to impose on the defendant, which may include, without limitation, community service, restitution, prohibiting contact with certain persons or the imposition of a curfew; and

(c) Any other factor which may be relevant to determining an appropriate program of treatment or sanctions to require for participation of the defendant in the preprosecution diversion program.

~~15.† 3.~~ If the justice court or municipal court determines that the defendant may be rehabilitated by a program of treatment for veterans and members of the military, persons with mental illness or intellectual disabilities or the abuse of alcohol or drugs, the court may refer the defendant to an appropriate program of treatment established pursuant to NRS 176A.250, 176A.280 or 453.580. The court shall retain jurisdiction over the defendant while the defendant completes such a program of treatment.

~~[6. At the hearing held pursuant to subsection 1, the]~~

4. The justice court or municipal court shall issue an order setting forth the terms and conditions for successful completion of the preprosecution diversion program, ~~including,~~ which may include, without limitation:

- (a) Any program of treatment the defendant is required to complete;
- (b) Any sanctions and the manner in which they must be carried out by the defendant;
- (c) The date by which the terms and conditions must be completed by the defendant, which must not be more than 18 months after the date of the order;
- (d) A requirement that the defendant appear before the court at least one time every 3 months for a status hearing on the progress of the defendant toward completion of the terms and conditions set forth in the order; and
- (e) A notice relating to the provisions of subsection 3 of section 4 of this act.

~~{7}~~ 5. The defendant shall pay the cost of any program of treatment required by this section to the extent of his or her financial resources. The court shall not refuse to place a defendant in a program of treatment if the defendant does not have the financial resources to pay any or all of the costs of such program.

~~{8. The court is not required to follow the rules of evidence contained in title 4 of NRS during a hearing required pursuant to this section.}~~

6. If restitution is ordered to be paid pursuant to subsection 4, the defendant must make a good faith effort to pay the required amount of restitution in full. If the justice court or municipal court determines that a defendant is unable to pay such restitution, the court must require the defendant to enter into a judgment by confession for the amount of restitution.

Sec. 4. 1. If the justice court or municipal court determines that a defendant has successfully completed the terms and conditions of a preprosecution diversion program ordered pursuant to subsection ~~{6}~~ 4 of section 3 of this act, the court must discharge the defendant and dismiss the indictment, information, complaint or citation.

2. Discharge and dismissal pursuant to subsection 1 is without adjudication of guilt and is not a conviction for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose. Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the indictment, information, complaint or citation. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge the indictment, information, complaint or citation in response to an inquiry made of the defendant for any purpose.

3. If the justice court or municipal court determines that a defendant has not successfully completed the terms or conditions of a preprosecution diversion program ordered pursuant to subsection ~~4~~ 4 of section 3 of this act, the court must issue an order terminating the participation of the defendant in the preprosecution diversion program and order the defendant to appear for an arraignment to enter a plea based on the original indictment, information, complaint or citation pursuant to NRS 174.015.

Sec. 5. 1. If the defendant is discharged and the indictment, information, complaint or citation is dismissed pursuant to section 4 of this act, the justice court or municipal court must order sealed all documents, papers and exhibits in the record of the defendant, 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 order of the court. The court shall order those records sealed without a hearing unless the district attorney petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.

2. If the justice court or municipal court orders the record of a defendant sealed, the court must 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.

Sec. 6. NRS 174.015 is hereby amended to read as follows:

174.015 1. ~~{Arraignment}~~ Except as otherwise provided in subsection 3, **arraignment** shall be conducted in open court and shall consist of reading the indictment or information to the defendant or stating the substance of the charge and calling on the defendant to plead thereto. The defendant shall be given a copy of the indictment or information before the defendant is called upon to plead.

2. In justice court ~~{ }~~ or municipal court, before the trial commences, the complaint must be distinctly read to the defendant before the defendant is called upon to plead.

3. ~~{Before}~~ **In justice court or municipal court, before the defendant is called upon to plead, the court shall determine whether the defendant is eligible to complete a preprosecution diversion program pursuant to section 2 of this act.**

Sec. 7. NRS 176.09125 is hereby amended to read as follows:

176.09125 1. A person whose record of criminal history indicates the collection of a biological specimen and whose DNA profile and DNA record have been included in the State DNA Database and CODIS pursuant to NRS 176.09123 may make a written request to the Central Repository for Nevada Records of Criminal History, using the form created pursuant to NRS 176.09165, that the biological specimen be destroyed and the DNA profile and DNA record be purged from the forensic laboratory, the State DNA Database and CODIS on the grounds that:

(a) The conviction on which the authority for keeping the biological specimen or the DNA profile or DNA record has been reversed and the case dismissed; or

(b) The arrest which led to the inclusion of the biological specimen or the DNA profile or DNA record:

(1) Has resulted in a felony charge that has been resolved by a dismissal, the successful completion of a preprosecution diversion program ~~or~~ **pursuant to section 4 of this act**, a conditional discharge, an acquittal or an agreement entered into by a prosecuting attorney and a defendant in which the defendant, in exchange for a plea of guilty, guilty but mentally ill or nolo contendere, receives a charge other than a felony; or

(2) Has not resulted in any additional criminal charge for a felony within 3 years after the date of the arrest.

2. Within 6 weeks after receiving a written request pursuant to subsection 1, the Central Repository for Nevada Records of Criminal History shall forward the request and all supporting documentation to the forensic laboratory holding the biological specimen. Except as otherwise provided in subsection 3, upon receipt of the written request, the forensic laboratory shall destroy any biological specimen from the person and purge the DNA profile of the person if the written request is accompanied by:

(a) A certified copy of the court order reversing and dismissing the conviction; or

(b) For any biological specimen obtained pursuant to an arrest for which a biological specimen must be provided pursuant to NRS 176.09123:

(1) A certified copy of the dismissal, the successful completion of a preprosecution diversion program ~~or~~ **pursuant to section 4 of this act**, a conditional discharge, an acquittal or the agreement entered into by the prosecuting attorney and the defendant in which the defendant, in exchange for a plea of guilty, guilty but mentally ill or nolo contendere, received a charge other than a felony; or

(2) A sworn affidavit from the law enforcement agency which submitted the biological specimen that no felony charges arising from the arrest have been filed within 3 years after the date of the arrest.

3. The forensic laboratory shall not destroy a biological specimen or purge the DNA profile of a person if the forensic laboratory is notified by a law enforcement agency that the person has a prior felony, a new felony arrest or a pending felony charge for which collection of a biological specimen is authorized pursuant to NRS 176.09123.

4. If a forensic laboratory:

(a) Determines that the requirements to destroy a biological specimen or purge a DNA profile or DNA record of a person have not been met, the forensic laboratory shall notify the Central Repository of Nevada Records of Criminal History of that fact. The Central Repository shall, as soon as reasonably practicable, notify the person that his or her request has been denied.

(b) Destroys a biological specimen and purges a DNA profile pursuant to this section, the forensic laboratory shall take the following actions:

(1) Notify the State DNA Database that the DNA profile and DNA record of the person must be purged from the State DNA Database and from CODIS. Upon receipt of such notification, the DNA profile and DNA record of the person must be purged from the State DNA Database and CODIS.

(2) Notify the Central Repository for Nevada Records of Criminal History that the forensic laboratory has destroyed the biological specimen and purged the DNA profile of the person and has notified the State DNA Database that the DNA profile and DNA record of the person must be purged from the State DNA Database and CODIS. Upon receipt of such notification, the Central Repository shall, as soon as reasonably practicable, notify the person that his or her request has been granted, his or her biological specimen has been destroyed by the forensic laboratory and his or her DNA profile and DNA record have been purged from the forensic laboratory, the State DNA Database and CODIS.

Sec. 8. NRS 176A.250 is hereby amended to read as follows:

176A.250 A court may establish an appropriate program for the treatment of mental illness or intellectual disabilities to which it may assign a defendant pursuant to NRS 176A.260 ~~or~~ **or section 3 of this act**. The assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the defendant is making satisfactory progress towards completion of the program.

Sec. 9. NRS 176A.280 is hereby amended to read as follows:

176A.280 A court may establish an appropriate program for the treatment of veterans and members of the military to which it may assign a defendant pursuant to NRS 176A.290 ~~or~~ **or section 3 of this act**. The assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the defendant is making satisfactory progress towards completion of the program.

Sec. 10. NRS 179.275 is hereby amended to read as follows:

179.275 Where the court orders the sealing of a record pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330, **or section 5 of this act**, a copy of the order must be sent to:

1. The Central Repository for Nevada Records of Criminal History; and
2. Each agency of criminal justice and each public or private company, agency, official or other custodian of records named in the order, and that person shall seal the records in his or her custody which relate to the matters contained in the order, shall advise the court of compliance and shall then seal the order.

Sec. 11. NRS 179.285 is hereby amended to read as follows:

179.285 Except as otherwise provided in NRS 179.301:

1. If the court orders a record sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 ~~[-]~~ **or section 5 of this act:**

(a) All proceedings recounted in the record are deemed never to have occurred, and the person to whom the order pertains may properly answer accordingly to any inquiry, including, without limitation, an inquiry relating to an application for employment, concerning the arrest, conviction, dismissal or acquittal and the events and proceedings relating to the arrest, conviction, dismissal or acquittal.

(b) The person is immediately restored to the following civil rights if the person's civil rights previously have not been restored:

- (1) The right to vote;
- (2) The right to hold office; and
- (3) The right to serve on a jury.

2. Upon the sealing of the person's records, a person who is restored to his or her civil rights pursuant to subsection 1 must be given:

(a) An official document which demonstrates that the person has been restored to the civil rights set forth in paragraph (b) of subsection 1; and

(b) A written notice informing the person that he or she has not been restored to the right to bear arms, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms.

3. A person who has had his or her records sealed in this State or any other state and whose official documentation of the restoration of civil rights is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has had his or her records sealed, the court shall issue an order restoring the person to the civil rights to vote, to hold office and to serve on a jury. A person must not be required to pay a fee to receive such an order.

4. A person who has had his or her records sealed in this State or any other state may present official documentation that the person has been restored to his or her civil rights or a court order restoring civil rights as proof that the person has been restored to the right to vote, to hold office and to serve as a juror.

Sec. 12. NRS 179.295 is hereby amended to read as follows:

179.295 1. The person who is the subject of the records that are sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 **or section 5 of this act** may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court may order such inspection. Except as otherwise provided in this section, subsection 8 of NRS 179.255 and NRS 179.259 and 179.301, the court may not order the inspection of the records under any other circumstances.

2. If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of

the records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or a similar offense and that there is sufficient evidence reasonably to conclude that the person will stand trial for the offense.

3. The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of such records for the purpose of obtaining information relating to persons who were involved in the incident recorded.

4. This section does not prohibit a court from considering a conviction for which records have been sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 **or section 5 of this act** in determining whether to grant a petition pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 for a conviction of another offense.

Sec. 13. NRS 453.580 is hereby amended to read as follows:

453.580 1. A court may establish an appropriate treatment program to which it may assign a person pursuant to subsection 4 of NRS 453.336, NRS 453.3363 or 458.300 ~~§~~ **or section 3 of this act, or** it may assign such a person to an appropriate treatment provider. The assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the person is making satisfactory progress toward completion of the program.

2. A program to which a court assigns a person pursuant to subsection 1 must include:

(a) Information and encouragement for the participant to cease abusing alcohol or using controlled substances through educational, counseling and support sessions developed with the cooperation of various community, health, substance abuse, religious, social service and youth organizations;

(b) The opportunity for the participant to understand the medical, psychological and social implications of substance abuse; and

(c) Alternate courses within the program based on the different substances abused and the addictions of participants.

3. If the offense with which the person was charged involved the use or possession of a controlled substance, in addition to the program or as a part of the program, the court must also require random testing or screening to determine that the person is not using a controlled substance.

4. Before the court assigns a person to a program pursuant to this section, the person must agree to pay the cost of the program to which the person is assigned and the cost of any additional supervision required pursuant to subsection 3, to the extent of the financial resources of the person. If the person does not have the financial resources to pay all of the related costs, the court shall, to the extent practicable, arrange for the person to be assigned to a program with a treatment provider that receives a sufficient amount of federal or state funding to offset the remainder of the costs.

5. If a court places a person under the supervision of a treatment provider to receive treatment for the abuse of alcohol or use of controlled substances pursuant to this section, the court may authorize the person to complete any period of treatment remaining under the supervision of a treatment provider in another jurisdiction if the court determines that:

(a) The person is eligible to receive treatment under a program of treatment in the other jurisdiction; and

(b) The program of treatment in the other jurisdiction is substantially similar to the program of treatment to which the person is assigned in this State.

6. As used in this section:

(a) "Treatment provider" has the meaning ascribed to it in NRS 458.010.

(b) "Treatment provider in another jurisdiction" means a person or a public or private agency, residential treatment center, facility for the treatment of abuse of alcohol or drugs, or voluntary organization which holds a license, certificate or other credential issued by a regulatory agency in another jurisdiction.

Assemblyman Yeager moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 474.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 277.

AN ACT relating to drugs; requiring certain persons to make a report of a drug overdose or suspected drug overdose; revising provisions concerning the computerized program to track each prescription for a controlled substance; ~~revising provisions relating to penalties for selling, manufacturing, delivering, bringing into this State or possessing certain controlled substances;~~ revising provisions governing the accessibility of health care records in certain investigations; requiring an occupational licensing board that licenses ~~a practitioner~~ **certain practitioners** who ~~is~~ **are** authorized to prescribe controlled substances to review and evaluate information and impose disciplinary action in certain circumstances; authorizing such an occupational licensing board to suspend the authority of a practitioner to prescribe, administer or dispense a controlled substance in certain circumstances; imposing certain requirements concerning the prescription of a controlled substance; revising the required contents of certain written prescriptions; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain providers of health care to report to the local health authority if a person has or is suspected of having a communicable disease. (NRS 441A.150) Each health authority is required to make a weekly report to the Chief Medical Officer of all cases or suspected cases of communicable diseases reported to the health authority. (NRS 441A.170) **Sections ~~1-6~~ 1, 3, 5 and 6** of this bill require similar reports to be made **directly to the Chief Medical Officer** concerning cases or suspected cases of drug overdose. **Section 6** makes it a misdemeanor for a provider of health care to willfully fail, neglect or refuse to make such a report.

Existing law requires the State Board of Pharmacy and the Investigation Division of the Department of Public Safety to cooperatively develop a computerized program to track each prescription for a controlled substance listed in schedule II, III or IV. (NRS 453.162) **Section 7** of this bill requires that program to include certain information relating to each prescription of such a controlled substance.

Existing law requires any practitioner or person who dispenses a controlled substance or proposes to engage in such dispensing to obtain a registration from the State Board of Pharmacy. (NRS 453.226) Existing law requires each registered person to upload certain information to the database of the computerized program after dispensing a controlled substance listed in schedule II, III or IV. (NRS 453.163) **Sections 8 and 9** of this bill clarify that the requirement to upload such information applies to a controlled substance listed in schedule II, III or IV that is dispensed for human consumption. **Section 9** also authorizes ~~[(1)]~~ certain occupational licensing boards to access the database to investigate the fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance ~~. [(1) and (2) paramedics to access the database to determine if the symptoms of a person the paramedic is treating may be caused by a controlled substance listed in schedule II, III or IV.]~~ **Section 11** of this bill requires a person to present proof that he or she has access to the database of the program before the Board may issue or renew a registration to prescribe a controlled substance.

~~[(Existing law prescribes certain criminal penalties for persons who knowingly or intentionally sell, manufacture, deliver, bring into this State or possess a controlled substance listed in schedule II based on the quantity of the controlled substance involved. (NRS 453.3295) Section 12 of this bill provides that such penalties instead depend on the aggregate quantity involved or collected by the investigating law enforcement agency over the course of an investigation.)]~~

Sections 13 and 62 of this bill revise provisions governing the accessibility of health care records in certain investigations.

Sections 15, 22, 28, 33, 40 and 45 of this bill require certain occupational licensing boards that receive a complaint or information that indicates the fraudulent, illegal, unauthorized or inappropriate prescribing or use of a

controlled substance listed in schedule II, III or IV to take certain measures to review and evaluate the information and impose disciplinary action upon a licensee if it determines that a violation has occurred. **Sections 20, 26, 38 and 49** of this bill clarify that such measures must be taken before a formal investigation commences. **Sections 16, 23, 29, 34, 41 and 46** of this bill establish procedures by which such occupational licensing boards may summarily suspend a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV.

Existing law authorizes certain occupational licensing boards to require licensees who are registered to dispense controlled substances to complete at least 1 hour of training relating specifically to the misuse and abuse of controlled substances. (NRS 630.2535, 631.344, 632.2375, 633.473, 635.116, 636.2881) **Sections 17, 24, 30, 35, 42 and 47** of this bill instead: (1) increase the required training to 2 hours; and (2) add to the list of authorized topics for training to satisfy that requirement training relating specifically to the prescribing of opioids or addiction.

Section 52 of this bill requires a practitioner , other than a veterinarian, who intends to prescribe or dispense more than certain quantities of a controlled substance listed in schedule II, III or IV for the treatment of pain to document in the medical record of the patient the reasons for prescribing or dispensing that quantity. **Section 53** of this bill requires a practitioner , other than a veterinarian, to have established a bona fide relationship with a patient and to take certain actions, including performing an evaluation and risk assessment, creating a treatment plan and obtaining the informed written consent of the patient, before initiating a prescription for a controlled substance listed in schedule II, III or IV for the treatment of pain for the patient. **Section 54** of this bill prescribes requirements concerning such an evaluation and risk assessment and for obtaining the informed written consent.

Section 55 of this bill requires a practitioner , other than a veterinarian, to take certain actions before issuing a prescription for a controlled substance listed in schedule II, III or IV to continue the treatment of pain of a patient who has used the controlled substance for 90 consecutive days or longer. **Section 56** of this bill requires a practitioner , other than a veterinarian, who intends to prescribe a controlled substance listed in schedule II, III or IV for more than 30 days for the treatment of pain to enter into a prescription medication agreement with the patient. **Section 57** of this bill requires a practitioner , other than a veterinarian, to consider certain factors before prescribing a controlled substance listed in schedule II, III or IV.

Section 58 of this bill authorizes the State Board of Pharmacy to adopt any regulations necessary to enforce the provisions of this bill concerning the prescription of a controlled substance listed in schedule II, III or IV for the treatment of pain. **Section 58** also provides that a person who violates those provisions or regulations is not guilty of a misdemeanor but is subject to professional discipline. **Sections 15, 22, 28, 33, 40 and 45** require an

occupational licensing board that licenses practitioners who prescribe controlled substances listed in schedule II, III or IV to adopt regulations establishing disciplinary action for prescribing such a controlled substance inappropriately or in violation of the provisions of this bill concerning the prescribing of such a controlled substance for the treatment of pain. **Sections 18, 25, 31, 36, 43 and 48** of this bill authorize the imposition of disciplinary action in such circumstances.

Existing law requires a practitioner to obtain a patient utilization report from the computerized program established by the Board and the Investigation Division before initiating a prescription for a controlled substance listed in schedule II, III or IV. (NRS 639.23507) **Section 60** of this bill: (1) clarifies that this requirement does not apply to veterinarians; (2) additionally requires a practitioner , other than a veterinarian, to obtain such a report at least every 90 days for the duration of the prescription; and ~~(2)~~ (3) requires a practitioner , other than a veterinarian, to make certain determinations based on the report. **Section 61** of this bill revises the required contents of a written prescription.

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

Section 1. NRS 441A.120 is hereby amended to read as follows:

441A.120 1. The Board shall adopt regulations governing the control of communicable diseases in this State, including regulations specifically relating to the control of such diseases in educational, medical and correctional institutions. The regulations must specify:

- (a) The diseases which are known to be communicable.
- (b) The communicable diseases which are known to be sexually transmitted.
- (c) The procedures for investigating and reporting cases or suspected cases of communicable diseases, including the time within which these actions must be taken.
- (d) For each communicable disease, the procedures for testing, treating, isolating and quarantining a person or group of persons who have been exposed to or have or are suspected of having the disease.

(e) A method for ensuring that any testing, treatment, isolation or quarantine of a person or a group of persons pursuant to this chapter is carried out in the least restrictive manner or environment that is appropriate and acceptable under current medical and public health practices.

2. *The Board shall adopt regulations governing the procedures for reporting cases or suspected cases of drug overdose ~~to~~ to the Chief Medical Officer or his or her designee, including the time within which such reports must be made ~~to~~ and the information that such reports must include.*

3. The duties set forth in the regulations adopted by the Board pursuant to ~~this section~~ subsection 1 must be performed by:

(a) In a district in which there is a district health officer, the district health officer or the district health officer's designee; or

(b) In any other area of the State, the Chief Medical Officer or the Chief Medical Officer's designee.

Sec. 2. ~~NRS 441A.130 is hereby amended to read as follows:~~

~~441A.130 The Chief Medical Officer shall inform each local health officer of the regulations adopted by the Board and the procedures established for investigating and reporting cases or suspected cases of infectious diseases, cases or suspected cases of drug overdose and cases or suspected cases of exposure to biological, radiological or chemical agents pursuant to this chapter.~~ **(Deleted by amendment.)**

Sec. 3. NRS 441A.150 is hereby amended to read as follows:

441A.150 1. A provider of health care who knows of, or provides services to, a person who has or is suspected of having a communicable disease ~~for who has suffered or is suspected of having suffered a drug overdose~~ shall report that fact to the health authority in the manner prescribed by the regulations of the Board. If no provider of health care is providing services, each person having knowledge that another person has a communicable disease ~~for has suffered or is suspected of having suffered a drug overdose~~ shall report that fact ~~and, if applicable, the drug that caused the overdose~~ to the health authority in the manner prescribed by the regulations of the Board.

2. **A provider of health care who knows of, or provides services to, a person who has suffered or is suspected of having suffered a drug overdose shall report that fact to the Chief Medical Officer or his or her designee in the manner prescribed by the regulations of the Board.**

3. A medical facility in which more than one provider of health care may know of, or provide services to, a person who has or is suspected of having a communicable disease **or who has suffered or is suspected of having suffered a drug overdose** shall establish administrative procedures to ensure that the health authority **or Chief Medical Officer or his or her designee, as applicable,** is notified.

~~3.~~ 4. A laboratory director shall, in the manner prescribed by the Board, notify the health authority of the identification by his or her medical laboratory of the presence of any communicable disease in the jurisdiction of that health authority. The health authority shall not presume a diagnosis of a communicable disease on the basis of the notification received from the laboratory director.

~~4.~~ 5. If more than one medical laboratory is involved in testing a specimen, the laboratory that is responsible for reporting the results of the testing directly to the provider of health care for the patient shall also be responsible for reporting to the health authority.

Sec. 4. ~~NRS 441A.170 is hereby amended to read as follows:~~

~~441A.170 Each health authority shall report each week to the Chief Medical Officer [the]~~

~~1. The number and types of cases or suspected cases of communicable disease reported to the health authority [,];~~

~~2. The total number of cases or suspected cases of drug overdose reported to the health authority;~~

~~3. The name of each drug that caused a drug overdose or suspected drug overdose and the number of cases or suspected cases of drug overdose resulting from the use of each such drug; and [any]~~

~~4. Any other information required by the regulations of the Board.]~~
(Deleted by amendment.)

Sec. 5. NRS 441A.220 is hereby amended to read as follows:

441A.220 All information of a personal nature about any person provided by any other person reporting a case or suspected case of a communicable disease ~~[,]~~ **or drug overdose**, or by any person who has a communicable disease ~~[,]~~ **or has suffered a drug overdose**, or as determined by investigation of the health authority, is confidential medical information and must not be disclosed to any person under any circumstances, including pursuant to any subpoena, search warrant or discovery proceeding, except:

1. As otherwise provided in NRS 439.538.
2. For statistical purposes, provided that the identity of the person is not discernible from the information disclosed.
3. In a prosecution for a violation of this chapter.
4. In a proceeding for an injunction brought pursuant to this chapter.
5. In reporting the actual or suspected abuse or neglect of a child or elderly person.
6. To any person who has a medical need to know the information for his or her own protection or for the well-being of a patient or dependent person, as determined by the health authority in accordance with regulations of the Board.
7. If the person who is the subject of the information consents in writing to the disclosure.
8. Pursuant to subsection 4 of NRS 441A.320 or NRS 629.069.
9. If the disclosure is made to the Department of Health and Human Services and the person about whom the disclosure is made has been diagnosed as having acquired immunodeficiency syndrome or an illness related to the human immunodeficiency virus and is a recipient of or an applicant for Medicaid.
10. To a firefighter, police officer or person providing emergency medical services if the Board has determined that the information relates to a communicable disease significantly related to that occupation. The information must be disclosed in the manner prescribed by the Board.
11. If the disclosure is authorized or required by NRS 239.0115 or another specific statute.

Sec. 6. NRS 441A.920 is hereby amended to read as follows:

441A.920 Every provider of health care, medical facility or medical laboratory that willfully fails, neglects or refuses to comply with any

regulation of the Board relating to the reporting of a communicable disease **or drug overdose** or any requirement of this chapter is guilty of a misdemeanor and, in addition, may be subject to an administrative fine of \$1,000 for each violation, as determined by the Board.

Sec. 7. NRS 453.162 is hereby amended to read as follows:

453.162 1. The Board and the Division shall cooperatively develop a computerized program to track each prescription for a controlled substance listed in schedule II, III or IV that is filled by a pharmacy that is registered with the Board or that is dispensed by a practitioner who is registered with the Board. The program must:

(a) Be designed to provide information regarding:

(1) The inappropriate use by a patient of controlled substances listed in schedules II, III and IV to pharmacies, practitioners and appropriate state and local governmental agencies, including, without limitation, law enforcement agencies and occupational licensing boards, to prevent the improper or illegal use of those controlled substances; and

(2) Statistical data relating to the use of those controlled substances that is not specific to a particular patient.

(b) Be administered by the Board, the Investigation Division, the Division of Public and Behavioral Health of the Department and various practitioners, representatives of professional associations for practitioners, representatives of occupational licensing boards and prosecuting attorneys selected by the Board and the Investigation Division.

(c) Not infringe on the legal use of a controlled substance for the management of severe or intractable pain.

(d) Include the contact information of each person who is required to access the database of the program pursuant to NRS 453.164, including, without limitation:

(1) The name of the person;

(2) The physical address of the person;

(3) The telephone number of the person; and

(4) If the person maintains an electronic mail address, the electronic mail address of the person.

(e) ***Include, for each prescription of a controlled substance listed in schedule II, III or IV:***

(1) The fewest number of days necessary to consume the quantity of the controlled substance dispensed to the patient if the patient consumes the maximum dose of the controlled substance authorized by the prescribing practitioner;

(2) Each state in which the patient to whom the controlled substance was prescribed has previously resided or filled a prescription for a controlled substance listed in schedule II, III or IV; and

(3) The code established in the International Classification of Diseases, Tenth Revision, Clinical Modification, adopted by the National Center for Health Statistics and the Centers for Medicare and Medicaid

Services, or the code used in any successor classification system adopted by the National Center for Health Statistics and the Centers for Medicare and Medicaid Services, that corresponds to the diagnosis for which the controlled substance was prescribed.

(f) To the extent that money is available, include:

(1) A means by which a practitioner may designate in the database of the program that he or she suspects that a patient is seeking a prescription for a controlled substance for an improper or illegal purpose. If the Board reviews the designation and determines that such a designation is warranted, the Board shall inform pharmacies, practitioners and appropriate state agencies that the patient is seeking a prescription for a controlled substance for an improper or illegal purpose as described in subparagraph (1) of paragraph (a).

(2) The ability to integrate the records of patients in the database of the program with the electronic health records of practitioners.

2. The Board, the Division and each employee thereof are immune from civil and criminal liability for any action relating to the collection, maintenance and transmission of information pursuant to this section and NRS 453.163 and 453.164 if a good faith effort is made to comply with applicable laws and regulations.

3. The Board and the Division may apply for any available grants and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section.

Sec. 8. NRS 453.163 is hereby amended to read as follows:

453.163 1. Except as otherwise provided in this subsection, each person registered pursuant to this chapter to dispense a controlled substance listed in schedule II, III or IV **for human consumption** shall, not later than the end of the next business day after dispensing a controlled substance, upload to the database of the program established pursuant to NRS 453.162 the information described in paragraph (d) of subsection 1 of NRS 453.162. The requirements of this subsection do not apply if the controlled substance is administered directly by a practitioner to a patient in a health care facility, as defined in NRS 439.960, a child who is a resident in a child care facility, as defined in NRS 432A.024, or a prisoner, as defined in NRS 208.085. The Board shall establish by regulation and impose administrative penalties for the failure to upload information pursuant to this subsection.

2. The Board and the Division may cooperatively enter into a written agreement with an agency of any other state to provide, receive or exchange information obtained by the program with a program established in that state which is substantially similar to the program established pursuant to NRS 453.162, including, without limitation, providing such state access to the database of the program or transmitting information to and receiving information from such state. Any information provided, received or exchanged as part of an agreement made pursuant to this section may only be used in accordance with the provisions of this chapter.

3. A practitioner who is authorized to write prescriptions for and each person who is authorized to dispense controlled substances listed in schedule II, III or IV **for human consumption** who makes a good faith effort to comply with applicable laws and regulations when transmitting to the Board or the Division a report or information required by this section or NRS 453.162 or 453.164, or a regulation adopted pursuant thereto, is immune from civil and criminal liability relating to such action.

Sec. 9. NRS 453.164 is hereby amended to read as follows:

453.164 1. The Board shall provide Internet access to the database of the program established pursuant to NRS 453.162 to an occupational ~~teach-~~
~~—(a) Occupational~~ licensing board that licenses any practitioner who is authorized to write prescriptions for **human consumption of** controlled substances listed in schedule II, III or IV. **An occupational licensing board that is provided access to the database pursuant to this section may access the database to investigate a complaint, report or other information that indicates fraudulent, illegal, unauthorized or otherwise inappropriate activity related to the prescribing, dispensing or use of a controlled substance.**

~~[(b) Paramedic certified pursuant to chapter 450B of NRS. A paramedic who is provided access to the database pursuant to this section may access the database to investigate the cause of symptoms experienced by a person to whom the paramedic is providing care if the paramedic determines that such symptoms may be caused by the person's use of a controlled substance listed in schedule II, III or IV.]~~

2. The Board and the Division must have access to the program established pursuant to NRS 453.162 to identify any suspected fraudulent , ~~for~~ illegal , **unauthorized or otherwise inappropriate** activity related to the **prescribing, dispensing or use** of controlled substances.

3. ~~[(The)]~~ **Except as otherwise provided in subsection 4, the** Board or the Division shall report any activity it reasonably suspects may:

(a) ~~[(Be)]~~ **Indicate** fraudulent , ~~for~~ illegal , **unauthorized or otherwise inappropriate activity related to the prescribing, dispensing or use of a controlled substance** to the appropriate law enforcement agency or occupational licensing board and provide the law enforcement agency or occupational licensing board with the relevant information obtained from the program for further investigation.

(b) Indicate the inappropriate use by a patient of a controlled substance to the occupational licensing board of each practitioner who has prescribed the controlled substance to the patient. The occupational licensing board may access the database of the program established pursuant to NRS 453.162 to determine which practitioners are prescribing the controlled substance to the patient. The occupational licensing board may use this information for any purpose it deems necessary, including, without limitation, alerting a practitioner that a patient may be fraudulently obtaining a controlled substance or determining whether a practitioner is engaged in unlawful or

unprofessional conduct. ~~{This paragraph shall not be construed to require an occupational licensing board to conduct an investigation or take any action against a practitioner upon receiving information from the Board or the Division.}~~

4. *The Board or Division may withhold any report required by subsection 3 if the Board determines that doing so is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.*

5. The Board and the Division shall cooperatively develop a course of training for persons who are required to receive access to the database of the program pursuant to subsection ~~{6}~~ 7 and require each such person to complete the course of training before the person is provided with Internet access to the database.

~~{5.}~~ 6. Each practitioner who is authorized to write prescriptions for and each person who is authorized to dispense controlled substances listed in schedule II, III or IV *for human consumption* shall complete the course of instruction described in subsection ~~{4}~~ 5. The Board shall provide Internet access to the database to each such practitioner or other person who completes the course of instruction.

~~{6.}~~ 7. Each practitioner who is authorized to write prescriptions for *human consumption of* controlled substances listed in schedule II, III or IV shall, to the extent the program allows, access the database of the program established pursuant to NRS 453.162 at least once each 6 months to:

(a) Review the information concerning the practitioner that is listed in the database , *including, without limitation, information concerning prescriptions issued by the practitioner*, and notify the Board if any such information is not correct; and

(b) Verify to the Board that he or she continues to have access to and has accessed the database as required by this subsection.

~~{7.}~~ 8. Information obtained from the program relating to a practitioner or a patient is confidential and, except as otherwise provided by this section and NRS 239.0115, 453.162 and 453.163, must not be disclosed to any person. That information must be disclosed:

(a) Upon the request of a person about whom the information requested concerns or upon the request on behalf of that person by his or her attorney; or

(b) Upon the lawful order of a court of competent jurisdiction.

~~{8.}~~ 9. If the Board, the Division or a law enforcement agency determines that the database of the program has been intentionally accessed by a person or for a purpose not authorized pursuant to NRS 453.162 to 453.165, inclusive, the Board, Division or law enforcement agency, as applicable, must notify any person whose information was accessed by an unauthorized person or for an unauthorized purpose.

Sec. 10. NRS 453.165 is hereby amended to read as follows:

453.165 1. Except as otherwise provided in this section, the Board shall allow a law enforcement officer to have Internet access to the database of the computerized program developed pursuant to NRS 453.162 if:

(a) The primary responsibility of the law enforcement officer is to conduct investigations of crimes relating to prescription drugs;

(b) The law enforcement officer has been approved by his or her employer to have such access;

(c) The law enforcement officer has completed the course of training developed pursuant to subsection ~~4~~ 5 of NRS 453.164; and

(d) The employer of the law enforcement officer has submitted the certification required pursuant to subsection 2 to the Board.

2. Before a law enforcement officer may be given access to the database pursuant to subsection 1, the employer of the officer must certify to the Board that the law enforcement officer has been approved to be given such access and meets the requirements of subsection 1. Such certification must be made on a form provided by the Board and renewed annually.

3. When a law enforcement officer accesses the database of the computerized program pursuant to this section, the officer must enter a unique user name assigned to the officer and the case number corresponding to the investigation being conducted by the officer.

4. A law enforcement officer who is given access to the database of the computerized program pursuant to subsection 1 may access the database to investigate a crime related to prescription drugs and for no other purpose.

5. The employer of a law enforcement officer who is provided access to the database of the computerized program pursuant to this section shall monitor the use of the database by the law enforcement officer and establish appropriate disciplinary action to take against an officer who violates the provisions of this section.

6. The Board or the Division may suspend or terminate access to the database of the computerized program pursuant to this section if a law enforcement officer or his or her employer violates any provision of this section.

7. As used in this section, “law enforcement officer” means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.

Sec. 11. NRS 453.226 is hereby amended to read as follows:

453.226 1. Every practitioner or other person who dispenses any controlled substance within this State or who proposes to engage in the dispensing of any controlled substance within this State shall obtain biennially a registration issued by the Board in accordance with its regulations. ***A person must present proof that he or she is authorized to access the database of the program established pursuant to NRS 453.162 before the Board may issue or renew a registration.***

2. A person registered by the Board in accordance with the provisions of NRS 453.011 to 453.552, inclusive, to dispense or conduct research with controlled substances may possess, dispense or conduct research with those substances to the extent authorized by the registration and in conformity with the other provisions of those sections.

3. The following persons are not required to register and may lawfully possess and distribute controlled substances pursuant to the provisions of NRS 453.011 to 453.552, inclusive:

(a) An agent or employee of a registered dispenser of a controlled substance if he or she is acting in the usual course of his or her business or employment;

(b) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(c) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, advanced practice registered nurse, podiatric physician or veterinarian or in lawful possession of a schedule V substance; or

(d) A physician who:

(1) Holds a locum tenens license issued by the Board of Medical Examiners or a temporary license issued by the State Board of Osteopathic Medicine; and

(2) Is registered with the Drug Enforcement Administration at a location outside this State.

4. The Board may waive the requirement for registration of certain dispensers if it finds it consistent with the public health and safety.

5. A separate registration is required at each principal place of business or professional practice where the applicant dispenses controlled substances.

6. The Board may inspect the establishment of a registrant or applicant for registration in accordance with the Board's regulations.

Sec. 12. ~~NRS 453.3395 is hereby amended to read as follows:
453.3395 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 any controlled substance which is listed in schedule II or any mixture which contains any such controlled substance shall be punished, unless a greater penalty is provided pursuant to NRS 453.322, if the aggregate quantity involved [:] or collected by the investigating law enforcement agency during an investigation:~~

~~1. Is 28 grams or more, but less than 200 grams, for a category C felony as provided in NRS 193.130 and by a fine of not more than \$50,000.~~

~~2. Is 200 grams or more, but less than 400 grams, 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 \$100,000.~~

~~3. Is 400 grams or more, for a category A felony by imprisonment in the state prison:~~

~~(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served; or~~

~~(b) 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 \$250,000.] (Deleted by amendment.)~~

Sec. 13. NRS 629.061 is hereby amended to read as follows:

629.061 1. Each provider of health care shall make the health care records of a patient available for physical inspection by:

(a) The patient or a representative with written authorization from the patient;

(b) The personal representative of the estate of a deceased patient;

(c) Any trustee of a living trust created by a deceased patient;

(d) The parent or guardian of a deceased patient who died before reaching the age of majority;

(e) An investigator for the Attorney General or a grand jury investigating an alleged violation of NRS 200.495, 200.5091 to 200.50995, inclusive, or 422.540 to 422.570, inclusive;

(f) An investigator for the Attorney General investigating an alleged violation of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive, or any fraud in the administration of chapter 616A, 616B, 616C, 616D or 617 of NRS or in the provision of benefits for industrial insurance; or

(g) Any authorized representative or investigator of a state licensing board during the course of any investigation authorized by law.

2. The records described in subsection 1 must be made available at a place within the depository convenient for physical inspection. Except as otherwise provided in subsection 3, if the records are located:

(a) Within this State, the provider shall make any records requested pursuant to this section available for inspection within 10 working days after the request.

(b) Outside this State, the provider shall make any records requested pursuant to this section available in this State for inspection within 20 working days after the request.

3. If the records described in subsection 1 are requested pursuant to paragraph (e), (f) or (g) of subsection 1 and the investigator, grand jury or authorized representative, as applicable, declares that exigent circumstances exist which require the immediate production of the records, the provider shall make any records which are located:

(a) Within this State available for inspection ~~[within 5 working days after]~~ **at the time of the request [] or at another reasonable time designated by the investigator, grand jury or authorized representative, as applicable.**

(b) Outside this State available for inspection within ~~{10}~~ 5 working days after the request.

4. Except as otherwise provided in subsection 5, the provider of health care shall also furnish a copy of the records to each person described in subsection 1 who requests it and pays the actual cost of postage, if any, the costs of making the copy, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy.

5. The provider of health care shall also furnish a copy of any records that are necessary to support a claim or appeal under any provision of the Social Security Act, 42 U.S.C. §§ 301 et seq., or under any federal or state financial needs-based benefit program, without charge, to a patient, or a representative with written authorization from the patient, who requests it, if the request is accompanied by documentation of the claim or appeal. A copying fee, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes, may be charged by the provider of health care for furnishing a second copy of the records to support the same claim or appeal. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy. The provider of health care shall furnish the copy of the records requested pursuant to this subsection within 30 days after the date of receipt of the request, and the provider of health care shall not deny the furnishing of a copy of the records pursuant to this subsection solely because the patient is unable to pay the fees established in this subsection.

6. Each person who owns or operates an ambulance in this State shall make the records regarding a sick or injured patient available for physical inspection by:

(a) The patient or a representative with written authorization from the patient;

(b) The personal representative of the estate of a deceased patient;

(c) Any trustee of a living trust created by a deceased patient;

(d) The parent or guardian of a deceased patient who died before reaching the age of majority; or

(e) Any authorized representative or investigator of a state licensing board during the course of any investigation authorized by law.

➡ The records must be made available at a place within the depository convenient for physical inspection, and inspection must be permitted at all reasonable office hours and for a reasonable length of time. The person who owns or operates an ambulance shall also furnish a copy of the records to each person described in this subsection who requests it and pays the actual cost of postage, if any, and the costs of making the copy, not to exceed 60 cents per page for photocopies. No administrative fee or additional service fee of any kind may be charged for furnishing a copy of the records.

7. Records made available to a representative or investigator must not be used at any public hearing unless:

(a) The patient named in the records has consented in writing to their use; or

(b) Appropriate procedures are utilized to protect the identity of the patient from public disclosure.

8. Subsection 7 does not prohibit:

(a) A state licensing board from providing to a provider of health care or owner or operator of an ambulance against whom a complaint or written allegation has been filed, or to his or her attorney, information on the identity of a patient whose records may be used in a public hearing relating to the complaint or allegation, but the provider of health care or owner or operator of an ambulance and the attorney shall keep the information confidential.

(b) The Attorney General from using health care records in the course of a civil or criminal action against the patient or provider of health care.

9. A provider of health care or owner or operator of an ambulance and his or her agents and employees are immune from any civil action for any disclosures made in accordance with the provisions of this section or any consequential damages.

10. For the purposes of this section:

(a) “Guardian” means a person who has qualified as the guardian of a minor pursuant to testamentary or judicial appointment, but does not include a guardian ad litem.

(b) “Living trust” means an inter vivos trust created by a natural person:

(1) Which was revocable by the person during the lifetime of the person; and

(2) Who was one of the beneficiaries of the trust during the lifetime of the person.

(c) “Parent” means a natural or adoptive parent whose parental rights have not been terminated.

(d) “Personal representative” has the meaning ascribed to it in NRS 132.265.

Sec. 14. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 15 and 16 of this act.

Sec. 15. 1. *The Executive Director of the Board or his or her designee shall review and evaluate any complaint or information received from the Investigation Division of the Department of Public Safety or the State Board of Pharmacy, including, without limitation, information provided pursuant to NRS 453.164, or from a law enforcement agency, professional licensing board or any other source indicating that:*

(a) A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV;

(b) A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a); or

(c) A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule II, III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.

2. If the Executive Director of the Board or his or her designee receives information described in subsection 1 concerning the licensee, the Executive Director or his or her designee must notify the licensee as soon as practicable after receiving the information.

3. A review and evaluation conducted pursuant to subsection 1 must include, without limitation:

(a) A review of relevant information contained in the database of the program established pursuant to NRS 453.162;

(b) A requirement that the licensee who is the subject of the review and evaluation attest that he or she has complied with the requirements of NRS 639.23507 and sections 52, 53 and 57 of this act, as applicable; and

(c) A request for additional relevant information from the licensee who is the subject of the review and evaluation.

4. If, after a review and evaluation conducted pursuant to subsection 1, the Executive Director or his or her designee determines that a licensee may have issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board must proceed as if a written complaint had been filed against the licensee. If, after conducting an investigation and a hearing in accordance with the provisions of this chapter, the Board determines that the licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription, the Board must impose appropriate disciplinary action.

5. When deemed appropriate, the Executive Director of the Board may:

(a) Refer information acquired during a review and evaluation conducted pursuant to subsection 1 to another professional licensing board, law enforcement agency or other appropriate governmental entity for investigation and criminal or administrative proceedings.

(b) Postpone any notification, review or part of such a review required by this section if he or she determines that it is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.

6. The Board shall adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions of sections 52 to 58, inclusive, of this act and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to complete additional continuing

education concerning prescribing controlled substances listed in schedules II, III and IV.

Sec. 16. 1. *If the Board determines from an investigation of a licensee that the health, safety or welfare of the public or any patient served by the licensee is at risk of imminent or continued harm because of the manner in which the licensee prescribed, administered, dispensed or used a controlled substance, the Board may summarily suspend the licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pending a determination upon the conclusion of a hearing to consider a formal complaint against the licensee. An order of summary suspension may be issued only by the Board, the President of the Board, the presiding officer of the investigative committee of the Board that conducted the investigation or the member of the Board who conducted the investigation.*

2. *If an order to summarily suspend a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV is issued pursuant to subsection 1 by the presiding officer of an investigative committee of the Board or a member of the Board, that person shall not participate in any further proceedings of the Board relating to the order.*

3. *If the Board, the presiding officer of an investigative committee of the Board or a member of the Board issues an order summarily suspending a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pursuant to subsection 1, the Board must hold a hearing to consider the formal complaint against the licensee. The Board must hold the hearing and render a decision concerning the formal complaint within ~~180~~ **60** days after the date on which the order is issued, unless the Board and the licensee mutually agree to a longer period.*

Sec. 17. NRS 630.2535 is hereby amended to read as follows:

630.2535 The Board ~~may,~~ **shall**, by regulation, require each physician or physician assistant who is registered to dispense controlled substances pursuant to NRS 453.231 to complete at least ~~1 hour~~ **2 hours** of training relating specifically to the misuse and abuse of controlled substances, **the prescribing of opioids or addiction** during each period of licensure. Any licensee may use such training to satisfy ~~1 hour~~ **2 hours** of any continuing education requirement established by the Board.

Sec. 18. NRS 630.3062 is hereby amended to read as follows:

630.3062 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

2. Altering medical records of a patient.

3. Making or filing a report which the licensee knows to be false, failing to file a record or report as required by law or knowingly or willfully obstructing or inducing another to obstruct such filing.

4. Failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061.

5. Failure to comply with the requirements of NRS 630.3068.

6. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.

7. Failure to comply with the requirements of NRS 453.163 , ~~for~~ 453.164 ~~to~~ , **453.226 and 639.23507 and sections 52 to 58, inclusive, of this act and any regulations adopted by the State Board of Pharmacy pursuant thereto.**

8. Fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV.

Sec. 19. NRS 630.3066 is hereby amended to read as follows:

630.3066 A physician is not subject to disciplinary action solely for:

1. Prescribing or administering to a patient under his or her care a controlled substance which is listed in schedule II, III, IV or V by the State Board of Pharmacy pursuant to NRS 453.146, if the controlled substance is lawfully prescribed or administered for the treatment of intractable pain in accordance with **the provisions of NRS 639.23507 and sections 52 to 58, inclusive, of this act, any regulations adopted by the State Board of Pharmacy pursuant thereto and any other** regulations adopted by the Board ~~to~~ **of Medical Examiners.**

2. Engaging in any activity in accordance with the provisions of chapter 453A of NRS.

Sec. 20. NRS 630.311 is hereby amended to read as follows:

630.311 1. ~~1A~~ **Except as otherwise provided in section 15 of this act,** a committee designated by the Board and consisting of members of the Board shall review each complaint and conduct an investigation to determine if there is a reasonable basis for the complaint. The committee must be composed of at least three members of the Board, at least one of whom is not a physician. The committee may issue orders to aid its investigation including, but not limited to, compelling a physician to appear before the committee.

2. If, after conducting an investigation, the committee determines that there is a reasonable basis for the complaint and that a violation of any provision of this chapter has occurred, the committee may file a formal complaint with the Board.

3. The proceedings of the committee are confidential and are not subject to the requirements of NRS 241.020. Within 20 days after the conclusion of each meeting of the committee, the Board shall publish a summary setting

forth the proceedings and determinations of the committee. The summary must not identify any person involved in the complaint that is the subject of the proceedings.

Sec. 21. Chapter 631 of NRS is hereby amended by adding thereto the provisions set forth as sections 22 and 23 of this act.

Sec. 22. 1. *The Executive Director of the Board or his or her designee shall review and evaluate any complaint or information received from the Investigation Division of the Department of Public Safety or the State Board of Pharmacy, including, without limitation, information provided pursuant to NRS 453.164, or from a law enforcement agency, professional licensing board or any other source indicating that:*

(a) *A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV;*

(b) *A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a); or*

(c) *A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule II, III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.*

2. *If the Executive Director of the Board or his or her designee receives information described in subsection 1 concerning the licensee, the Executive Director or his or her designee must notify the licensee as soon as practicable after receiving the information.*

3. *A review and evaluation conducted pursuant to subsection 1 must include, without limitation:*

(a) *A review of relevant information contained in the database of the program established pursuant to NRS 453.162;*

(b) *A requirement that the licensee who is the subject of the review and evaluation attest that he or she has complied with the requirements of NRS 639.23507 and sections 52, 53 and 57 of this act, as applicable; and*

(c) *A request for additional relevant information from the licensee who is the subject of the review and evaluation.*

4. *If, after a review and evaluation conducted pursuant to subsection 1, the Executive Director or his or her designee determines that a licensee may have issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board must proceed as if a written complaint had been filed against the licensee. If, after conducting an investigation and a hearing in accordance with the provisions of this chapter, the Board determines that the licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription, the Board must impose appropriate disciplinary action.*

5. *When deemed appropriate, the Executive Director of the Board may:*

(a) Refer information acquired during a review and evaluation conducted pursuant to subsection 1 to another professional licensing board, law enforcement agency or other appropriate governmental entity for investigation and criminal or administrative proceedings.

(b) Postpone any notification, review or part of such a review required by this section if he or she determines that it is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.

6. The Board shall adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions of sections 52 to 58, inclusive, of this act and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV.

Sec. 23. 1. If the Board determines from an investigation of a licensee that the health, safety or welfare of the public or any patient served by the licensee is at risk of imminent or continued harm because of the manner in which the licensee prescribed, administered, dispensed or used a controlled substance, the Board may summarily suspend the licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pending a determination upon the conclusion of a hearing to consider a formal complaint against the licensee. An order of summary suspension may be issued only by the Board, the President of the Board, the presiding officer of an investigative committee convened by the Board to conduct the investigation or the member, employee, investigator or other agent of the Board who conducted the investigation.

2. If an order to summarily suspend a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV is issued pursuant to subsection 1 by the presiding officer of an investigative committee of the Board or a member, employee, investigator or other agent of the Board, that person shall not participate in any further proceedings of the Board relating to the order.

3. If the Board, the presiding officer of an investigative committee of the Board or a member, employee, investigator or other agent of the Board issues an order summarily suspending a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pursuant to subsection 1, the Board must hold a hearing to consider the formal complaint against the licensee. The Board must hold the hearing and render a decision concerning the formal complaint within 180 days after the date on which the order is issued, unless the Board and the licensee mutually agree to a longer period.

Sec. 24. NRS 631.344 is hereby amended to read as follows:

631.344 The Board ~~may,~~ **shall**, by regulation, require each holder of a license to practice dentistry who is registered to dispense controlled substances pursuant to NRS 453.231 to complete at least ~~1 hour~~ **2 hours** of training relating specifically to the misuse and abuse of controlled substances, **the prescribing of opioids or addiction** during each period of licensure. Any such holder of a license may use such training to satisfy ~~1 hour~~ **2 hours** of any continuing education requirement established by the Board.

Sec. 25. NRS 631.3475 is hereby amended to read as follows:

631.3475 The following acts, among others, constitute unprofessional conduct:

1. Malpractice;
2. Professional incompetence;
3. Suspension or revocation of a license to practice dentistry, the imposition of a fine or other disciplinary action by any agency of another state authorized to regulate the practice of dentistry in that state;
4. More than one act by the dentist or dental hygienist constituting substandard care in the practice of dentistry or dental hygiene;
5. Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, if it is not required to treat the dentist's patient;
6. Knowingly procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:
 - (a) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;
 - (b) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or
 - (c) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS;
7. Chronic or persistent inebriety or addiction to a controlled substance, to such an extent as to render the person unsafe or unreliable as a practitioner, or such gross immorality as tends to bring reproach upon the dental profession;
8. Conviction of a felony or misdemeanor involving moral turpitude or which relates to the practice of dentistry in this State, or conviction of any criminal violation of this chapter;
9. Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;
10. Failure to comply with the provisions of NRS 453.163, ~~for~~ 453.164 ~~}, 453.226 and 639.23507 and sections 52 to 58, inclusive, of this act and any regulations adopted by the State Board of Pharmacy pursuant thereto.~~

11. ***Fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV;***

12. Failure to obtain any training required by the Board pursuant to NRS 631.344; or

~~{12.}~~ 13. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

↪ This subsection applies to an owner or other principal responsible for the operation of the facility.

Sec. 26. NRS 631.360 is hereby amended to read as follows:

631.360 1. ~~{The}~~ ***Except as otherwise provided in section 22 of this act, the*** Board may, upon its own motion, and shall, upon the verified complaint in writing of any person setting forth facts which, if proven, would constitute grounds for initiating disciplinary action, investigate the actions of any person who practices dentistry or dental hygiene in this State. A complaint may be filed anonymously. If a complaint is filed anonymously, the Board may accept the complaint but may refuse to consider the complaint if anonymity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. The Board shall, before initiating disciplinary action, at least 10 days before the date set for the hearing, notify the accused person in writing of any charges made. The notice may be served by delivery of it personally to the accused person or by mailing it by registered or certified mail to the place of business last specified by the accused person, as registered with the Board.

3. At the time and place fixed in the notice, the Board shall proceed to hear the charges. If the Board receives a report pursuant to subsection 5 of NRS 228.420, a hearing must be held within 30 days after receiving the report.

4. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Executive Director may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

5. The Board may obtain a search warrant from a magistrate upon a showing that the warrant is needed for an investigation or hearing being conducted by the Board and that reasonable cause exists to issue the warrant.

6. If the Board is not sitting at the time and place fixed in the notice, or at the time and place to which the hearing has been continued, the Board shall continue the hearing for a period not to exceed 30 days.

7. The Board shall retain all complaints received by the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

Sec. 27. Chapter 632 of NRS is hereby amended by adding thereto the provisions set forth as sections 28 and 29 of this act.

Sec. 28. 1. *The Executive Director of the Board or his or her designee shall review and evaluate any complaint or information received from the Investigation Division of the Department of Public Safety or the State Board of Pharmacy, including, without limitation, information provided pursuant to NRS 453.164, or from a law enforcement agency, professional licensing board or any other source indicating that:*

(a) *A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV;*

(b) *A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a); or*

(c) *A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule II, III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.*

2. *If the Executive Director of the Board or his or her designee receives information described in subsection 1 concerning the licensee, the Executive Director or his or her designee must notify the licensee as soon as practicable after receiving the information.*

3. *A review and evaluation conducted pursuant to subsection 1 must include, without limitation:*

(a) *A review of relevant information contained in the database of the program established pursuant to NRS 453.162;*

(b) *A requirement that the licensee who is the subject of the review and evaluation attest that he or she has complied with the requirements of NRS 639.23507 and sections 52, 53 and 57 of this act, as applicable; and*

(c) *A request for additional relevant information from the licensee who is the subject of the review and evaluation.*

4. *If, after a review and evaluation conducted pursuant to subsection 1, the Executive Director or his or her designee determines that a licensee may have issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board must proceed as if a written complaint had been filed against the licensee. If, after conducting an investigation and a hearing in accordance with the provisions of this chapter, the Board determines that the licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription, the Board must impose appropriate disciplinary action.*

5. *When deemed appropriate, the Executive Director of the Board may:*

(a) Refer information acquired during a review and evaluation conducted pursuant to subsection 1 to another professional licensing board, law enforcement agency or other appropriate governmental entity for investigation and criminal or administrative proceedings.

(b) Postpone any notification, review or part of such a review required by this section if he or she determines that it is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.

6. The Board shall adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions of sections 52 to 58, inclusive, of this act and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV.

Sec. 29. 1. If the Board determines from an investigation of a licensee that the health, safety or welfare of the public or any patient served by the licensee is at risk of imminent or continued harm because of the manner in which the licensee prescribed, administered, dispensed or used a controlled substance, the Board may summarily suspend the licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pending a determination upon the conclusion of a hearing to consider a formal complaint against the licensee. An order of summary suspension may be issued only by the Board, the President of the Board, the presiding officer of an investigative committee convened by the Board to conduct the investigation or the member of the Board who conducted the investigation.

2. If an order to summarily suspend a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV is issued pursuant to subsection 1 by the presiding officer of an investigative committee of the Board or a member of the Board, that person shall not participate in any further proceedings of the Board relating to the order.

3. If the Board, the presiding officer of an investigative committee of the Board or a member of the Board issues an order summarily suspending a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pursuant to subsection 1, the Board must hold a hearing to consider the formal complaint against the licensee. The Board must hold the hearing and render a decision concerning the formal complaint within ~~180~~ 60 days after the date on which the order is issued, unless the Board and the licensee mutually agree to a longer period.

Sec. 30. NRS 632.2375 is hereby amended to read as follows:

632.2375 The Board ~~may,~~ **shall**, by regulation, require each advanced practice registered nurse who is registered to dispense controlled substances pursuant to NRS 453.231 to complete at least ~~1 hour~~ **2 hours** of training relating specifically to the misuse and abuse of controlled substances, **the prescribing of opioids or addiction** during each period of licensure. An advanced practice registered nurse may use such training to satisfy ~~1 hour~~ **2 hours** of any continuing education requirement established by the Board.

Sec. 31. NRS 632.347 is hereby amended to read as follows:

632.347 1. The Board may deny, revoke or suspend any license or certificate applied for or issued pursuant to this chapter, or take other disciplinary action against a licensee or holder of a certificate, upon determining that the licensee or certificate holder:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license or certificate pursuant to this chapter.

(b) Is guilty of any offense:

(1) Involving moral turpitude; or

(2) Related to the qualifications, functions or duties of a licensee or holder of a certificate,

➔ in which case the record of conviction is conclusive evidence thereof.

(c) Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

(d) Is unfit or incompetent by reason of gross negligence or recklessness in carrying out usual nursing functions.

(e) Uses any controlled substance, dangerous drug as defined in chapter 454 of NRS, or intoxicating liquor to an extent or in a manner which is dangerous or injurious to any other person or which impairs his or her ability to conduct the practice authorized by the license or certificate.

(f) Is a person with mental incompetence.

(g) Is guilty of unprofessional conduct, which includes, but is not limited to, the following:

(1) Conviction of practicing medicine without a license in violation of chapter 630 of NRS, in which case the record of conviction is conclusive evidence thereof.

(2) Impersonating any applicant or acting as proxy for an applicant in any examination required pursuant to this chapter for the issuance of a license or certificate.

(3) Impersonating another licensed practitioner or holder of a certificate.

(4) Permitting or allowing another person to use his or her license or certificate to practice as a licensed practical nurse, registered nurse, nursing assistant or medication aide - certified.

(5) Repeated malpractice, which may be evidenced by claims of malpractice settled against the licensee or certificate holder.

(6) Physical, verbal or psychological abuse of a patient.

(7) Conviction for the use or unlawful possession of a controlled substance or dangerous drug as defined in chapter 454 of NRS.

(h) Has willfully or repeatedly violated the provisions of this chapter. The voluntary surrender of a license or certificate issued pursuant to this chapter is prima facie evidence that the licensee or certificate holder has committed or expects to commit a violation of this chapter.

(i) Is guilty of aiding or abetting any person in a violation of this chapter.

(j) Has falsified an entry on a patient's medical chart concerning a controlled substance.

(k) Has falsified information which was given to a physician, pharmacist, podiatric physician or dentist to obtain a controlled substance.

(l) Has knowingly procured or administered a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:

(1) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(2) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328;

(3) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS; or

(4) Is an investigational drug or biological product prescribed to a patient pursuant to NRS 630.3735 or 633.6945.

(m) Has been disciplined in another state in connection with a license to practice nursing or a certificate to practice as a nursing assistant or medication aide - certified, or has committed an act in another state which would constitute a violation of this chapter.

(n) Has engaged in conduct likely to deceive, defraud or endanger a patient or the general public.

(o) Has willfully failed to comply with a regulation, subpoena or order of the Board.

(p) Has operated a medical facility at any time during which:

(1) The license of the facility was suspended or revoked; or

(2) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160.

➤ This paragraph applies to an owner or other principal responsible for the operation of the facility.

(q) Is an advanced practice registered nurse who has failed to obtain any training required by the Board pursuant to NRS 632.2375.

(r) Is an advanced practice registered nurse who has failed to comply with the provisions of NRS 453.163 , ~~453.164~~ ~~453.164~~ , **453.226 and 639.23507 and sections 52 to 58, inclusive, of this act and any regulations adopted by the State Board of Pharmacy pursuant thereto.**

(s) Has engaged in the fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV.

2. For the purposes of this section, a plea or verdict of guilty or guilty but mentally ill or a plea of nolo contendere constitutes a conviction of an offense. The Board may take disciplinary action pending the appeal of a conviction.

3. A licensee or certificate holder is not subject to disciplinary action solely for administering auto-injectable epinephrine pursuant to a valid order issued pursuant to NRS 630.374 or 633.707.

4. As used in this section, “investigational drug or biological product” has the meaning ascribed to it in NRS 454.351.

Sec. 32. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 33 and 34 of this act.

Sec. 33. 1. *The Executive Director of the Board or his or her designee shall review and evaluate any complaint or information received from the Investigation Division of the Department of Public Safety or the State Board of Pharmacy, including, without limitation, information provided pursuant to NRS 453.164, or from a law enforcement agency, professional licensing board or any other source indicating that:*

(a) A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV;

(b) A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a);
or

(c) A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule II, III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.

2. *If the Executive Director of the Board or his or her designee receives information described in subsection 1 concerning the licensee, the Executive Director or his or her designee must notify the licensee as soon as practicable after receiving the information.*

3. *A review and evaluation conducted pursuant to subsection 1 must include, without limitation:*

(a) A review of relevant information contained in the database of the program established pursuant to NRS 453.162;

(b) A requirement that the licensee who is the subject of the review and evaluation attest that he or she has complied with the requirements of NRS 639.23507 and sections 52, 53 and 57 of this act, as applicable; and

(c) A request for additional relevant information from the licensee who is the subject of the review and evaluation.

4. *If, after a review and evaluation conducted pursuant to subsection 1, the Executive Director or his or her designee determines that a licensee may have issued a fraudulent, illegal, unauthorized or otherwise*

inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board must proceed as if a written complaint had been filed against the licensee. If, after conducting an investigation and a hearing in accordance with the provisions of this chapter, the Board determines that the licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription, the Board must impose appropriate disciplinary action.

5. When deemed appropriate, the Executive Director of the Board may:

(a) Refer information acquired during a review and evaluation conducted pursuant to subsection 1 to another professional licensing board, law enforcement agency or other appropriate governmental entity for investigation and criminal or administrative proceedings.

(b) Postpone any notification, review or part of such a review required by this section if he or she determines that it is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.

6. The Board shall adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions of sections 52 to 58, inclusive, of this act and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV.

Sec. 34. 1. If the Board determines from an investigation of a licensee that the health, safety or welfare of the public or any patient served by the licensee is at risk of imminent or continued harm because of the manner in which the licensee prescribed, administered, dispensed or used a controlled substance, the Board may summarily suspend the licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pending a determination upon the conclusion of a hearing to consider a formal complaint against the licensee. An order of summary suspension may be issued only by the Board, the President of the Board, the presiding officer of the investigative committee of the Board that conducted the investigation or the member of the Board who conducted the investigation.

2. If an order to summarily suspend a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV is issued pursuant to subsection 1 by the presiding officer of an investigative committee of the Board or a member of the Board, that person shall not participate in any further proceedings of the Board relating to the order.

3. If the Board, the presiding officer of an investigative committee of the Board or a member of the Board issues an order summarily suspending

a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pursuant to subsection 1, the Board must hold a hearing to consider the formal complaint against the licensee. The Board must hold the hearing and render a decision concerning the formal complaint within 180 days after the date on which the order is issued, unless the Board and the licensee mutually agree to a longer period.

Sec. 35. NRS 633.473 is hereby amended to read as follows:

633.473 The Board ~~may,~~ **shall**, by regulation, require each osteopathic physician or physician assistant who is registered to dispense controlled substances pursuant to NRS 453.231 to complete at least ~~1 hour~~ **2 hours** of training relating specifically to the misuse and abuse of controlled substances, **the prescribing of opioids or addiction** during each period of licensure. Any licensee may use such training to satisfy ~~1 hour~~ **2 hours** of any continuing education requirement established by the Board.

Sec. 36. NRS 633.511 is hereby amended to read as follows:

633.511 1. The grounds for initiating disciplinary action pursuant to this chapter are:

(a) Unprofessional conduct.

(b) Conviction of:

(1) 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;

(2) A felony relating to the practice of osteopathic medicine or practice as a physician assistant;

(3) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(4) Murder, voluntary manslaughter or mayhem;

(5) Any felony involving the use of a firearm or other deadly weapon;

(6) Assault with intent to kill or to commit sexual assault or mayhem;

(7) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(8) Abuse or neglect of a child or contributory delinquency; or

(9) Any offense involving moral turpitude.

(c) The suspension of a license to practice osteopathic medicine or to practice as a physician assistant by any other jurisdiction.

(d) Malpractice or gross malpractice, which may be evidenced by a claim of malpractice settled against a licensee.

(e) Professional incompetence.

(f) Failure to comply with the requirements of NRS 633.527.

(g) Failure to comply with the requirements of subsection 3 of NRS 633.471.

(h) Failure to comply with the provisions of NRS 633.694.

(i) Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(1) The license of the facility is suspended or revoked; or

(2) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➡ This paragraph applies to an owner or other principal responsible for the operation of the facility.

(j) Failure to comply with the provisions of subsection 2 of NRS 633.322.

(k) Signing a blank prescription form.

(l) Knowingly or willfully procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:

(1) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(2) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328;

(3) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS; or

(4) Is an investigational drug or biological product prescribed to a patient pursuant to NRS 630.3735 or 633.6945.

(m) Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

(n) Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

(o) In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or knowingly or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

(p) Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.

(q) Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

(r) Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

(s) Failure to comply with the provisions of NRS 629.515.

(t) Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.

(u) Failure to obtain any training required by the Board pursuant to NRS 633.473.

(v) Failure to comply with the provisions of NRS 633.6955.

(w) Failure to comply with the provisions of NRS 453.163 , ~~for~~ 453.164 ~~}, 453.226 and 639.23507 and sections 52 to 58, inclusive, of this act and any regulations adopted by the State Board of Pharmacy pursuant thereto.~~

(x) Fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV.

2. As used in this section, “investigational drug or biological product” has the meaning ascribed to it in NRS 454.351.

Sec. 37. NRS 633.521 is hereby amended to read as follows:

633.521 An osteopathic physician is not subject to disciplinary action solely for:

1. Prescribing or administering to a patient under his or her care:

(a) Amygdalin (laetrile), if the patient has consented to the use of the substance.

(b) Procaine hydrochloride with preservatives and stabilizers (Gerovital H3).

(c) A controlled substance which is listed in schedule II, III, IV or V by the State Board of Pharmacy pursuant to NRS 453.146, if the controlled substance is lawfully prescribed or administered for the treatment of intractable pain in accordance with **the provisions of NRS 639.23507, sections 52 to 58, inclusive, of this act and any regulations adopted by the State Board of Pharmacy pursuant thereto and the** accepted standards for the practice of osteopathic medicine.

2. Engaging in any activity in accordance with the provisions of chapter 453A of NRS.

Sec. 38. NRS 633.541 is hereby amended to read as follows:

633.541 1. ~~When~~ **Except as otherwise provided in section 33 of this act, when** a complaint is filed with the Board, the Board shall designate a member of the Board to review the complaint.

2. If the member of the Board determines that the complaint is not frivolous, he or she shall conduct an investigation of the complaint to determine whether there is a reasonable basis for the complaint. In performing the investigation, the member of the Board may request the assistance of the Attorney General or contract with a private investigator designated by the Executive Director of the Board who is licensed pursuant to chapter 648 of NRS or any other person designated by the Executive Director of the Board.

3. If, after conducting the investigation pursuant to subsection 2, the member of the Board determines that there is a reasonable basis for the complaint and that a violation of a provision of this chapter has occurred, the member of the Board may file a formal complaint with the Board specifying the grounds for disciplinary action.

Sec. 39. Chapter 635 of NRS is hereby amended by adding thereto the provisions set forth as sections 40 and 41 of this act.

Sec. 40. 1. *The President of the Board or his or her designee shall review and evaluate any complaint or information received from the Investigation Division of the Department of Public Safety or the State Board of Pharmacy, including, without limitation, information provided pursuant to NRS 453.164, or from a law enforcement agency, professional licensing board or any other source indicating that:*

(a) A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV;

(b) A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a); or

(c) A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule II, III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.

2. *If the President of the Board or his or her designee receives information described in subsection 1 concerning the licensee, the President or his or her designee must notify the licensee as soon as practicable after receiving the information.*

3. *A review and evaluation conducted pursuant to subsection 1 must include, without limitation:*

(a) A review of relevant information contained in the database of the program established pursuant to NRS 453.162;

(b) A requirement that the licensee who is the subject of the review and evaluation attest that he or she has complied with the requirements of NRS 639.23507 and sections 52, 53 and 57 of this act, as applicable; and

(c) A request for additional relevant information from the licensee who is the subject of the review and evaluation.

4. *If, after a review and evaluation conducted pursuant to subsection 1, the President or his or her designee determines that a licensee may have issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board must proceed as if a written complaint had been filed against the licensee. If, after conducting an investigation and a hearing in accordance with the provisions of this chapter, the Board determines that the licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription, the Board must impose appropriate disciplinary action.*

5. *When deemed appropriate, the President of the Board may:*

(a) Refer information acquired during a review and evaluation conducted pursuant to subsection 1 to another professional licensing board, law enforcement agency or other appropriate governmental entity for investigation and criminal or administrative proceedings.

(b) Postpone any notification, review or part of such a review required by this section if he or she determines that it is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.

6. The Board shall adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions of sections 52 to 58, inclusive, of this act and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV.

Sec. 41. 1. If the Board determines from an investigation of a licensee that the health, safety or welfare of the public or any patient served by the licensee is at risk of imminent or continued harm because of the manner in which the licensee prescribed, administered, dispensed or used a controlled substance, the Board may summarily suspend the licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pending a determination upon the conclusion of a hearing to consider a formal complaint against the licensee. An order of summary suspension may be issued only by the Board, the President of the Board, the presiding officer of an investigative committee convened by the Board to conduct the investigation or the member of the Board who conducted the investigation.

2. If an order to summarily suspend a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV is issued pursuant to subsection 1 by the presiding officer of an investigative committee of the Board or a member of the Board, that person shall not participate in any further proceedings of the Board relating to the order.

3. If the Board, the presiding officer of an investigative committee of the Board or a member of the Board issues an order summarily suspending a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pursuant to subsection 1, the Board must hold a hearing to consider the formal complaint against the licensee. The Board must hold the hearing and render a decision concerning the formal complaint within ~~180~~ 60 days after the date on which the order is issued, unless the Board and the licensee mutually agree to a longer period.

Sec. 42. NRS 635.116 is hereby amended to read as follows:

635.116 The Board ~~may~~ **shall**, by regulation, require each holder of a license to practice podiatry who is registered to dispense controlled substances pursuant to NRS 453.231 to complete at least ~~1 hour~~ **2 hours** of training relating specifically to the misuse and abuse of controlled

substances, ***the prescribing of opioids or addiction*** during each period of licensure. Any such holder of a license may use such training to satisfy ~~1 hour~~ **2 hours** of any continuing education requirement established by the Board.

Sec. 43. NRS 635.130 is hereby amended to read as follows:

635.130 1. The Board, after notice and a hearing as required by law, and upon any cause enumerated in subsection 2, may take one or more of the following disciplinary actions:

- (a) Deny an application for a license or refuse to renew a license.
- (b) Suspend or revoke a license.
- (c) Place a licensee on probation.
- (d) Impose a fine not to exceed \$5,000.

2. The Board may take disciplinary action against a licensee for any of the following causes:

(a) The making of a false statement in any affidavit required of the applicant for application, examination or licensure pursuant to the provisions of this chapter.

(b) Lending the use of the holder's name to an unlicensed person.

(c) If the holder is a podiatric physician, permitting an unlicensed person in his or her employ to practice as a podiatry hygienist.

(d) Habitual indulgence in the use of alcohol or any controlled substance which impairs the intellect and judgment to such an extent as in the opinion of the Board incapacitates the holder in the performance of his or her professional duties.

(e) Conviction of a crime involving moral turpitude.

(f) Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

(g) Conduct which in the opinion of the Board disqualifies the licensee to practice with safety to the public.

(h) The commission of fraud by or on behalf of the licensee regarding his or her license or practice.

(i) Gross incompetency.

(j) Affliction of the licensee with any mental or physical disorder which seriously impairs his or her competence as a podiatric physician or podiatry hygienist.

(k) False representation by or on behalf of the licensee regarding his or her practice.

(l) Unethical or unprofessional conduct.

(m) Failure to comply with the requirements of subsection 1 of NRS 635.118.

(n) Willful or repeated violations of this chapter or regulations adopted by the Board.

(o) Willful violation of the regulations adopted by the State Board of Pharmacy.

(p) Knowingly procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:

(1) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(2) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or

(3) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.

(q) Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(1) The license of the facility is suspended or revoked; or

(2) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➡ This paragraph applies to an owner or other principal responsible for the operation of the facility.

(r) Failure to obtain any training required by the Board pursuant to NRS 635.116.

(s) Failure to comply with the provisions of NRS 453.163, ~~and~~ 453.164 ~~and~~ 453.226 and 639.23507 and sections 52 to 58, inclusive, of this act and any regulations adopted by the State Board of Pharmacy pursuant thereto.

(t) Fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV.

Sec. 44. Chapter 636 of NRS is hereby amended by adding thereto the provisions set forth as sections 45 and 46 of this act.

Sec. 45. 1. The Executive Director of the Board or his or her designee shall review and evaluate any complaint or information received from the Investigation Division of the Department of Public Safety or the State Board of Pharmacy, including, without limitation, information provided pursuant to NRS 453.164, or from a law enforcement agency, professional licensing board or any other source indicating that:

(a) A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV;

(b) A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a); or

(c) A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule II, III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.

2. If the Executive Director of the Board or his or her designee receives information described in subsection 1 concerning the licensee, the

Executive Director or his or her designee must notify the licensee as soon as practicable after receiving the information.

3. A review and evaluation conducted pursuant to subsection 1 must include, without limitation:

(a) A review of relevant information contained in the database of the program established pursuant to NRS 453.162;

(b) A requirement that the licensee who is the subject of the review and evaluation attest that he or she has complied with the requirements of NRS 639.23507 and sections 52, 53 and 57 of this act, as applicable; and

(c) A request for additional relevant information from the licensee who is the subject of the review and evaluation.

4. If, after a review and evaluation conducted pursuant to subsection 1, the Executive Director or his or her designee determines that a licensee may have issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board must proceed as if a written complaint had been filed against the licensee. If, after conducting an investigation and a hearing in accordance with the provisions of this chapter, the Board determines that the licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription, the Board must impose appropriate disciplinary action.

5. When deemed appropriate, the Executive Director of the Board may:

(a) Refer information acquired during a review and evaluation conducted pursuant to subsection 1 to another professional licensing board, law enforcement agency or other appropriate governmental entity for investigation and criminal or administrative proceedings.

(b) Postpone any notification, review or part of such a review required by this section if he or she determines that it is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.

6. The Board shall adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions of sections 52 to 58, inclusive, of this act and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV.

Sec. 46. 1. If the Board determines from an investigation of a licensee that the health, safety or welfare of the public or any patient served by the licensee is at risk of imminent or continued harm because of the manner in which the licensee prescribed, administered, dispensed or used a controlled substance, the Board may summarily suspend the licensee's authority to prescribe, administer or dispense a controlled

substance listed in schedule II, III or IV pending a determination upon the conclusion of a hearing to consider a formal complaint against the licensee. An order of summary suspension may be issued only by the Board, the President of the Board, the presiding officer of an investigative committee convened by the Board to conduct the investigation or the member of the Board who conducted the investigation.

2. If an order to summarily suspend a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV is issued pursuant to subsection 1 by the presiding officer of an investigative committee of the Board or a member of the Board, that person shall not participate in any further proceedings of the Board relating to the order.

3. If the Board, the presiding officer of an investigative committee of the Board or a member of the Board issues an order summarily suspending a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pursuant to subsection 1, the Board must hold a hearing to consider the formal complaint against the licensee. The Board must hold the hearing and render a decision concerning the formal complaint within ~~180~~ 60 days after the date on which the order is issued, unless the Board and the licensee mutually agree to a longer period.

Sec. 47. NRS 636.2881 is hereby amended to read as follows:

636.2881 The Board ~~may,~~ **shall**, by regulation, require each optometrist who is certified to administer and prescribe therapeutic pharmaceutical agents pursuant to NRS 636.288 and who is registered to dispense controlled substances pursuant to NRS 453.231 to complete at least ~~1 hour~~ **2 hours** of training relating specifically to the misuse and abuse of controlled substances, **the prescribing of opioids or addiction** during each period of licensure. Any licensee may use such training to satisfy ~~1 hour~~ **2 hours** of any continuing education requirement established by the Board.

Sec. 48. NRS 636.295 is hereby amended to read as follows:

636.295 The following acts, conduct, omissions, or mental or physical conditions, or any of them, committed, engaged in, omitted, or being suffered by a licensee, constitute sufficient cause for disciplinary action:

1. Affliction of the licensee with any communicable disease likely to be communicated to other persons.

2. Commission by the licensee of a felony relating to the practice of optometry or a gross misdemeanor involving moral turpitude of which the licensee has been convicted and from which he or she has been sentenced by a final judgment of a federal or state court in this or any other state, the judgment not having been reversed or vacated by a competent appellate court and the offense not having been pardoned by executive authority.

3. Conviction of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

4. Commission of fraud by or on behalf of the licensee in obtaining a license or a renewal thereof, or in practicing optometry thereunder.

5. Habitual drunkenness or addiction to any controlled substance.

6. Gross incompetency.

7. Affliction with any mental or physical disorder or disturbance seriously impairing his or her competency as an optometrist.

8. Making false or misleading representations, by or on behalf of the licensee, with respect to optometric materials or services.

9. Practice by the licensee, or attempting or offering so to do, while in an intoxicated condition.

10. Perpetration of unethical or unprofessional conduct in the practice of optometry.

11. Knowingly procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:

(a) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(b) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or

(c) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.

12. Any violation of the provisions of this chapter or any regulations adopted pursuant thereto.

13. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➔ This subsection applies to an owner or other principal responsible for the operation of the facility.

14. Failure to obtain any training required by the Board pursuant to NRS 636.2881.

15. Failure to comply with the provisions of NRS 453.163, ~~for~~ 453.164 ~~[-]~~, 453.226 and 639.23507 and sections 52 to 58, inclusive, of this act and any regulations adopted by the State Board of Pharmacy pursuant thereto.

16. Fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV.

Sec. 49. NRS 636.315 is hereby amended to read as follows:

636.315 1. ~~As~~ **Except as otherwise provided in section 45 of this act,** as soon as practicable after the filing of a complaint, the Board shall notify the licensee against whom the complaint is filed and fix a date for its review of the complaint. If the Board receives a report pursuant to subsection 5 of

NRS 228.420, a hearing must be held within 30 days after receiving the report. The licensee must be allowed a reasonable amount of time to respond to the allegations of the complaint. The Executive Director shall notify the licensee of the time, date and place fixed for the Board's review of the complaint.

2. After reviewing the complaint, the Board shall dismiss the complaint or file a formal charge against the licensee. If a formal charge is filed, the Executive Director shall prepare the charge in accordance with the Board's regulations and send a copy to the licensee. The licensee must be allowed a reasonable amount of time to file a response to the charge.

3. Within a reasonable time after the Executive Director sends a copy of the charge to the licensee, the Board shall fix the time, date and place for a hearing and the Executive Director shall notify the licensee thereof.

4. The Board shall retain all complaints received by the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

Sec. 50. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections 51 to 58, inclusive, of this act.

Sec. 51. *"Initial prescription" means a prescription originated for a new patient of a practitioner, other than a veterinarian, or a new prescription to begin a new course of treatment for an existing patient of a practitioner ~~or~~ other than a veterinarian. The term does not include any act concerning an ongoing prescription that is issued by a practitioner to continue a course of treatment for a new or existing patient of the practitioner.*

Sec. 52. 1. *If a practitioner, other than a veterinarian, prescribes or dispenses to a patient for the treatment of pain a quantity of controlled substance that exceeds the amount prescribed by this subsection, the practitioner must document in the medical record of the patient the reasons for prescribing that quantity. A practitioner shall document the information required by this subsection if the practitioner prescribes for or dispenses for the treatment of pain:*

(a) In any period of 365 consecutive days, a larger quantity of a controlled substance listed in schedule II, III or IV than will be used in 365 days if the patient adheres to the dose prescribed; or

(b) At any one time, a larger quantity of a controlled substance listed in schedule II, III or IV than will be used in 90 days if the patient adheres to the dose prescribed.

2. *A practitioner, other than a veterinarian, shall not issue an initial prescription of a controlled substance listed in schedule II, III or IV for the treatment of acute pain that prescribes:*

(a) An amount of the controlled substance that is intended to be used for more than 14 days; and

(b) If the controlled substance is an opioid and a prescription for an opioid has never been issued to the patient or the most recent prescription

issued to the patient for an opioid was issued more than 19 days before the date of the initial prescription for the treatment of acute pain, a dose of the controlled substance that exceeds 90 morphine milligram equivalents per day. For the purposes of this paragraph, the daily dose of a controlled substance must be calculated in accordance with the most recent guidelines prescribed by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

Sec. 53. 1. Before issuing an initial prescription for a controlled substance listed in schedule II, III or IV for the treatment of pain, a practitioner, other than a veterinarian, must:

(a) Have established a bona fide relationship, as described in subsection 4 of NRS 639.235, with the patient;

(b) Perform an evaluation and risk assessment of the patient that meets the requirements of subsection 1 of section 54 of this act;

(c) Establish a preliminary diagnosis of the patient and a treatment plan tailored toward treating the pain of the patient and the cause of that pain;

(d) Document in the medical record of the patient the reasons for prescribing the controlled substance instead of an alternative treatment that does not require the use of a controlled substance; and

(e) Obtain informed written consent to the use of the controlled substance that meets the requirements of subsection 2 of section 54 of this act from:

(1) The patient, if the patient is 18 years of age or older or legally emancipated and competent to give such consent;

(2) The parent or guardian of a patient who is less than 18 years of age and not legally emancipated; or

(3) The legal guardian of a patient of any age who has been adjudicated mentally incompetent.

2. If a practitioner, other than a veterinarian, prescribes a controlled substance listed in schedule II, III or IV for the treatment of pain, the practitioner shall not issue more than one additional prescription that increases the dose of the controlled substance unless the practitioner meets with the patient, in person or using telehealth, to reevaluate the treatment plan established pursuant to paragraph (c) of subsection 1.

Sec. 54. 1. An evaluation and risk assessment of a patient conducted pursuant to paragraph (b) of subsection 1 of section 53 of this act must include, without limitation:

(a) Obtaining and reviewing a medical history of the patient.

(b) Conducting a physical examination of the patient.

(c) Making a good faith effort to obtain and review the medical records of the patient from any other provider of health care who has provided care to the patient. The practitioner shall document efforts to obtain such medical records and the conclusions from reviewing any such medical records in the medical record of the patient.

(d) Assessing the mental health and risk of abuse, dependency and addiction of the patient using methods supported by peer-reviewed scientific research and validated by a nationally recognized organization.

2. The informed written consent obtained pursuant to paragraph (e) of subsection 1 of section 53 of this act must include, without limitation, information concerning:

(a) The potential risks and benefits of treatment using the controlled substance, including if a form of the controlled substance that is designed to deter abuse is available, the risks and benefits of using that form;

(b) Proper use of the controlled substance;

(c) Any alternative means of treating the symptoms of the patient and the cause of such symptoms;

(d) The important provisions of the treatment plan established for the patient pursuant to paragraph (c) of subsection 1 of section 53 of this act in a clear and simple manner;

(e) The risks of dependency, addiction and overdose during treatment using the controlled substance;

(f) Methods to safely store and legally dispose of the controlled substance;

(g) The manner in which the practitioner will address requests for refills of the prescription, including, without limitation, an explanation of the provisions of section 55 of this act, if applicable;

(h) If the patient is a woman between 15 and 45 years of age, the risk to a fetus of chronic exposure to controlled substances during pregnancy, including, without limitation, the risks of fetal dependency on the controlled substance and neonatal abstinence syndrome;

(i) If the controlled substance is an opioid, the availability of an opioid antagonist, as defined in NRS 453C.040, without a prescription; and

(j) If the patient is an unemancipated minor, the risks that the minor will abuse or misuse the controlled substance or divert the controlled substance for use by another person and ways to detect such abuse, misuse or diversion.

Sec. 55. 1. Before prescribing a controlled substance listed in schedule II, III or IV to continue the treatment of pain of a patient who has used the controlled substance for 90 consecutive days or more, a practitioner, other than a veterinarian, must:

(a) Require the patient to complete an assessment of the patient's risk for abuse, dependency and addiction that has been validated through peer-reviewed scientific research;

(b) Conduct an investigation, including, without limitation, appropriate hematological and radiological studies, to determine an evidence-based diagnosis for the cause of the pain;

(c) Meet with the patient, in person or using telehealth, to review the treatment plan established pursuant to paragraph (c) of subsection 1 of

section 53 of this act to determine whether continuation of treatment using the controlled substance is medically appropriate; and

(d) If the patient has been prescribed a dose of 90 morphine milligram equivalents or more of an opioid per day for 90 days or longer, consider referring the patient to a specialist.

2. If, after conducting a review of the treatment plan and considering referral of the patient to a specialist pursuant to paragraphs (c) and (d) of subsection 1, the practitioner decides to continue to prescribe a dose of 90 morphine milligram equivalents or more of the opioid per day, the practitioner must develop and document in the medical record of the patient a revised treatment plan, which must include, without limitation, an assessment of the increased risk for adverse outcomes.

3. For the purposes of this section, the daily dose of a controlled substance must be calculated in accordance with the most recent guidelines prescribed by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

Sec. 56. 1. If a practitioner, other than a veterinarian, intends to prescribe a controlled substance listed in schedule II, III or IV for more than 30 days for the treatment of pain, the practitioner must, not later than 30 days after issuing the initial prescription, enter into a prescription medication agreement with the patient, which must be:

(a) Documented in the record of the patient; and

(b) Updated at least once every 365 days while the patient is using the controlled substance or whenever a change is made to the treatment plan established pursuant to paragraph (c) of subsection 1 of section 53 of this act.

2. A prescription medication agreement entered into pursuant to subsection 1 must include, without limitation:

(a) The goals of the treatment of the patient;

(b) Consent of the patient to testing to monitor drug use when deemed medically necessary by the practitioner;

(c) A requirement that the patient take the controlled substance only as prescribed;

(d) A prohibition on sharing medication with any other person;

(e) A requirement that the patient inform the practitioner:

(1) Of any other controlled substances prescribed to or taken by the patient;

(2) Whether the patient drinks alcohol or uses marijuana or any other cannabinoid compound while using the controlled substance;

(3) Whether the patient has been treated for side effects or complications relating to the use of the controlled substance, including, without limitation, whether the patient has experienced an overdose; and

(4) Each state in which the patient has previously resided or had a prescription for a controlled substance filled;

(f) Authorization for the practitioner to conduct random counts of the amount of the controlled substance in the possession of the patient;

(g) The reasons the practitioner may change or discontinue treatment of the patient using the controlled substance; and

(h) Any other requirements that the practitioner may impose.

Sec. 57. Before prescribing a controlled substance listed in schedule II, III or IV, a practitioner other than a veterinarian, must consider the following factors, when applicable:

1. Whether there is reason to believe that the patient is not using the controlled substance as prescribed or is diverting the controlled substance for use by another person.

2. Whether the controlled substance has had the expected effect on the symptoms of the patient.

3. Whether there is reason to believe that the patient is using other drugs, including, without limitation, alcohol, controlled substances listed in schedule I or prescription drugs, that:

(a) May interact negatively with the controlled substance prescribed by the practitioner; or

(b) Have not been prescribed by a practitioner who is treating the patient.

4. The number of attempts by the patient to obtain an early refill of the prescription.

5. The number of times the patient has claimed that the controlled substance has been lost or stolen.

6. Information from the database of the program established pursuant to NRS 453.162 that is irregular or inconsistent or indicates that the patient is inappropriately using a controlled substance.

7. Whether previous blood or urine tests have indicated inappropriate use of controlled substances by the patient.

8. The necessity of verifying that controlled substances, other than those authorized under the treatment plan established pursuant to paragraph (c) of subsection 1 of section 53 of this act, are not present in the body of the patient.

9. Whether the patient has demonstrated aberrant behavior or intoxication.

10. Whether the patient has increased his or her dose of the controlled substance without authorization from the practitioner.

11. Whether the patient has been reluctant to stop using the controlled substance or has requested or demanded a controlled substance that is likely to be abused or cause dependency or addiction.

12. Whether the patient has been reluctant to cooperate with any examination, analysis or test recommended by the practitioner.

13. Whether the patient has a history of substance abuse.

14. Any major change in the health of the patient, including, without limitation, pregnancy, or any diagnosis concerning the mental health of

the patient that would affect the medical appropriateness of prescribing the controlled substance for the patient.

15. *Any other evidence that the patient is chronically using opioids, misusing, abusing, illegally using or addicted to any drug or failing to comply with the instructions of the practitioner concerning the use of the controlled substance.*

16. *Any other factor that the practitioner determines is necessary to make an informed professional judgment concerning the medical appropriateness of the prescription.*

Sec. 58. 1. *The Board may adopt any regulations necessary or convenient to enforce the provisions of NRS 639.23507 and sections 52 to 58, inclusive, of this act. Such regulations may impose additional requirements concerning the prescription of a controlled substance listed in schedule II, III or IV by a practitioner, other than a veterinarian, for the treatment of pain.*

2. *A practitioner who violates any provision of NRS 639.23507 and sections 52 to 58, inclusive, of this act or any regulations adopted pursuant thereto is:*

(a) Not guilty of a misdemeanor; and

(b) Subject to professional discipline.

Sec. 59. NRS 639.001 is hereby amended to read as follows:

639.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 639.0015 to 639.016, inclusive, *and section 51 of this act* have the meanings ascribed to them in those sections.

Sec. 60. NRS 639.23507 is hereby amended to read as follows:

639.23507 1. A practitioner *, other than a veterinarian,* shall, before ~~initiating a~~ *issuing an initial* prescription for a controlled substance listed in schedule II, III or IV ~~[-]~~ *and at least once every 90 days thereafter for the duration of the ~~[-]~~ course of treatment using the controlled substance,* obtain a patient utilization report regarding the patient from the computerized program established by the Board and the Investigation Division of the Department of Public Safety pursuant to NRS 453.162 . ~~[-]~~

~~—(a) The patient is a new patient of the practitioner; or~~

~~—(b) The prescription is for more than 7 days and is part of a new course of treatment for the patient.~~

~~↪} The practitioner shall ~~[-]~~ review } :~~

(a) Review the patient utilization report to assess whether the prescription for the controlled substance is medically necessary ~~[-]~~ ; *and*

(b) Determine whether the patient has been issued another prescription for the same controlled substance that provides for ongoing treatment using the controlled substance. If the practitioner determines from the patient utilization report or from any other source that the patient has been issued such a prescription, the practitioner shall not prescribe the controlled substance.

2. If a practitioner who attempts to obtain a patient utilization report as required by subsection 1 fails to do so because the computerized program is unresponsive or otherwise unavailable, the practitioner:

(a) Shall be deemed to have complied with subsection 1 if the practitioner documents the attempt and failure in the medical record of the patient.

(b) Is not liable for the failure.

3. The Board shall adopt regulations to provide alternative methods of compliance with subsection 1 for a physician while he or she is providing service in a hospital emergency department. The regulations must include, without limitation, provisions that allow a hospital to designate members of hospital staff to act as delegates for the purposes of accessing the database of the computerized program and obtaining patient utilization reports from the computerized program on behalf of such a physician.

~~4. A practitioner who violates subsection 1:~~

~~(a) Is not guilty of a misdemeanor.~~

~~(b) May be subject to professional discipline if the appropriate professional licensing board determines that the practitioner's violation was intentional.~~

~~5. As used in this section, "initiating a prescription" means originating a new prescription for a new patient of a practitioner or originating a new prescription to begin a new course of treatment for an existing patient of a practitioner. The term does not include any act concerning an ongoing prescription that is written to continue a course of treatment for an existing patient of a practitioner.~~

Sec. 61. NRS 639.2353 is hereby amended to read as follows:

639.2353 Except as otherwise provided in a regulation adopted pursuant to NRS 453.385 or 639.2357:

1. A prescription must be given:

(a) Directly from the practitioner to a pharmacist;

(b) Indirectly by means of an order signed by the practitioner;

(c) By an oral order transmitted by an agent of the practitioner; or

(d) Except as otherwise provided in subsection 5, by electronic transmission or transmission by a facsimile machine, including, without limitation, transmissions made from a facsimile machine to another facsimile machine, a computer equipped with a facsimile modem to a facsimile machine or a computer to another computer, pursuant to the regulations of the Board.

2. A written prescription must contain:

(a) Except as otherwise provided in this section, the name and signature of the practitioner, **the registration number issued to the practitioner by the Drug Enforcement Administration** and the address of the practitioner if **that address is** not immediately available to the pharmacist;

(b) The classification of his or her license;

(c) The name **and date of birth** of the patient, and the address of the patient if not immediately available to the pharmacist;

(d) The name, strength and quantity of the drug prescribed ~~{} and the number of days that the drug is to be used, beginning on the day on which the prescription is filled;~~

(e) The symptom or purpose for which the drug is prescribed, if included by the practitioner pursuant to NRS 639.2352;

(f) Directions for use ~~{} , including, without limitation, the dose of the drug prescribed, the route of administration and the number of refills authorized, if applicable;~~

(g) The code established in the *International Classification of Diseases, Tenth Revision, Clinical Modification*, adopted by the National Center for Health Statistics and the Centers for Medicare and Medicaid Services, or the code used in any successor classification system adopted by the National Center for Health Statistics and the Centers for Medicare and Medicaid Services, that corresponds to the diagnosis for which the controlled substance was prescribed; and

~~{} (h)~~ The date of issue.

3. The directions for use must be specific in that they indicate the portion of the body to which the medication is to be applied or, if to be taken into the body by means other than orally, the orifice or canal of the body into which the medication is to be inserted or injected.

4. Each written prescription must be written in such a manner that any registered pharmacist would be able to dispense it. A prescription must be written in Latin or English and may include any character, figure, cipher or abbreviation which is generally used by pharmacists and practitioners in the writing of prescriptions.

5. A prescription for a controlled substance must not be given by electronic transmission or transmission by a facsimile machine unless authorized by federal law and NRS 439.581 to 439.595, inclusive, and the regulations adopted pursuant thereto.

6. A prescription that is given by electronic transmission is not required to contain the signature of the practitioner if:

(a) It contains a facsimile signature, security code or other mark that uniquely identifies the practitioner;

(b) A voice recognition system, biometric identification technique or other security system approved by the Board is used to identify the practitioner; or

(c) It complies with the provisions of NRS 439.581 to 439.595, inclusive, and the regulations adopted pursuant thereto.

Sec. 62. NRS 639.239 is hereby amended to read as follows:

639.239 **1.** Members, inspectors and investigators of the Board, ***authorized representatives and investigators of state licensing boards established by this chapter or chapter 630, 631, 632, 633, 635 or 636 of NRS,*** inspectors of the Food and Drug Administration, agents of the Investigation Division of the Department of Public Safety and peace officers described in paragraph (j) of subsection 1 of NRS 639.238 may ~~remove~~ :

(a) Request, and a practitioner or pharmacist who receives such a request shall provide, a photocopy of any record required to be retained by state or federal law or regulation, including any prescription contained in the files of a practitioner ~~{1}~~ **or pharmacy**, if the record in question will be used as evidence in a criminal action, civil action or an administrative proceeding, or contemplated action or proceeding.

(b) Remove an original record required to be retained by state or federal law or regulation, including any prescription contained in the files of a practitioner or pharmacy, if the record in question will be used as evidence in a criminal action, a civil action or an administrative proceeding, or contemplated action or proceeding and it is necessary to use the original record, rather than a photocopy of the record, for that purpose.

2. The person who removes ~~{a}~~ **an original** record pursuant to ~~this section~~ **paragraph (b) of subsection 1** shall:

~~{1-}~~ **(a)** Affix the name and address of the practitioner **or pharmacist** to the back of the record;

~~{2-}~~ **(b)** Affix his or her initials, cause an agent of the practitioner **or pharmacist** to affix his or her initials and note the date of the removal of the record on the back of the record;

~~{3-}~~ **(c)** Affix **to the back of the record his or her name and title and** the name **and address** of the agency for which the person is removing the record ~~{to the back of the record;~~

~~—4-} ; and~~

(d) Provide the practitioner **or pharmacist** with a ~~{receipt for}~~ **a photocopy of both sides of** the record ~~{; and~~

~~—5. Return a photostatic copy of both sides of the record to the practitioner within 15 working days after the record is removed.} , or allow the practitioner or pharmacist to make such a photocopy, before removing the original record.~~

Sec. 63. NRS 639.310 is hereby amended to read as follows:

639.310 Except as otherwise provided in ~~{NRS 639.23507,}~~ **section 58 of this act**, unless a greater penalty is specified, any person who violates any of the provisions of this chapter is guilty of a misdemeanor.

Sec. 64. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act and on January 1, 2018, for all other purposes.

Assemblyman Sprinkle moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 478.

Bill read second time.

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

Amendment No. 520.

SUMMARY—~~[Changes the deadline by which a person may register to vote by mail for certain]~~ **Revises provisions relating to** elections. (BDR 24-463)

AN ACT relating to elections; changing the deadline by which a person may register to vote **by mail or computer** for a primary election, primary city election, general city election or general election; **providing that the county and city clerks are not required to distribute sample ballots for an election to certain persons**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing federal law requires that each state ensure that an eligible voter who submits an application to register to vote by mail be registered to vote in an election for federal office if the voter registration form is postmarked not later than 30 days before the date of the election. (52 U.S.C. § 20507) Under existing Nevada law, an application to register to vote by mail must be postmarked or received by the county clerk not later than the fifth Saturday before a primary election, primary city election, general election or general city election. (NRS 293.5235, 293.560, 293C.527) This bill changes the deadline to register to vote by mail for these elections.

Sections 5 and 6 of this bill provide the last day to register to vote by mail is the ~~[fifth Monday]~~ **fourth Tuesday** preceding the primary election, primary city election, general election or general city election. ~~[, as applicable, unless the United States Postal Service does not provide delivery service on such day. In that case, the last day to register to vote by mail is the first day following the fifth Monday preceding the primary election, primary city election, general election or general city election on which the United States Postal Service provides delivery service. This means that an application to register to vote by mail must be postmarked or received by the county clerk not later than: (1) the fifth Monday preceding the election; or (2) if the United States Postal Service does not provide delivery service on such day, the first day following the fifth Monday preceding the election on which the United States Postal Service has delivery service.]~~ **Sections [1-4] 1.5-4** of this bill make conforming changes.

Existing law provides that the last day to register to vote by computer is the third Tuesday preceding any primary or general election. (NRS 293.560, 293C.527) Sections 5 and 6 of this bill provide, with limited exception, that the last day to register to vote by computer is the Thursday before the period for early voting begins.

Existing law requires county and city clerks to distribute sample ballots before the period for early voting begins. (NRS 293.565, 293C.530) Sections 5.5 and 6.5 of this bill provide a limited exception to this requirement so that the clerks are not required to distribute sample ballots for an election to persons who register to vote less than 20 days before the election. Section 1 of this bill makes a conforming change.

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

Section 1. NRS 293.2546 is hereby amended to read as follows:

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

1. To receive and cast a ballot that:
 - (a) Is written in a format that allows the clear identification of candidates;
and
 - (b) Accurately records the voter's preference in the selection of candidates.
2. To have questions concerning voting procedures answered and to have an explanation of the procedures for voting posted in a conspicuous place at the polling place.
3. To vote without being intimidated, threatened or coerced.
4. To vote on election day if the voter is waiting in line at his or her polling place to vote before 7 p.m. and the voter has not already cast a vote in that election.
5. To return a spoiled ballot and is entitled to receive another ballot in its place.
6. To request assistance in voting, if necessary.
7. To a sample ballot which is accurate, informative and delivered in a timely manner ~~(-)~~ **as provided by law.**
8. To receive instruction in the use of the equipment for voting during early voting or on election day.
9. To have nondiscriminatory equal access to the elections system, including, without limitation, a voter who is elderly, disabled, a member of a minority group, employed by the military or a citizen who is overseas.
10. To have a uniform, statewide standard for counting and recounting all votes accurately.
11. To have complaints about elections and election contests resolved fairly, accurately and efficiently.

~~{Section 1.}~~ **Sec. 1.5.** NRS 293.504 is hereby amended to read as follows:

293.504 1. The following offices shall serve as voter registration agencies:

- (a) Such offices that provide public assistance as are designated by the Secretary of State;
- (b) Each office that receives money from the State of Nevada to provide services to persons with disabilities in this State;
- (c) The offices of the Department of Motor Vehicles;
- (d) The offices of the city and county clerks;
- (e) Such other county and municipal facilities as a county clerk or city clerk may designate pursuant to NRS 293.5035 or 293C.520, as applicable;
- (f) Recruitment offices of the United States Armed Forces; and
- (g) Such other offices as the Secretary of State deems appropriate.

2. Each voter registration agency shall:

(a) Post in a conspicuous place, in at least 12-point type, instructions for registering to vote;

(b) Except as otherwise provided in subsection 3, distribute applications to register to vote which may be returned by mail with any application for services or

assistance from the agency or submitted for any other purpose and with each application for recertification, renewal or change of address submitted to the agency that relates to such services, assistance or other purpose;

(c) Provide the same amount of assistance to an applicant in completing an application to register to vote as the agency provides to a person completing any other forms for the agency; and

(d) Accept completed applications to register to vote.

3. A voter registration agency is not required to provide an application to register to vote pursuant to paragraph (b) of subsection 2 to a person who applies for or receives services or assistance from the agency or submits an application for any other purpose if the person declines to register to vote and submits to the agency a written form that meets the requirements of 42 U.S.C. § 1973gg-5(a)(6). No information related to the declination to register to vote may be used for any purpose other than voter registration.

4. Except as otherwise provided in this subsection and NRS 293.524, any application to register to vote accepted by a voter registration agency must be transmitted to the county clerk not later than 10 days after the application is accepted. The applications must be forwarded daily during the 2 weeks immediately preceding the ~~[fifth Sunday preceding an election]~~ **last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable.** The county clerk shall accept any application to register to vote which is obtained from a voter registration agency pursuant to this section and completed by the ~~[fifth Sunday preceding an election]~~ **last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable,** if the county clerk receives the application not later than 5 days after that date.

5. The Secretary of State shall cooperate with the Secretary of Defense to develop and carry out procedures to enable persons in this State to apply to register to vote at recruitment offices of the United States Armed Forces.

Sec. 2. NRS 293.505 is hereby amended to read as follows:

293.505 1. All justices of the peace, except those located in county seats, are ex officio field registrars to carry out the provisions of this chapter.

2. The county clerk shall appoint at least one registered voter to serve as a field registrar of voters who, except as otherwise provided in NRS 293.5055, shall register voters within the county for which the field registrar is appointed. Except as otherwise provided in subsection 1, a candidate for any office may not be appointed or serve as a field registrar. A field registrar serves at the pleasure of the county clerk and shall perform such duties as the county clerk may direct. The county clerk shall not knowingly appoint any person as a field registrar who has been convicted of a felony involving theft

or fraud. The Secretary of State may bring an action against a county clerk to collect a civil penalty of not more than \$5,000 for each person who is appointed as a field registrar in violation of this subsection. Any civil penalty collected pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.

3. A field registrar shall demand of any person who applies for registration all information required by the application to register to vote and shall administer all oaths required by this chapter.

4. When a field registrar has in his or her possession five or more completed applications to register to vote, the field registrar shall forward them to the county clerk, but in no case may the field registrar hold any number of them for more than 10 days.

5. Each field registrar shall forward to the county clerk all completed applications in his or her possession immediately after the ~~the fifth Sunday preceding an election.~~ **last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable.** Within 5 days after the ~~the fifth Sunday preceding any general election or general city election.~~ **last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable,** a field registrar shall return all unused applications in his or her possession to the county clerk. If all of the unused applications are not returned to the county clerk, the field registrar shall account for the unreturned applications.

6. Each field registrar shall submit to the county clerk a list of the serial numbers of the completed applications to register to vote and the names of the electors on those applications. The serial numbers must be listed in numerical order.

7. Each field registrar shall post notices sent to him or her by the county clerk for posting in accordance with the election laws of this State.

8. A field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

- (a) Delegate any of his or her duties to another person; or
- (b) Refuse to register a person on account of that person's political party affiliation.

9. A person shall not hold himself or herself out to be or attempt to exercise the duties of a field registrar unless the person has been so appointed.

10. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

- (a) Solicit a vote for or against a particular question or candidate;
- (b) Speak to a voter on the subject of marking his or her ballot for or against a particular question or candidate; or
- (c) Distribute any petition or other material concerning a candidate or question which will be on the ballot for the ensuing election,
➡ while registering an elector.

11. When the county clerk receives applications to register to vote from a field registrar, the county clerk shall issue a receipt to the field registrar. The receipt must include:

- (a) The number of persons registered; and
- (b) The political party of the persons registered.

12. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

- (a) Knowingly register a person who is not a qualified elector or a person who has filed a false or misleading application to register to vote; or
- (b) Register a person who fails to provide satisfactory proof of identification and the address at which the person actually resides.

13. A county clerk, field registrar, employee of a voter registration agency, person assisting a voter pursuant to subsection 13 of NRS 293.5235 or any other person providing a form for the application to register to vote to an elector for the purpose of registering to vote:

- (a) If the person who assists an elector with completing the form for the application to register to vote retains the form, shall enter his or her name on the duplicate copy or receipt retained by the voter upon completion of the form; and
- (b) Shall not alter, deface or destroy an application to register to vote that has been signed by an elector except to correct information contained in the application after receiving notice from the elector that a change in or addition to the information is required.

14. If a field registrar violates any of the provisions of this section, the county clerk shall immediately suspend the field registrar and notify the district attorney of the county in which the violation occurred.

15. A person who violates any of the provisions of subsection 8, 9, 10, 12 or 13 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 3. NRS 293.5237 is hereby amended to read as follows:

293.5237 Any time before the ~~[fifth Sunday preceding an election,] last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable~~, a person who because of illness, disability or for other good cause shown requires assistance to complete an application to register to vote may request the county clerk in writing or by telephone to register the person at the person's residence. Upon request, the county clerk shall direct the appropriate field registrar to go to the home of such a person to register the person to vote.

Sec. 4. NRS 293.524 is hereby amended to read as follows:

293.524 1. The Department of Motor Vehicles shall provide an application to register to vote to each person who applies for the issuance or renewal of any type of driver's license or identification card issued by the Department.

2. The county clerk shall use the applications to register to vote which are signed and completed pursuant to subsection 1 to register applicants to vote or to correct information in the registrar of voters' register. An application that is not signed must not be used to register or correct the registration of the applicant.

3. For the purposes of this section, each employee specifically authorized to do so by the Director of the Department may oversee the completion of an application. The authorized employee shall check the application for completeness and verify the information required by the application. Each application must include a duplicate copy or receipt to be retained by the applicant upon completion of the form. The Department shall, except as otherwise provided in this subsection, forward each application on a weekly basis to the county clerk or, if applicable, to the registrar of voters of the county in which the applicant resides. The applications must be forwarded daily during the 2 weeks immediately preceding the ~~fifth Sunday preceding an election.~~ **last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable.**

4. The county clerk shall accept any application to register to vote which is obtained from the Department of Motor Vehicles pursuant to this section and completed by the ~~fifth Sunday preceding an election.~~ **last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable,** if the county clerk receives the application not later than 5 days after that date. Upon receipt of an application, the county clerk or field registrar of voters shall determine whether the application is complete. If the county clerk or field registrar of voters determines that the application is complete, he or she shall notify the applicant and the applicant shall be deemed to be registered as of the date of the submission of the application. If the county clerk or field registrar of voters determines that the application is not complete, he or she shall notify the applicant of the additional information required. The applicant shall be deemed to be registered as of the date of the initial submission of the application if the additional information is provided within 15 days after the notice for the additional information is mailed. If the applicant has not provided the additional information within 15 days after the notice for the additional information is mailed, the incomplete application is void. Any notification required by this subsection must be given by mail at the mailing address on the application not more than 7 working days after the determination is made concerning whether the application is complete.

5. The county clerk shall use any form submitted to the Department to correct information on a driver's license or identification card to correct information in the registrar of voters' register, unless the person indicates on the form that the correction is not to be used for the purposes of voter registration. The Department shall forward each such form to the county clerk or, if applicable, to the registrar of voters of the county in which the person resides in the same manner provided by subsection 3 for applications to register to vote.

6. Upon receipt of a form to correct information, the county clerk shall compare the information to that contained in the registrar of voters' register. If the person is a registered voter, the county clerk shall correct the information to reflect any changes indicated on the form. After making any changes, the county clerk shall notify the person by mail that the records have been corrected.

7. The Secretary of State shall, with the approval of the Director, adopt regulations to:

(a) Establish any procedure necessary to provide an elector who applies to register to vote pursuant to this section the opportunity to do so;

(b) Prescribe the contents of any forms or applications which the Department is required to distribute pursuant to this section; and

(c) Provide for the transfer of the completed applications of registration from the Department to the appropriate county clerk for inclusion in the rosters and registrar of voters' register.

Sec. 5. NRS 293.560 is hereby amended to read as follows:

293.560 1. Except as otherwise provided in NRS 293.502, 293D.230 and 293D.300 ~~[registration must close on]~~ :

(a) For a primary or general election, or a recall or special election that is held on the same day as a primary or general election, the last day to register to vote:

(1) By mail is the fourth Tuesday preceding the primary or general election.

(2) By appearing in person at the office of the county clerk or, if open, a county facility designated pursuant to NRS 293.5035, is the third Tuesday preceding ~~[any]~~ **the** primary or general election ~~[and on]~~

(3) By computer, if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register voters, is the Thursday preceding the first day of the period for early voting.

(b) If a recall or special election is not held on the same day as a primary or general election, the last day to register to vote for the recall or special election by any means is the third Saturday preceding ~~[any]~~ **the** recall or special election ~~[, except that if a recall or special election is held on the same day as a primary or general election, registration must close on the third Tuesday preceding the day of the elections.]~~

2. For a primary or special election, the office of the county clerk must be open until 7 p.m. during the last 2 days on which ~~[registration is open.]~~ **a person may register to vote in person.** In a county whose population is less than 100,000, the office of the county clerk may close at 5 p.m. during the last 2 days ~~[before registration closes]~~ **a person may register to vote in person** if approved by the board of county commissioners.

3. For a general election:

(a) In a county whose population is less than 100,000, the office of the county clerk must be open until 7 p.m. during the last 2 days on which ~~[registration is open.]~~ **a person may register to vote in person.** The office of

the county clerk may close at 5 p.m. if approved by the board of county commissioners.

(b) In a county whose population is 100,000 or more, the office of the county clerk must be open during the last 4 days on which ~~registration is open,~~ **a person may register to vote in person,** according to the following schedule:

- (1) On weekdays until 9 p.m.; and
- (2) A minimum of 8 hours on Saturdays, Sundays and legal holidays.

4. Except for a special election held pursuant to chapter 306 or 350 of NRS:

(a) The county clerk of each county shall cause a notice signed by him or her to be published in a newspaper having a general circulation in the county indicating:

- (1) The day and time that registration will be closed; and
- (2) If the county clerk has designated a county facility pursuant to NRS 293.5035, the location of that facility.

➡ If no such newspaper is published in the county, the publication may be made in a newspaper of general circulation published in the nearest county in this State.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

5. The offices of the county clerk, a county facility designated pursuant to NRS 293.5035 and other ex officio registrars may remain open on the last Friday in October in each even-numbered year.

~~6. **Except as otherwise provided in this subsection, the last day to register to vote by mail is the fifth Monday preceding any primary or general election. If the United States Postal Service does not provide delivery service on the fifth Monday preceding the primary or general election, the last day to register to vote by mail is the first day following the fifth Monday preceding the primary or general election on which the United States Postal Service has delivery service.**~~

~~7. For the period beginning on the fifth Sunday preceding any primary or general election **day after the last day to register to vote by mail pursuant to subsection 6** and ending on the third Tuesday preceding any primary or general election, an elector may register to vote only:~~

- ~~(a) By appearing in person at the office of the county clerk or, if open, a county facility designated pursuant to NRS 293.5035; or~~
- ~~(b) By computer, if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register voters.~~

~~7. **8.1**~~ A county facility designated pursuant to NRS 293.5035 may be open during the periods described in this section for such hours of operation as the county clerk may determine, as set forth in subsection 3 of NRS 293.5035.

Sec. 5.5. NRS 293.565 is hereby amended to read as follows:

293.565 1. Except as otherwise provided in subsection 3, sample ballots must include:

- (a) If applicable, the statement required by NRS 293.267;
- (b) The fiscal note or description of anticipated financial effect, as provided pursuant to NRS 218D.810, 293.250, 293.481, 295.015, 295.095 or 295.230 for each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;
- (c) An explanation, as provided pursuant to NRS 218D.810, 293.250, 293.481, 295.121 or 295.230, of each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;
- (d) Arguments for and against each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question, and rebuttals to each argument, as provided pursuant to NRS 218D.810, 293.250, 293.252 or 295.121; and
- (e) The full text of each proposed constitutional amendment.

2. If, pursuant to the provisions of NRS 293.2565, the word "Incumbent" must appear on the ballot next to the name of the candidate who is the incumbent, the word "Incumbent" must appear on the sample ballot next to the name of the candidate who is the incumbent.

3. Sample ballots that are mailed to registered voters may be printed without the full text of each proposed constitutional amendment if:

- (a) The cost of printing the sample ballots would be significantly reduced if the full text of each proposed constitutional amendment were not included;
- (b) The county clerk ensures that a sample ballot that includes the full text of each proposed constitutional amendment is provided at no charge to each registered voter who requests such a sample ballot; and
- (c) The sample ballots provided to each polling place include the full text of each proposed constitutional amendment.

4. A county clerk may establish a system for distributing sample ballots by electronic means to each registered voter who elects to receive a sample ballot by electronic means. Such a system may include, without limitation, electronic mail or electronic access through an Internet website. If a county clerk establishes such a system and a registered voter elects to receive a sample ballot by electronic means, the county clerk shall distribute the sample ballot to the registered voter by electronic means pursuant to the procedures and requirements set forth by regulations adopted by the Secretary of State.

5. If a registered voter does not elect to receive a sample ballot by electronic means pursuant to subsection 4, the county clerk shall distribute the sample ballot to the registered voter by mail.

6. ~~Before~~ **Except as otherwise provided in subsection 7, before** the period for early voting for any election begins, the county clerk shall

distribute to each registered voter in the county by mail or electronic means, as applicable, the sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place. If the location of the polling place has changed since the last election:

(a) The county clerk shall mail a notice of the change to each registered voter in the county not sooner than 10 days before distributing the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE
HAS CHANGED SINCE THE LAST ELECTION

7. If a person registers to vote less than 20 days before the date of an election, the county clerk is not required to distribute to the person the sample ballot for that election by mail or electronic means.

~~8.~~ **9.** Except as otherwise provided in subsection ~~[8,]~~ **9.** a sample ballot required to be distributed pursuant to this section must:

(a) Be prepared in at least 12-point type; and

(b) Include on the front page, in a separate box created by bold lines, a notice prepared in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN
LARGE TYPE, CALL (Insert appropriate telephone number)

~~[8,]~~ **9.** A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

~~[9,]~~ **10.** The sample ballot distributed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be prepared in at least 14-point type, or larger when practicable.

~~[10,]~~ **11.** If a person requests a sample ballot in large type, the county clerk shall ensure that all future sample ballots distributed to that person from the county are in large type.

~~[11,]~~ **12.** The county clerk shall include in each sample ballot a statement indicating that the county clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the county clerk has provided pursuant to subsection 4 of NRS 293.2955 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the county clerk shall include in the sample ballot a statement indicating:

- (a) The addresses of such centralized voting locations;
- (b) The types of specially equipped voting devices available at such centralized voting locations; and
- (c) That a voter who is elderly or disabled may cast his or her ballot at such a centralized voting location rather than at his or her regularly designated polling place.

~~{12.}~~ **13.** The cost of distributing sample ballots for any election other than a primary or general election must be borne by the political subdivision holding the election.

Sec. 6. NRS 293C.527 is hereby amended to read as follows:

293C.527 1. Except as otherwise provided in NRS 293.502, 293D.230 and 293D.300 ~~{, registration must close on} :~~

(a) For a primary city election or general city election, or a recall or special election that is held on the same day as a primary city election or general city election, the last day to register to vote:

(1) By mail is the fourth Tuesday preceding the primary city election or general city election.

(2) By appearing in person at the office of the city clerk or, if open, a municipal facility designated pursuant to NRS 293C.520, is the third Tuesday preceding ~~{any}~~ **the** primary city election or general city election. ~~{and on}~~

(3) By computer, if the county clerk of the county in which the city is located has established a system pursuant to NRS 293.506 for using a computer to register voters and:

(I) 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, is the Thursday preceding the first day of the period for early voting.

(II) The governing body of the city has not provided for early voting by personal appearance pursuant to paragraph (b) of subsection 2 of NRS 293C.110, is the third Tuesday preceding any primary city election or general city election.

(b) If a recall or special election is not held on the same day as a primary city election or general city election, the last day to register to vote for the recall or special election by any means is the third Saturday preceding ~~{any}~~ recall or special election. ~~{, except that if a recall or special election is held on the same day as a primary city election or general city election, registration must close on the third Tuesday preceding the day of the elections.}~~

2. For a primary city election or special city election, the office of the city clerk must be open until 7 p.m. during the last 2 days on which ~~{registration is open.}~~ **a person may register to vote in person.** In a city whose population is less than 25,000, the office of the city clerk may close at 5 p.m. if approved by the governing body of the city.

3. For a general election:

(a) In a city whose population is less than 25,000, the office of the city clerk must be open until 7 p.m. during the last 2 days on which ~~registration is open,~~ **a person may register to vote in person.** The office of the city clerk may close at 5 p.m. if approved by the governing body of the city.

(b) In a city whose population is 25,000 or more, the office of the city clerk must be open during the last 4 days on which ~~registration is open,~~ **a person may register to vote in person,** according to the following schedule:

- (1) On weekdays until 9 p.m.; and
- (2) A minimum of 8 hours on Saturdays, Sundays and legal holidays.

4. Except for a special election held pursuant to chapter 306 or 350 of NRS:

(a) The city clerk of each city shall cause a notice signed by him or her to be published in a newspaper having a general circulation in the city indicating:

- (1) The day and time that registration will be closed; and

(2) If the city clerk has designated a municipal facility pursuant to NRS 293C.520, the location of that facility.

➔ If no newspaper is of general circulation in that city, the publication may be made in a newspaper of general circulation in the nearest city in this State.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

5. ~~Except as otherwise provided in this subsection, the last day to register to vote by mail is the fifth Monday preceding any primary city election or general city election. If the United States Postal Service does not provide delivery service on the fifth Monday preceding the primary city election or general city election, the last day to register to vote by mail is the first day following the fifth Monday preceding the primary city election or general city election on which the United States Postal Service has delivery service.~~

~~6. For the period beginning on the fifth Sunday preceding any primary city election or general city election day after the last day to register to vote by mail pursuant to subsection 5, and ending on the third Tuesday preceding any primary city election or general city election, an elector may register to vote only:~~

~~(a) By appearing in person at the office of the city clerk or, if open, a municipal facility designated pursuant to NRS 293C.520; or~~

~~(b) By computer, if the county clerk of the county in which the city is located has established a system pursuant to NRS 293.506 for using a computer to register voters.~~

~~6. 7.1~~ A municipal facility designated pursuant to NRS 293C.520 may be open during the periods described in this section for such hours of operation as the city clerk may determine, as set forth in subsection 3 of NRS 293C.520.

Sec. 6.5. NRS 293C.530 is hereby amended to read as follows:

293C.530 1. A city clerk may establish a system for distributing sample ballots by electronic means to each registered voter who elects to receive a sample ballot by electronic means. Such a system may include, without limitation, electronic mail or electronic access through an Internet website. If a city clerk establishes such a system and a registered voter elects to receive a sample ballot by electronic means, the city clerk shall distribute the sample ballot to the registered voter by electronic means pursuant to the procedures and requirements set forth by regulations adopted by the Secretary of State.

2. If a registered voter does not elect to receive a sample ballot by electronic means pursuant to subsection 1, the city clerk shall distribute the sample ballot to the registered voter by mail.

3. ~~Before~~ **Except as otherwise provided in subsection 4, before** the period for early voting for any election begins, the city clerk shall distribute to each registered voter in the city by mail or electronic means, as applicable, the sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place. If the location of the polling place has changed since the last election:

(a) The city clerk shall mail a notice of the change to each registered voter in the city not sooner than 10 days before distributing the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE
HAS CHANGED SINCE THE LAST ELECTION

4. **If a person registers to vote less than 20 days before the date of an election, the city clerk is not required to distribute to the person the sample ballot for that election by mail or electronic means.**

5. Except as otherwise provided in subsection ~~6.~~ 7, a sample ballot required to be distributed pursuant to this section must:

(a) Be prepared in at least 12-point type;

(b) Include the description of the anticipated financial effect and explanation of each citywide measure and advisory question, including arguments for and against the measure or question, as required pursuant to NRS 295.205 or 295.217; and

(c) Include on the front page, in a separate box created by bold lines, a notice prepared in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN
LARGE TYPE, CALL (Insert appropriate telephone number)

~~5.~~ 6. The word "Incumbent" must appear on the sample ballot next to the name of the candidate who is the incumbent, if required pursuant to NRS 293.2565.

~~{6.}~~ 7. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

~~{7.}~~ 8. The sample ballot distributed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be prepared in at least 14-point type, or larger when practicable.

~~{8.}~~ 9. If a person requests a sample ballot in large type, the city clerk shall ensure that all future sample ballots distributed to that person from the city are in large type.

~~{9.}~~ 10. The city clerk shall include in each sample ballot a statement indicating that the city clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the city clerk has provided pursuant to subsection 4 of NRS 293C.281 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the city clerk shall include in the sample ballot a statement indicating:

- (a) The addresses of such centralized voting locations;
- (b) The types of specially equipped voting devices available at such centralized voting locations; and
- (c) That a voter who is elderly or disabled may cast his or her ballot at such a centralized voting location rather than at the voter's regularly designated polling place.

~~{10.}~~ 11. The cost of distributing sample ballots for a city election must be borne by the city holding the election.

Assemblywoman Diaz moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 486.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 442.

AN ACT relating to taxation; revising provisions relating to the allocation of a certain portion of the proceeds of the basic governmental services tax; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The State of Nevada imposes a governmental services tax for the privilege of operating any vehicle upon the highways of this State. (NRS 371.030) The annual amount of the basic governmental services tax is 4 cents on each \$1 of valuation of the vehicle, as determined by the Department of Motor Vehicles,

with an exception for certain trailers. (NRS 371.040) Existing law sets forth depreciation schedules for determining the amount of the basic governmental services tax each year for used vehicles and establishes a minimum tax. (NRS 371.060)

Under existing law, a specified percentage of the proceeds of the governmental services tax, after certain deductions authorized for the Department, is required to be equally distributed to the State General Fund and the State Highway Fund. (NRS 482.180, 482.182) The remaining proceeds of the governmental services tax is distributed to each county in this State based on percentages provided by law. (NRS 482.181)

This bill revises those provisions governing the portion of the governmental services tax proceeds to be distributed to the State General Fund and the State Highway Fund to provide that , for the Fiscal Years 2017-2018 and 2018-2019, the State General Fund will receive 25 percent of the proceeds and the State Highway Fund will receive 75 percent of the proceeds.

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

Section 1. NRS 482.181 is hereby amended to read as follows:

482.181 1. Except as otherwise provided in subsection 5, after deducting the amount withheld by the Department and the amount credited to the Department pursuant to subsection 6 of NRS 482.180, and the amount transferred to the State

General Fund and the State Highway Fund pursuant to NRS 482.182, the Department shall certify monthly to the State Board of Examiners the amount of the basic and supplemental governmental services taxes collected for each county by the Department and its agents during the preceding month, and that money must be distributed monthly as provided in this section.

2. Any supplemental governmental services tax collected for a county must be distributed only to the county, to be used as provided in NRS 371.043, 371.045 and 371.047.

3. The distribution of the basic governmental services tax received or collected for each county must be made to the county school district within each county before any distribution is made to a local government, special district or enterprise district. For the purpose of calculating the amount of the basic governmental services tax to be distributed to the county school district, the taxes levied by each local government, special district and enterprise district are the product of its certified valuation, determined pursuant to subsection 2 of NRS 361.405, and its tax rate, established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1980, except that the tax rate for school districts, including the rate attributable to a district's debt service, is the rate established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1978, but if the rate attributable to a district's debt service in any fiscal year is greater than its rate for the fiscal year beginning on July 1,

1978, the higher rate must be used to determine the amount attributable to debt service.

4. After making the distributions set forth in subsection 3, the remaining money received or collected for each county must be deposited in the Local Government Tax Distribution Account created by NRS 360.660 for distribution to local governments, special districts and enterprise districts within each county pursuant to the provisions of NRS 360.680 and 360.690.

5. An amount equal to any basic governmental services tax distributed to a redevelopment agency in the Fiscal Year 1987-1988 must continue to be distributed to that agency as long as it exists but must not be increased.

6. The Department shall make distributions of the basic governmental services tax directly to county school districts.

7. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in NRS 360.620.

(b) "Local government" has the meaning ascribed to it in NRS 360.640.

(c) "Received or collected for each county" means:

(1) For the basic governmental services tax collected on vehicles subject to the provisions of chapter 706 of NRS, the amount determined for each county based on the following percentages:

Carson City.....	1.07 percent	Lincoln	3.12 percent
Churchill.....	5.21 percent	Lyon	2.90 percent
Clark.....	22.54 percent	Mineral	2.40 percent
Douglas	2.52 percent	Nye	4.09 percent
Elko	13.31 percent	Pershing.....	7.00 percent
Esmeralda.....	2.52 percent	Storey	0.19 percent
Eureka	3.10 percent	Washoe.....	12.24 percent
Humboldt.....	8.25 percent	White Pine	5.66 percent
Lander	3.88 percent		

(2) For all other basic and supplemental governmental services tax received or collected by the Department, the amount attributable to each county based on the county of registration of the vehicle for which the tax was paid.

(d) "Special district" has the meaning ascribed to it in NRS 360.650.

Sec. 2. NRS 482.182 is hereby amended to read as follows:

482.182 1. After deducting the amount withheld by the Department and the amount credited to the Department pursuant to subsection 6 of NRS 482.180 and before carrying out the provisions of NRS 482.181 each month, the Department shall direct the State Controller to transfer to the :

(a) State General Fund from the proceeds of the basic governmental services tax collected by the Department and its agents during the preceding month, 25 percent of the amounts indicated pursuant to this section.

(b) State Highway Fund from the proceeds of the basic governmental services tax collected by the Department and its agents during the preceding month, **75 percent of** the amounts indicated pursuant to this section.

2. Except as otherwise provided in subsection 3, the amount required to be transferred pursuant to subsection 1 from the proceeds of the basic governmental services tax imposed on vehicles depreciated in accordance with:

(a) Subsection 1 of NRS 371.060 based upon an age of:

- (1) One year, is a sum equal to 11 percent of those proceeds;
- (2) Two years, is a sum equal to 12 percent of those proceeds;
- (3) Three years, is a sum equal to 13 percent of those proceeds;
- (4) Four years, is a sum equal to 15 percent of those proceeds;
- (5) Five years, is a sum equal to 18 percent of those proceeds;
- (6) Six years, is a sum equal to 22 percent of those proceeds;
- (7) Seven years, is a sum equal to 29 percent of those proceeds;
- (8) Eight years, is a sum equal to 40 percent of those proceeds; and
- (9) Nine years or more, is a sum equal to 67 percent of those proceeds;

and

(b) Subsection 2 of NRS 371.060 based upon an age of:

- (1) One year, is a sum equal to 12 percent of those proceeds;
- (2) Two years, is a sum equal to 14 percent of those proceeds;
- (3) Three years, is a sum equal to 18 percent of those proceeds;
- (4) Four years, is a sum equal to 21 percent of those proceeds;
- (5) Five years, is a sum equal to 26 percent of those proceeds;
- (6) Six years, is a sum equal to 30 percent of those proceeds;
- (7) Seven years, is a sum equal to 33 percent of those proceeds;
- (8) Eight years, is a sum equal to 37 percent of those proceeds;
- (9) Nine years, is a sum equal to 40 percent of those proceeds; and
- (10) Ten years or more, is a sum equal to 43 percent of those proceeds.

3. The amount required to be transferred pursuant to subsection 1 from the proceeds of the basic governmental services tax imposed on vehicles to which the minimum amount of that tax applies pursuant to paragraph (b) of subsection 3 of NRS 371.060 is a sum equal to 63 percent of those proceeds.

Sec. 3. This act becomes effective on July 1, 2017 ~~to~~, **and expires by limitation on June 30, 2019.**

Assemblywoman Neal moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 491.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 481.

CONTAINS UNFUNDED MANDATE ~~(§ 8)~~ (§§ 7, 8)

(Not Requested by Affected Local Government)

AN ACT relating to education; requiring, with limited exception, that a child in foster care remain enrolled in his or her school of origin; providing that the relevant agency which provides child welfare services and local education agency are jointly liable for the costs of transportation for the child in foster care to attend his or her school of origin; requiring the Department of Education and each agency which provides child welfare services and local education agency to develop certain policies and procedures relating to children in foster care; eliminating the Program of School Choice for Children in Foster Care; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

In 2015, Congress passed the Every Student Succeeds Act of 2015. (20 U.S.C. §§ 6301 et seq.) This Act requires each state to adopt a plan that describes the steps the state will take to ensure the educational stability of children in foster care, including requiring, with limited exception, a child in foster care to remain enrolled in the child's school of origin, which is the public school in which he or she was enrolled before entering foster care. (20 U.S.C. § 6311)

Section 7 of this bill requires that a child ~~in~~ who enters foster care or changes placement while in foster care remain enrolled in the child's school of origin if the agency which provides child welfare services determines that it is in the best interests of the child. **Section 7** also : **(1)** sets forth certain criteria that must be used by the agency in making such a determination ~~to~~ ; **(2) requires that a child remain in his or her school of origin throughout any dispute that arises as a result of an agency's decision concerning the best interests of the child; and (3) requires the agency which provides child welfare services and the local education agency to provide and pay for the costs of transportation of a child in foster care to the child's school of origin until the dispute is resolved.**

Section 7.5 of this bill requires the board of trustees of a school district or the governing body of a charter school to allow a pupil who leaves foster care to remain enrolled in his or her school of origin until the end of the school year unless the parent or guardian of the pupil elects to enroll the pupil in a different school.

Section 8 of this bill requires the agency which provides child welfare services and the local education agency to provide and pay for the costs of transportation of a child in foster care to the child's school of origin. **Section 8 also requires the agency which provides the child welfare services and the local education agency to provide and pay for the costs of transportation of a child in foster care to the child's school of origin until any dispute concerning the cost of transportation is resolved.**

Section 9 of this bill requires that the Department of Education, each local education agency and each agency which provides child welfare services to designate a single point of contact who is responsible for developing certain policies and procedures relating to children in foster care.

Section 10 of this bill requires the State Board of Education to prepare an annual report concerning the academic progress of children in foster care who attend a public school in this State. Section 10 also requires: (1) each education agency to submit to the Department of Education a report relating to children in foster care ~~to~~ ; and (2) an agency which provides child welfare services to a child enrolled in public school in this State to provide any information requested by a local education agency as soon as practicable.

If a court finds that a child is in need of protection and places the child other than with a parent, an agency acting as the custodian of the child is required to report to the court before any hearing for a review of the placement of the child. (NRS 432B.580) Section 13.5 of this bill requires the agency to include in the report certain information about the education of the child.

Existing law establishes the Program of School Choice for Children in Foster Care. (NRS 388E.100) This program allows the legal guardian or custodian of a child who is in foster care to apply to participate in the Program so that the child may be enrolled in a public school other than the public school which the child is zoned to attend. (NRS 388E.110) **Section 15** of this bill eliminates this Program. **Section 15** also eliminates a provision which provides that a child who is in the legal or physical custody of an agency which provides child welfare services and is awaiting foster care placement is deemed to be homeless for the purposes of the federal McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq.

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

Section 1. NRS 388.040 is hereby amended to read as follows:

388.040 1. Except as otherwise provided in subsection 2, the board of trustees of a school district that includes more than one school which offers instruction in the same grade or grades may zone the school district and determine which pupils must attend each school.

2. The establishment of zones pursuant to subsection 1 does not preclude a pupil from attending a:

(a) Charter school;

(b) University school for profoundly gifted pupils;

(c) Public school outside the zone of attendance that the pupil is otherwise required to attend if the pupil is ~~enrolled in the Program of School Choice for Children in Foster Care established pursuant to NRS 388E.100;~~ ***a child in foster care who is remaining in his or her school of origin pursuant to section 7 of this act;*** or

(d) Public school outside the zone of attendance that the pupil is otherwise required to attend if the pupil has been issued a fictitious address pursuant to NRS 217.462 to 217.471, inclusive, or the parent or legal guardian with

whom the pupil resides has been issued a fictitious address pursuant to NRS 217.462 to 217.471, inclusive.

Sec. 2. Chapter 388E of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 10, inclusive, of this act.

Sec. 3. *“Agency which provides child welfare services” has the meaning ascribed to it in NRS 432B.030.*

Sec. 4. *“Foster care” ~~means any out-of-home placement for a child,~~ has the meaning ascribed to it in 45 C.F.R. § 1355.20.*

Sec. 5. *“Local education agency” includes, without limitation, the board of trustees of a school district and the sponsor of a charter school.*

Sec. 6. *“School of origin” means the public school in which a child was enrolled at the time that the child was placed in foster care ~~or~~ or the school in which a child who is in foster care is enrolled at the time of the most recent change in the placement of the child.*

Sec. 7. 1. *When a child enters foster care ~~or~~ or changes placement while in foster care, the agency which provides child welfare services to the child shall determine whether it is in the best interests of the child for the child to remain in his or her school of origin. In making this determination, there is a rebuttable presumption that it is in the best interests of the child to remain in his or her school of origin and matriculate in accordance with the feeder pattern of the school of origin.*

2. *In determining whether it is in the best interests of a child in foster care to remain in his or her school of origin, the agency which provides child welfare services, in consultation with the local education agency, must consider, without limitation:*

(a) *The wishes of the child, if the child is of sufficient age and capacity to form an intelligent preference as to which public school he or she attends;*

(b) *The educational success, stability and achievement of the child;*

(c) *Any individualized education program or academic plan developed for the child;*

(d) *Whether the child has been identified as an English learner;*

(e) *The health and safety of the child;*

(f) *The availability of necessary services for the child at the school of origin; and*

(g) *Whether the child has a sibling enrolled in the school of origin.*

↪ *The costs of transporting the child to the school of origin must not be considered when determining whether it is in the best interests of the child to remain at his or her school of origin.*

3. ~~*The determination as to whether it is in the best interests of a child in foster care to stay in his or her school of origin must be made in writing by the agency which provides child welfare services and provided by the agency to every interested party.*~~

~~4.1~~ If the agency which provides child welfare services determines that it is in the best interests of a child in foster care to attend a public school other than the child's school of origin:

(a) The agency which provides child welfare services ~~and local education agency~~ must ~~ensure~~ :

(1) Provide written notice of its determination to every interested party as soon as practicable; and

(2) In collaboration with the local education agency, ensure that the child is immediately enrolled in that public school; and

(b) The public school may not refuse to enroll the child on the basis that the public school does not have:

(1) A certificate stating that the child has been immunized and has received proper boosters for that immunization;

(2) A birth certificate or other document suitable as proof of the child's identity;

(3) A copy of the child's records from the school the child most recently attended; or

(4) Any other documentation required by a policy adopted by the public school or the local education agency.

4. If a determination is made as described in subsection 3 that a child is to attend a public school other than the child's school of origin and a dispute arises as a result of such a decision:

(a) The child must remain in his or her school of origin; and

(b) The agency which provides child welfare services and the local education agency must provide the child with transportation to the school of origin until the dispute is resolved.

5. The costs of transportation of a child to the child's school of origin must be paid in the manner prescribed by subsection 2 of section 8 of this act. Any dispute that arises between the agency which provides child welfare services and the local education agency that is related to the transportation of a child in foster care to the child's school of origin must be resolved in the manner prescribed in subsection 3 of section 8 of this act.

Sec. 7.5. The board of trustees of a school district or the governing body of a charter school must allow a pupil who leaves foster care to remain enrolled in his or her school of origin until the end of the school year during which the child leaves foster care unless the parent or guardian of the pupil elects to enroll the pupil in a different school.

Sec. 8. 1. If the agency which provides child welfare services to a child has determined pursuant to section 7 of this act that it is in the best interests of the child to remain in his or her school of origin, the agency which provides child welfare services and the local education agency must provide the child with transportation to the school of origin:

- (a) *For the entire time that the child is in foster care; and*
- (b) *Until the end of the school year during which the child leaves foster care.*

2. *The agency which provides child welfare services and the local education agency are jointly responsible for the costs of transportation of a child to the child's school of origin unless the agency which provides child welfare services and the local education agency mutually agree otherwise.*

3. *If a dispute arises between the agency which provides child welfare services and the local education agency that is related to the transportation of a child in foster care to the child's school of origin, including, without limitation, a dispute related to the costs of transportation, and the dispute is not resolved within 5 business days, the juvenile or family court with jurisdiction over the child must resolve the dispute by court order ~~for~~ within 5 business days.*

4. *If a dispute arises between the agency which provides child welfare services and the local education agency that is related to the transportation of a child in foster care, the agency which provides child welfare services and the local education agency must provide the child with transportation to the school of origin until the dispute is resolved.*

Sec. 9. 1. *The Department, each local education agency and each agency which provides child welfare services shall designate a single point of contact who is responsible for:*

(a) *Developing policies and procedures necessary for the Department, local education agency or agency which provides child welfare services, as applicable, to comply with the requirements of the Every Student Succeeds Act, 20 U.S.C. §§ 6301 et seq., including, without limitation, policies and procedures relating to the:*

(1) *Communication of information relating to children in foster care among the Department, local education agencies and agencies which provide child welfare services; and*

(2) *Transportation of children in foster care to their schools of origin.*

(b) *Communicating and coordinating with other single points of contact designated pursuant to this section.*

2. *Policies and procedures relating to transportation of a child in foster care to his or her school of origin must include, without limitation, a plan for paying the costs of such transportation.*

3. *As used in this section, "single point of contact" means a natural person or a team of personnel, each of whom has the ability and authority to perform the responsibilities described in this section.*

Sec. 10. 1. *The State Board shall prepare an annual report concerning the academic progress of children in foster care who attend a public school in this State that includes, without limitation, the information prescribed by 20 U.S.C. § 6311(h)(1)(c)(i)-(iii).*

2. *Each local education agency shall, on or before the date established by the Department, and in the form prescribed by the Department, prepare*

and submit to the Department a report on children in foster care who attend a public school within the jurisdiction of the local education agency. This report must include the information prescribed by 20 U.S.C. § 6311(h)(1)(c)(i)-(iii).

3. An agency which provides child welfare services to a child enrolled in public school in this State shall provide any information requested by the local education agency to the local education agency as soon as practicable.

Sec. 11. NRS 388E.010 is hereby amended to read as follows:

388E.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in ~~NRS 388E.020, 388E.030 and 388E.040~~ **sections 3 to 6, inclusive, of this act** have the meanings ascribed to them in those sections.

Sec. 12. NRS 392.010 is hereby amended to read as follows:

392.010 Except as to the attendance of a pupil pursuant to NRS 388.820 to 388.874, inclusive, ~~388E.110~~ or 392.015, **or section 7 of this act**, or a pupil who is ineligible for attendance pursuant to NRS 392.4675 and except as otherwise provided in NRS 392.264 and 392.268:

1. The board of trustees of any school district may, with the approval of the Superintendent of Public Instruction:

(a) Admit to the school or schools of the school district any pupil or pupils living in an adjoining school district within this State or in an adjoining state when the school district of residence in the adjoining state adjoins the receiving Nevada school district; or

(b) Pay tuition for pupils residing in the school district but who attend school in an adjoining school district within this State or in an adjoining state when the receiving district in the adjoining state adjoins the school district of Nevada residence.

2. With the approval of the Superintendent of Public Instruction, the board of trustees of the school district in which the pupil or pupils reside and the board of trustees of the school district in which the pupil or pupils attend school shall enter into an agreement providing for the payment of such tuition as may be agreed upon, but transportation costs must be paid by the board of trustees of the school district in which the pupil or pupils reside:

(a) If any are incurred in transporting a pupil or pupils to an adjoining school district within the State; and

(b) If any are incurred in transporting a pupil or pupils to an adjoining state, as provided by the agreement.

3. In addition to the provisions for the payment of tuition and transportation costs for pupils admitted to an adjoining school district as provided in subsection 2, the agreement may contain provisions for the payment of reasonable amounts of money to defray the cost of operation, maintenance and depreciation of capital improvements which can be allocated to such pupils.

Sec. 13. NRS 217.464 is hereby amended to read as follows:

217.464 1. If the Attorney General approves an application, the Attorney General shall:

- (a) Designate a fictitious address for the participant; and
- (b) Forward mail that the Attorney General receives for a participant to the participant.

2. The Attorney General shall not make any records containing the name, confidential address or fictitious address of a participant available for inspection or copying, unless:

- (a) The address is requested by a law enforcement agency, in which case the Attorney General shall make the address available to the law enforcement agency; or

- (b) The Attorney General is directed to do so by lawful order of a court of competent jurisdiction, in which case the Attorney General shall make the address available to the person identified in the order.

3. If a pupil is attending or wishes to attend ~~in a public school that is located outside the zone of attendance as authorized by paragraph (c) of subsection 2 of NRS 388.040 or~~ a public school that is located in a school district other than the school district in which the pupil resides as authorized by NRS 392.016, the Attorney General shall, upon request of the public school that the pupil is attending or wishes to attend, inform the public school of whether the pupil is a participant and whether the parent or legal guardian with whom the pupil resides is a participant. The Attorney General shall not provide any other information concerning the pupil or the parent or legal guardian of the pupil to the public school.

Sec. 13.5. NRS 432B.580 is hereby amended to read as follows:

432B.580 1. Except as otherwise provided in this section and NRS 432B.513, if a child is placed pursuant to NRS 432B.550 other than with a parent, the placement must be reviewed by the court at least semiannually, and within 90 days after a request by a party to any of the prior proceedings. Unless the parent, guardian or the custodian objects to the referral, the court may enter an order directing that the placement be reviewed by a panel appointed pursuant to NRS 432B.585.

2. An agency acting as the custodian of the child shall, before any hearing for review of the placement of a child, submit a report to the court, or to the panel if it has been designated to review the matter, which includes:

- (a) An evaluation of the progress of the child and the family of the child and any recommendations for further supervision, treatment or rehabilitation.

- (b) Information concerning the placement of the child in relation to the child's siblings, including, without limitation:

- (1) Whether the child was placed together with the siblings;
 - (2) Any efforts made by the agency to have the child placed together with the siblings;
 - (3) Any actions taken by the agency to ensure that the child has contact with the siblings; and

(4) If the child is not placed together with the siblings:

(I) The reasons why the child is not placed together with the siblings;
and

(II) A plan for the child to visit the siblings, which must be approved by the court.

(c) **Information concerning the child's education, including:**

(1) A copy of an academic plan developed for the child pursuant to NRS 388.155, 388.165 or 388.205;

(2) The grade and school in which the child is enrolled;

(3) The name of the each school the child attended before enrolling in the school in which he or she is currently enrolled and the corresponding dates of attendance;

(4) Whether the child has not completed or passed any course of instruction that the child should have completed or passed by the time the report is submitted, which has resulted in the child having a deficiency in credits;

(5) A copy of any individualized education program developed for the child;

(6) A copy of any plan developed in accordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794;

(7) A summary of any special education services received by the child;

(8) Whether a request that the child receive special education services has been made and, if so, the outcome of such a request; and

(9) Whether, in the opinion of the agency, it is necessary to appoint a surrogate parent to represent the child in all matters relating to the provision of a free and appropriate public education to the child.

(d) A copy of any explanations regarding medication that has been prescribed for the child that have been submitted by a foster home pursuant to NRS 424.0383.

3. Except as otherwise provided in this subsection, a copy of the report submitted pursuant to subsection 2 must be given to the parents, the guardian ad litem and the attorney, if any, representing the parent or the child. If the child was delivered to a provider of emergency services pursuant to NRS 432B.630 and the parent has not appeared in the action, the report need not be sent to that parent.

4. After a plan for visitation between a child and the siblings of the child submitted pursuant to subparagraph (4) of paragraph (b) of subsection 2 has been approved by the court, the agency which provides child welfare services must request the court to issue an order requiring the visitation set forth in the plan for visitation. If a person refuses to comply with or disobeys an order issued pursuant to this subsection, the person may be punished as for a contempt of court.

5. The court or the panel shall hold a hearing to review the placement, unless the parent, guardian or custodian files a motion with the court to dispense with the hearing. If the motion is granted, the court or panel may

make its determination from any report, statement or other information submitted to it.

6. Except as otherwise provided in this subsection and subsection 5 of NRS 432B.520, notice of the hearing must be given by registered or certified mail to:

- (a) All the parties to any of the prior proceedings;
- (b) Any persons planning to adopt the child;
- (c) A sibling of the child, if known, who has been granted a right to visitation of the child pursuant to NRS 127.171 and his or her attorney, if any; and
- (d) Any other relatives of the child or providers of foster care who are currently providing care to the child.

7. The notice of the hearing required to be given pursuant to subsection 6:

(a) Must include a statement indicating that if the child is placed for adoption the right to visitation of the child is subject to the provisions of NRS 127.171;

(b) Must not include any confidential information described in NRS 127.140; and

(c) Need not be given to a parent whose rights have been terminated pursuant to chapter 128 of NRS or who has voluntarily relinquished the child for adoption pursuant to NRS 127.040.

8. The court or panel may require the presence of the child at the hearing and shall provide to each person to whom notice was given pursuant to subsection 6 a right to be heard at the hearing.

9. The court or panel shall review:

(a) The continuing necessity for and appropriateness of the placement;

(b) The extent of compliance with the plan submitted pursuant to subsection 2 of NRS 432B.540;

(c) Any progress which has been made in alleviating the problem which resulted in the placement of the child; and

(d) The date the child may be returned to, and safely maintained in, the home or placed for adoption or under a legal guardianship.

10. The provision of notice and a right to be heard pursuant to this section does not cause any person planning to adopt the child, any sibling of the child or any other relative, any adoptive parent of a sibling of the child or a provider of foster care to become a party to the hearing.

11. As used in this section, “individualized education program” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

Sec. 14. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 15. NRS 388E.020, 388E.030, 388E.040, 388E.100, 388E.110, 388E.120, 388E.130, 388E.140, 388E.150 and 432B.135 are hereby repealed.

Sec. 16. This act becomes effective on July 1, 2017.

LEADLINES OF REPEALED SECTIONS

388E.020 “Custodian” defined.

388E.030 “Foster home” defined.

388E.040 “Program” defined.

388E.100 Administration of Program; regulations; provision of information concerning Program.

388E.110 Eligibility for participation; exemption; contents of application; notice of approval or denial; consideration of best interests of child; no duty to provide transportation.

388E.120 Eligibility for continued participation in Program; request for transfer or withdrawal from Program.

388E.130 Enrollment on basis of lottery system required under certain circumstances.

388E.140 Count of pupils for State Distributive School Account.

388E.150 Contract for evaluation of Program authorized.

432B.135 Child in custody of agency which provides child welfare services deemed homeless in certain circumstances.

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Joint Resolution No. 5.

Resolution read second time.

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

Amendment No. 524.

SUMMARY—Proposes to amend the Nevada Constitution to remove the constitutional provisions ~~relating to~~ governing the election and duties of the Board of Regents ~~of the State University and to authorize the Legislature to provide by statute for the governance, control and management of the State University.~~ (BDR C-60)

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Nevada Constitution to remove the constitutional provisions ~~relating to~~ governing the election and duties of the Board of Regents ~~of the State University and to authorize the Legislature to provide by statute for the governance, control and management of the State University.~~

Legislative Counsel’s Digest:

~~[The]~~ Article 11 of the Nevada Constitution , which is known as the Education Article, requires the Nevada Legislature to provide for the establishment of a State University that is controlled by a Board of Regents ~~[]~~ whose duties are prescribed by law. (Nev. Const. Art. 11, § 4) ~~[Existing law provides that]~~ The Education Article also: (1) requires the Legislature to provide for the election of the members of the Board of Regents of the State University ~~[of Nevada must be elected by the voters of~~

this State,] and to define their duties by law; and (2) authorizes the Board of Regents to control and manage the affairs of the State University and its funds under such regulations as may be provided by law. (Nev. Const. Art. 11, [§ 7,] §§ 7, 8)

As required by the Education Article, the Legislature has provided by law for: (1) the establishment of the State University, which is known as the University of Nevada; and (2) the election of the members of the Board of Regents. (NRS 396.020, 396.040) Additionally, the Legislature has: (1) provided by law for the establishment of the Nevada System of Higher Education, which consists of the State University and other educational institutions, programs and operations; and (2) has authorized the Board of Regents to administer the System and to prescribe rules for its governance and management. (NRS 396.020, 396.110, 396.230, 396.280, 396.300, 396.420, 396.440, 396.550)

__This resolution proposes to amend the Nevada Constitution to [eliminate] remove the constitutional provisions [concerning] governing the Board of Regents, [,] and to authorize the Legislature to provide by statute for the governance, control and management of the State University. (Nev. Const. Art. 11, §§ 4, 7) However, although this resolution removes the status of the Board of Regents as a constitutional body under the Nevada Constitution, this resolution does not change the status of the Board of Regents as a statutory body under existing statutory provisions, which authorize the Board of Regents to administer the Nevada System of Higher Education and prescribe rules for its governance and management. In addition, this resolution does not repeal, either expressly or by implication, any of those existing statutory provisions relating to the Board of Regents, including the existing statutory provisions that provide for the election of the members of the Board of Regents.

Under the federal Morrill Land Grant Act of 1862, each state was provided with certain federal land grants to be sold to support and maintain at least one college in the state that teaches both agriculture and mechanic arts, including military tactics, so long as the state agrees to certain terms and conditions regarding the preservation and use of the proceeds derived from the sale of the federal land grants. (Act of July 2, 1862, ch. 130, §§ 1-8, 12 Stat. 503-05, as amended and codified at 7 U.S.C. §§ 301 et seq.) To secure the benefits offered by the federal law, the Framers of the Nevada Constitution approved Section 8 of the Education Article to provide for the preservation and use of the proceeds derived from the sale of the federal land grants. (*Debates & Proceedings of the Nevada State Constitutional Convention of 1864*, at 586 and 589-91 (Andrew J. Marsh off. rep. 1866))

This resolution proposes to amend Section 8 of the Education Article to: (1) remove references to the Board of Regents; (2) delete obsolete provisions; (3) clarify citations to the pertinent federal law, including all

amendments thereto; and (4) specify that the proceeds derived under the federal law must be invested by the State of Nevada in the manner required by law. (Nev. Const. Art. 11, § 8)

If this resolution is passed by the 2017 Legislature, it must also be passed by the next Legislature and then approved and ratified by the voters in an election before the proposed amendments to the Nevada Constitution become effective.

WHEREAS, Article 11 of the Nevada Constitution, which is known as the Education Article, requires the Legislature to provide for the establishment of a State University that is controlled by a Board of Regents whose duties are prescribed by law (Nev. Const. Art. 11, § 4); and

WHEREAS, The Education Article also requires the Legislature to provide for the election of the members of the Board of Regents and to define their duties by law (Nev. Const. Art. 11, § 7); and

WHEREAS, The Education Article authorizes the Board of Regents to control and manage the affairs of the State University and its funds under such regulations as may be provided by law (Nev. Const. Art. 11, §§ 7, 8); and

WHEREAS, When drafting the Education Article, the Framers of the Nevada Constitution purposefully added constitutional language to ensure that the powers and duties of the Board of Regents and its members “shall be prescribed by the Legislature,” in order to “not leave it to be inferred, perhaps, that they have absolute control” over the State University (*Debates & Proceedings of the Nevada State Constitutional Convention of 1864*, at 586 (Andrew J. Marsh off. rep. 1866) (statement of Delegate George A. Nourse)); and

WHEREAS, The Framers believed that the Board of Regents’ control and management of the affairs of the State University should be governed by laws enacted by the Legislature (*Debates & Proceedings of the Nevada State Constitutional Convention of 1864*, at 585-87 (Andrew J. Marsh off. rep. 1866)); and

WHEREAS, The Framers did not create the Board of Regents as a constitutional body in the Education Article to give the Board of Regents unchecked autonomy from legislative oversight and control (*Debates & Proceedings of the Nevada State Constitutional Convention of 1864*, at 585-91 (Andrew J. Marsh off. rep. 1866)); and

WHEREAS, As required by the Education Article, the Legislature has provided by law for the establishment of the State University, known as the University of Nevada, and has provided by law for the election of the members of the Board of Regents (NRS 396.020, 396.040); and

WHEREAS, The Legislature has provided by law for the establishment of the Nevada System of Higher Education, which consists of the State University and other educational institutions, programs and operations,

and for the Board of Regents to administer the System and to prescribe rules for its governance and management (NRS 396.020, 396.110, 396.230, 396.280, 396.300, 396.420, 396.440, 396.550); and

WHEREAS, In cases before the Nevada Supreme Court, the Board of Regents has asserted that its “unique constitutional status” gives it “virtual autonomy and thus immunity” from particular laws and policies enacted by the Legislature (*Board of Regents v. Oakley*, 97 Nev. 605, 607 (1981)); and

WHEREAS, Although the Nevada Supreme Court has rejected the Board of Regents’ broad assertion of autonomy and immunity from laws and policies enacted by the Legislature, the Nevada Supreme Court has recognized that the Board of Regents’ constitutional status prevents the Legislature from enacting certain legislation that directly “interferes with the Board’s essential management and control of the University.” (*Board of Regents v. Oakley*, 97 Nev. 605, 608 (1981); *King v. Board of Regents*, 65 Nev. 533, 564-69 (1948)); and

WHEREAS, Under our Nation’s fundamental, well-established and long-standing principles of representative government, the traditional role of the people’s elected representatives in the Legislature is to serve as the people’s legislative check of accountability to ensure that public bodies, agencies and officers in the other branches of government are carrying out their governmental functions for the benefit of the people and in a manner consistent with the laws and policies enacted by the Legislature; and

WHEREAS, The Board of Regents has, at various times, relied on its constitutional status and its authority to control and manage the affairs of the State University as a defensive shield and cloak against the people’s legislative check of accountability, and the Board of Regents has, at various times, taken actions that have hindered, thwarted or undermined the Legislature’s investigation, review and scrutiny of the institutions, programs and operations of the Nevada System of Higher Education; and

WHEREAS, Like other public bodies, agencies and officers of the State Government, the Board of Regents should be subject to the people’s legislative check of accountability through legislative oversight and control, and the Board of Regents’ control and management of the affairs of the State University should be governed by all laws enacted by the Legislature; and

WHEREAS, To secure accountability to the people’s elected representatives in the Legislature, the Nevada Constitution should be amended to remove the Board of Regents’ constitutional status so that the Board of Regents operates only as a statutory public body to ensure that it is subject to the people’s legislative check of accountability through legislative oversight and control and to ensure that the Board of

Regents' control and management of the affairs of the State University are governed by all laws enacted by the Legislature; and

WHEREAS, Amending the Nevada Constitution to remove the Board of Regents' constitutional status will allow the Legislature to exercise the full extent of its legislative power to review, reform and improve the control and management of the affairs of the State University and, in doing so, the Legislature also will have more options and greater flexibility to review, reform and improve all other institutions, programs and operations of the Nevada System of Higher Education; and

WHEREAS, Amending the Nevada Constitution to remove the Board of Regents' constitutional status will not repeal, either expressly or by implication, the existing statutory provisions which apply to the Board of Regents, the State University and all other institutions, programs and operations of the Nevada System of Higher Education, including, without limitation, the existing statutory provisions that provide for the voters to elect the members of the Board of Regents; now, therefore, be it

Resolved by the Assembly and Senate of the State of Nevada, Jointly, That Section 4 of Article 11 of the Nevada Constitution be amended to read as follows:

~~{Sec:}~~ **Sec. 4.** The Legislature shall provide for the establishment of a State University which shall embrace departments for Agriculture, Mechanic Arts, and Mining ~~to be controlled by a Board of Regents whose duties shall be prescribed by Law.}~~, and the Legislature shall provide by law for the governance, control and management of the State University.

And be it further

Resolved, That Section 8 of Article 11 of the Nevada Constitution be amended to read as follows:

~~{Sec:}~~ **Sec. 8.** The ~~{Board of Regents shall, from the interest accruing from the first funds which come under their control, immediately organize and maintain the said Mining department in such manner as to make it most effective and useful, Provided, that all the}~~ proceeds of the public lands donated by Act of Congress approved July ~~{second AD. Eighteen hundred and sixty Two,}~~ 2, 1862, ch. 130, 12 Stat. 503, and thereafter amended by Act of Congress, for a college for the benefit of Agriculture ~~{, the Mechanics}~~ and Mechanic Arts, ~~{and}~~ including Military tactics, shall be invested by the ~~{said Board of Regents}~~ State Treasurer of Nevada in the manner required by law in a separate fund to be appropriated exclusively for the benefit of the first named departments to the State University as set forth in Section ~~{Four above,}~~ 4 of this Article. And the Legislature shall provide that if through neglect or any other contingency, any portion of the fund so set apart ~~{, shall be}~~ is lost or misappropriated, the State of Nevada shall replace

said amount so lost or misappropriated in said fund so that the principal of said fund shall remain forever undiminished. ~~##~~

And be it further

Resolved, That Section 7 of Article 11 of the Nevada Constitution be repealed.

TEXT OF REPEALED SECTION

Sec: 7. **Board of Regents: Election and duties.** The Governor, Secretary of State, and Superintendent of Public Instruction, shall for the first four years and until their successors are elected and qualified constitute a Board of Regents to control and manage the affairs of the University and the funds of the same under such regulations as may be provided by law. But the Legislature shall at its regular session next preceding the expiration of the term of office of said Board of Regents provide for the election of a new Board of Regents and define their duties.

Assemblywoman Diaz moved the adoption of the amendment.

Amendment adopted.

Resolution ordered reprinted, engrossed and to third reading.

Assembly Bill No. 223.

Bill read second time.

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

Amendment No. 549.

AN ACT relating to energy efficiency programs; requiring an electric utility to submit to the Public Utilities Commission of Nevada an energy efficiency plan designed to be cost effective; prescribing the contents of such a plan; requiring the Commission to ~~measure~~ **determine** the cost effectiveness of an energy efficiency plan **or energy efficiency program** through application of ~~the utility cost test;~~ **a test of the cost effectiveness of the plan or program that is selected by the Commission;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each electric utility to submit to the Public Utilities Commission of Nevada every 3 years a plan to increase the utility's supply of electricity or decrease the demands made on its system by its customers. Existing law provides that the plan must include certain components, including, without limitation, an energy efficiency program for residential customers. (NRS 704.741) **Section 7** of this bill revises this requirement to require an electric utility to include in its plan an energy efficiency plan **for residential customers** which reduces the consumption of electricity through energy efficiency and conservation programs and which is designed to be cost effective. **Section 8** of this bill authorizes the Commission to accept an energy efficiency plan **that consists of energy efficiency and conservation**

programs that are not cost effective if ~~it~~ the energy efficiency plan as a whole is cost effective. ~~[as measured by the utility cost test.]~~ Section 8 further requires , as long as an energy efficiency plan remains cost effective, that any order of the Commission accepting or modifying an energy efficiency plan or an amendment to such a plan to require that at least 5 percent of the expenditures ~~[relating to]~~ of the utility on approved energy efficiency and conservation programs in the energy efficiency plan be specifically directed toward energy efficiency programs for low-income customers. ~~[unless such a requirement is not cost effective.]~~

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

Section 1. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *As used in NRS 704.736 to 704.754, inclusive, and sections 2 to 5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Cost effective” means an energy efficiency plan or energy efficiency program has a benefit-cost ratio of 1.0 or greater as ~~[measured]~~ determined by the ~~[utility cost test]~~ Commission, using a test of the cost effectiveness of the plan or program that:*

- 1. Is selected by the Commission; and*
- 2. Accounts for any non-energy benefits of the plan or program.*

Sec. 4. 1. *“Energy efficiency and conservation program” means a program designed, intended or used to improve energy efficiency by reducing the energy consumption by a ~~[retail]~~ residential customer of a utility which supplies electricity in this State.*

2. *The term includes, without limitation, a demand-side response program or load-limiting program that shifts the consumption of energy by a ~~[retail]~~ residential customer from one period to another period.*

3. *The term does not include the implementation or assessment of any rate which is based on the time of day, day of the week or time of year during which electricity is used or which otherwise varies based upon the time during which the electricity is used.*

Sec. 5. ~~*“Utility cost test” means the measurement of the cost effectiveness of an energy efficiency plan or energy efficiency program that compares the monetary costs that are borne by an electric utility or provider of electric service and that are incurred to develop, acquire and operate an energy efficiency program on a life cycle basis to the avoided monetary costs associated with developing, acquiring and operating resources to supply electricity in the absence of the energy efficiency plan or program.*~~ (Deleted by amendment.)

Sec. 6. NRS 704.736 is hereby amended to read as follows:

704.736 The application of NRS 704.736 to 704.754, inclusive, **and sections 2 to 5, inclusive, of this act** is limited to any public utility in the business of supplying electricity which has an annual operating revenue in this state of \$2,500,000 or more.

Sec. 7. NRS 704.741 is hereby amended to read as follows:

704.741 1. A utility which supplies electricity in this State shall, on or before July 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission.

2. The Commission shall, by regulation:

(a) Prescribe the contents of such a plan, including, but not limited to, the methods or formulas which are used by the utility to:

(1) Forecast the future demands; and

(2) Determine the best combination of sources of supply to meet the demands or the best method to reduce them; and

(b) Designate renewable energy zones and revise the designated renewable energy zones as the Commission deems necessary.

3. The Commission shall require the utility to include in its plan:

(a) An energy efficiency ~~program~~ **plan for residential customers** ~~plan~~ **which is cost effective and** which reduces the consumption of electricity or any fossil fuel **through the implementation of energy efficiency and conservation programs. The energy efficiency plan must include, without limitation:**

(1) An energy efficiency and conservation program for residential customers which reduces the consumption of electricity or any fossil fuel and which includes, without limitation, the use of new solar thermal energy sources ~~and~~ **; and**

(2) A proposal for the expenditure of not less than 5 percent of the total expenditures related to energy efficiency and conservation programs on energy efficiency and conservation programs directed to low-income customers of the electric utility.

(b) A comparison of a diverse set of scenarios of the best combination of sources of supply to meet the demands or the best methods to reduce the demands, which must include at least one scenario of low carbon intensity that includes the deployment of distributed generation.

(c) An analysis of the effects of the requirements of NRS 704.766 to 704.775, inclusive, on the reliability of the distribution system of the utility and the costs to the utility to provide electric service to all customers. The analysis must include an evaluation of the costs and benefits of addressing issues of reliability through investment in the distribution system.

(d) A list of the utility's assets described in NRS 704.7338.

(e) A surplus asset retirement plan as required by NRS 704.734.

4. The Commission shall require the utility to include in its plan a plan for construction or expansion of transmission facilities to serve renewable

energy zones and to facilitate the utility in meeting the portfolio standard established by NRS 704.7821.

5. As used in this section:

(a) "Carbon intensity" means the amount of carbon by weight emitted per unit of energy consumed.

(b) "Renewable energy zones" means specific geographic zones where renewable energy resources are sufficient to develop generation capacity and where transmission constrains the delivery of electricity from those resources to customers.

Sec. 8. NRS 704.751 is hereby amended to read as follows:

704.751 1. After a utility has filed the plan required pursuant to NRS 704.741, the Commission shall issue an order accepting or modifying the plan or specifying any portions of the plan it deems to be inadequate:

(a) Within 135 days for any portion of the plan relating to the energy supply plan for the utility for the 3 years covered by the plan; and

(b) Within 180 days for all portions of the plan not described in paragraph (a).

➔ If the Commission issues an order modifying the plan, the utility may consent to or reject some or all of the modifications by filing with the Commission a notice to that effect. Any such notice must be filed not later than 30 days after the date of issuance of the order. If such a notice is filed, any petition for reconsideration or rehearing of the order must be filed with the Commission not later than 10 business days after the date the notice is filed.

2. If a utility files an amendment to a plan, the Commission shall issue an order accepting or modifying the amendment or specifying any portions of the amendment it deems to be inadequate:

(a) Within 135 days after the filing of the amendment; or

(b) Within 180 days after the filing of the amendment for all portions of the amendment which contain an element of the emissions reduction and capacity replacement plan.

➔ If the Commission issues an order modifying the amendment, the utility may consent to or reject some or all of the modifications by filing with the Commission a notice to that effect. Any such notice must be filed not later than 30 days after the date of issuance of the order. If such a notice is filed, any petition for reconsideration or rehearing of the order must be filed with the Commission not later than 10 business days after the date the notice is filed.

3. All prudent and reasonable expenditures made to develop the utility's plan, including environmental, engineering and other studies, must be recovered from the rates charged to the utility's customers.

4. **The Commission may accept an energy efficiency plan submitted pursuant to paragraph (a) of subsection 1 if the Commission determines that the plan is 3 of NRS 704.741 that consists of energy efficiency and conservation programs that are not cost effective as measured by the**

~~utility cost test. Unless the Commission determines that it is not cost effective, any~~ if the energy efficiency plan as a whole is cost effective. Any order issued by the Commission accepting or modifying an energy efficiency plan or an amendment to such a plan must provide, if the energy efficiency plan remains cost effective, require that not less than 5 percent of the total expenditures related to of the utility on approved energy efficiency and conservation programs in the energy efficiency plan must be specifically directed to energy efficiency programs for low-income customers of the utility. In developing the utility cost test for the purpose of measuring the cost effectiveness of energy efficiency and conservation programs directed to low income customers, the Commission shall quantify or assign a reasonable value to reductions in working capital, reduced collection costs, lower bad debt expense, improved effectiveness of customer service and any other appropriate factors as utility system economic benefits.

5. The Commission may accept a transmission plan submitted pursuant to subsection 4 of NRS 704.741 for a renewable energy zone if the Commission determines that the construction or expansion of transmission facilities would facilitate the utility meeting the portfolio standard, as defined in NRS 704.7805.

~~{5.}~~ 6. The Commission shall adopt regulations establishing the criteria for determining the adequacy of a transmission plan submitted pursuant to subsection 4 of NRS 704.741.

~~{6.}~~ 7. Any order issued by the Commission accepting or modifying an element of an emissions reduction and capacity replacement plan must include provisions authorizing the electric utility to construct or acquire and own electric generating plants necessary to meet the capacity amounts approved in, and carry out the provisions of, the plan. As used in this subsection, “capacity” means an amount of firm electric generating capacity used by the electric utility for the purpose of preparing a plan filed with the Commission pursuant to NRS 704.736 to 704.754, inclusive ~~{1}~~, and sections 2 to 5, inclusive, of this act.

Sec. 9. This act becomes effective:

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

2. On July 1, 2017, for all other purposes.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 83.

Bill read second time.

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

Amendment No. 538.

AN ACT relating to insurance; providing for administrative supervision of insurers and other entities by the Commissioner of Insurance; providing for the regulation of network plans; revising provisions relating to medical malpractice insurance, the general regulation of insurers, reinsurance, motor vehicle insurance, industrial insurance, health insurance in general, health benefit plans in general, funeral and burial services, individual health insurance, group and blanket health insurance, health insurance for small employers, service contracts, credit personal property insurance, nonprofit corporations for hospital, medical and dental service, health maintenance organizations, plans for dental care, prepaid limited health service organizations and managed care organizations; ~~exempting the Commissioner from the Nevada Administrative Procedure Act for certain purposes;~~ revising provisions relating to the confidentiality of certain documents and other information; revising various references to insurance agents and brokers; repealing various provisions governing summaries of coverage, loss prevention, disclosures of certain information, continuation of coverage and insurance requirements for prepaid limited health service organizations; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Commissioner of Insurance to regulate insurance in this State. (NRS 679B.120) This bill adds to, revises and repeals various provisions of existing law, primarily in title 57 of NRS, relating to the regulation of insurance in this State.

Sections 2-13 of this bill authorize the Commissioner to place an insurer under administrative supervision and set forth the requirements for such supervision. **Section 6** authorizes the Commissioner to place an insurer under administrative supervision under specified circumstances, including, without limitation, when the insurer is in a hazardous financial condition, when the insurer appears to have exceeded its powers or if an insurer agrees to be placed under such supervision. **Section 6** further provides for the duration of the administrative supervision and the release of the insurer from administrative supervision. **Section 7** designates the Commissioner or an appointee thereof as the administrative supervisor of an insurer under administrative supervision, authorizes the Commissioner to limit the actions of such an insurer and lists various types of actions which the Commissioner may prohibit the insurer from taking without obtaining advance approval from the Commissioner or appointee. **Sections 3 and 4** define, for the purposes of **sections 2-13**, the terms "Commissioner" and "insurer." Both terms are currently defined for the purposes of existing law, but **sections 3 and 4** provide more expansive definitions for the purposes of **sections 2-13**. (NRS 679A.060, 679A.100) **Section 5** expressly makes **sections 2-13** apply

to insurers and other persons, including, without limitation, a person purporting to be an insurer, organizing to be an insurer or holding himself or herself out as organizing to be an insurer. **Section 8** governs the use and confidentiality of information relating to the administrative supervision of an insurer. **Section 9** establishes provisions governing the contesting or reviewing of decisions made by the Commissioner or an appointee thereof pursuant to **sections 2-13**. **Section 10** ensures that the Commissioner may institute delinquency proceedings against an insurer without regard to whether the insurer is or was under administrative supervision. **Section 11** authorizes the Commissioner, a designee of the Commissioner and an attorney or other persons to meet, for specified purposes, outside the presence of other persons. **Section 12** authorizes the Commissioner to adopt regulations and to employ various persons to carry out the administrative supervision of an insurer. **Section 12** further authorizes the Commissioner to require the insurer under administrative supervision to pay the compensation and expenses of the persons the Commissioner appoints and employs for the purposes of the administrative supervision. **Section 13** provides that the Commissioner and his or her employees and agents are not liable for actions taken pursuant to **sections 2-13**.

Section 14 of this bill revises the information the Commissioner is required to collect regarding closed claims for medical malpractice. (NRS 679B.144) **Sections 117 and 118** remove the requirement to report certain information regarding closed claims for medical malpractice. (NRS 690B.250, 690B.260) **Section 119** of this bill revises requirements concerning professional liability insurance for essential medical specialties. (NRS 690B.350) **Section 120** of this bill revises requirements concerning information to be gathered and reports to be provided by the Commissioner concerning medical malpractice insurance. (NRS 690B.360)

Sections 15, 21, 26, 27, 29-32, 164 and 165 of this bill replace various references to insurance agents, brokers and solicitors, which are undefined terms, with the term “producer of insurance,” which is defined as “a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance.” (NRS 679A.117)

Section 16 of this bill requires an insurer to which the Commissioner has issued a certificate of authority to notify the Commissioner of material changes to the information provided by the insurer to the Commissioner in the insurer’s application for a certificate of authority. **Section 18** of this bill authorizes a life insurer or multiple lines insurer to issue life or health insurance policies under its own name and under additional titles. (NRS 680A.240)

Existing law requires an authorized insurer annually to file with the Commissioner a full and true statement of the insurer’s financial condition, transactions and affairs as of the previous December 31 and makes confidential certain information submitted to the Division of Insurance of the Department of Business and Industry. (NRS 680A.270) **Section 19** of this

bill expands the confidentiality provision to include all work papers, documents and materials prepared for the purpose of submitting the statement or by or on behalf of the Division. **Section 19** also authorizes the insurer to file, as an exhibit separate from the annual statement, specified disclosures of compensation paid to or on behalf of an insurer's officers, directors or employees and makes such information confidential.

Section 20 of this bill expands the applicability of the monetary penalty required to be imposed for a delay by an insurer in properly filing an annual statement. (NRS 680A.280) **Section 24** of this bill narrows the definition of the term "managing general agent" to include the management of an underwriting office. (NRS 683A.060) **Section 25** of this bill removes the willfulness requirement from one of the grounds for which the Commissioner may suspend or revoke the certificate of registration of an administrator ~~and~~ **and replaces it with a knowingly requirement.** (NRS 683A.0892) **Section 33** of this bill revises the duties of an insurer with regard to the use of information in a consumer credit report. (NRS 686A.680)

Section 22 of this bill authorizes the Commissioner to adopt regulations governing certain arrangements for reinsurance, including, without limitation, the amounts and forms of security which must be held pursuant to those arrangements.

Section 28 of this bill provides for the automatic suspension of the license of a motor vehicle physical damage appraiser if the appraiser does not file a replacement bond for a required surety bond in the event of the cancellation of the required surety bond. (NRS 684B.030) **Section 86** of this bill revises provisions governing the cancellation, nonrenewal or increase in premiums for renewal of a policy of motor vehicle insurance as the result of the filing of certain claims. (NRS 687B.385)

Section 35 of this bill defines the term "large-deductible agreement" as certain agreements in which the policyholder must bear the risk of loss of a specified amount of \$25,000 or more per claim or occurrence covered under the policy of industrial insurance. **Section 38** of this bill requires full collateralization of the outstanding obligations owed under a large-deductible agreement and limits the size of the policyholder's obligations under the large-deductible agreement. **Section 39** of this bill generally prohibits an insurer from issuing or renewing a policy of industrial insurance which includes a large-deductible agreement if the insurer is in a hazardous financial condition. **Section 37** of this bill limits the applicability of **sections 38 and 39** to policies of industrial insurance with large-deductible agreements which are issued by insurers with both ratings below specified levels and surpluses below specified amounts. **Section 37** further specifies that **sections 38 and 39** only apply to policies of industrial insurance issued or renewed on or after January 1, 2018, and which are not issued to a governmental entity. **Section 166** of this bill revises the definition of the term "tangible net worth" in relation to industrial insurance, specifically self-

insured employers and associations of self-insured employers. (NRS 616A.330)

Existing law provides for the Commissioner to consider each proposed increase or decrease in the rates of various kinds and lines of insurance. (NRS 686B.070) **Section 36** of this bill creates new procedures for the Commissioner to consider each proposed increase or decrease in the rates of health plans for individual health insurance, group and blanket health insurance, health insurance for small employers, nonprofit corporations for hospital, medical and dental services, health maintenance organizations, plans for dental care and prepaid limited health service organizations. **Section 44** of this bill clarifies that the existing procedures for considering a proposed increase or decrease do not apply to the insurers subject to the provisions of **section 36**. (NRS 686B.110)

Sections 88 and 89 of this bill revise existing provisions relating to health benefit plans by specifying that the group market and small group market being considered in these provisions must be the “small employer” group market. (NRS 687B.490, 687B.500)

Sections 51-85 of this bill establish provisions governing network plans. **Section 60** defines a network plan as a health benefit plan offered or issued by a health carrier under which the financing and delivery of health care services are provided, in whole or in part, through a defined set of providers of health care under contract with the health carrier. **Sections 52-59 and 61-64** define other terms for the regulation of network plans. **Section 65** requires a health carrier to comply with and ensure that network plans and related contracts comply with **sections 51-85**. **Sections 66, 71, 79, 81 and 84** require a health carrier to provide for notice to providers of health care concerning: (1) covered services; (2) the health carrier’s policies and programs; (3) the providers’ obligations to collect payments; (4) determinations of coverage; and (5) the inclusion of and status of a participating provider in the network plan. **Sections 67, 68, 70, 74, ~~75~~ and 77** require a contract between a provider of health care and a health carrier to contain provisions which: (1) prohibit the provider from collecting excess amounts from covered persons; (2) require the continuation of health care services in the event of cessation of the operations of the health carrier; (3) ~~prohibit the provider from collecting from covered persons any amounts owed to the provider by the health carrier;~~ **require that written notice be provided to a participating provider of health care in certain circumstances;** (4) require the provider to make health care records available under certain circumstances; **and** (5) ~~require good faith efforts to notify covered persons when a participating provider leaves the network; and (6)~~ prohibit the assignment or delegation of rights under the contract. **Section 69** provides that specified provisions in a contract between a provider of health care and a health carrier must be construed in favor of the covered person. **Section 72** prohibits a health carrier from offering inducement to a provider of health care to provide health care services which are less than medically necessary. **Section 73** requires that a

health carrier allow a provider of health care to discuss all treatment options with a covered person and advocate for the covered person. ~~Section 76 sets forth requirements for the continuation of health care services for a covered person after the termination of the contract between the health carrier and the covered person's provider of health care.~~ **Section 78** governs the furnishing of covered services to all covered persons. **Section 80** prohibits a health carrier from penalizing a provider of health care who reports to state or federal authorities certain practices of the health carrier. **Section 82** requires a health carrier to establish procedures for dispute resolution between a provider of health care and the health carrier. **Section 83** prohibits a contract between a provider of health care and a health carrier from containing any provision which conflicts with the network plan or with any provision of **sections 51-85**. **Section 85** authorizes the Commissioner to adopt regulations to carry out **sections 51-85**.

Section 90 of this bill provides for the automatic suspension of the certificate of authority of a seller of prepaid contracts for funeral services if the seller does not file a replacement bond for a required surety bond in the event of the cancellation of the required surety bond. (NRS 689.185) **Section 91** of this bill similarly provides for the automatic suspension of the permit of a seller of prepaid contracts for burial services if the seller does not file a replacement bond for a required surety bond in the event of the cancellation of the required surety bond. (NRS 689.495)

Section 92 of this bill provides, with certain exceptions, that unified rate review templates and rate filing documentation of individual carriers are considered proprietary, constitute a trade secret and are not subject to disclosure by the Commissioner. **Sections 98, 110, 112 and 114** of this bill remove the notice requirement regarding the discontinuance ~~of a form~~ of a product: (1) of a health benefit plan; (2) of group health insurance; (3) offered to small employers; and (4) offered to small employers or purchasers through a voluntary purchasing group. (NRS 689A.630, 689B.560, 689C.310, 689C.470) **Sections 109, 113 and 134** of this bill remove the requirement that certain policies of group health insurance, health benefit plans and group contracts for hospital, medical or dental services include a provision regarding the point at which an insured's payment of coinsurance for a provider of health care who is not preferred is no longer required to be paid. (NRS 689B.061, 689C.350, 695B.185)

Section 111 of this bill deletes provisions governing the determination of whether an employer is small or large, and the applicability of other provisions after an employer is deemed large. (NRS 689C.111)

Sections 122-124 and 127-129 of this bill revise provisions relating to service contracts which are contracts pursuant to which a provider is obligated to the purchaser of the service contract to repair, replace or perform maintenance on, or indemnify or reimburse the purchaser for the costs of repairing, replacing or performing maintenance on, goods that are described in the service contract. (NRS 690C.080) **Section 123** sets forth the

qualifications of a controlling person for the purposes of determining the controlling person of a provider of service contracts. **Section 127** adds to the requirements for a provider to apply for and obtain a certificate of registration to issue, sell or offer for sale service contracts, including providing certain personal and criminal history information about the controlling persons of the provider and ~~providing an affidavit affirming~~ **verifying** that the information in the application for a certificate of registration is accurate ~~to the best of his or her knowledge~~. (NRS 690C.160) **Section 124** prohibits a provider from transferring its liability under a service contract except under specified conditions, including, without limitation, obtaining the approval of the Commissioner. **Section 128** revises the requirements governing the financial security which must be maintained by a provider, including, without limitation, expanded requirements concerning a reserve account. (NRS 690C.170) **Section 129** revises provisions which govern the notice required by a provider which ceases to do business in this State. (NRS 690C.240)

Section 130 of this bill deletes a requirement that the Commissioner is required to adopt regulations relating to reasonable rates for credit personal property insurance. (NRS 691C.340) However, **section 130** retains express authority for the Commissioner to adopt regulations concerning rates for credit personal property insurance an insurer may use without making certain filings. **Section 131** deletes a requirement that the Commissioner is required to adopt regulations relating to a refund of unearned premiums for credit personal property insurance. (NRS 691C.390)

Sections 132 and 142 of this bill require nonprofit corporations for hospital, medical or dental service and health maintenance organizations to contract with an insurance company to provide insurance, indemnity or reimbursement against the cost of services provided and sets forth requirements relating to the payment of claims made to insureds or enrollees, as applicable, in the case of the insolvency or impairment of such corporation or organization.

Existing law sets forth provisions regarding the insolvency of nonprofit corporation for hospital, medical or dental service. (NRS 695B.150) **Section 133** of this bill expands the requirements for determinations concerning the insolvency of such a corporation, adds provisions concerning the impairment of such a corporation and authorizes the Commissioner to adopt regulations concerning a determination that such a corporation is in a hazardous financial condition. **Sections 143, 152 and 156** of this bill establish similar provisions for health maintenance organizations, organizations for dental care and prepaid limited health service organizations.

Existing law clarifies that nonprofit hospital and medical or dental service corporations, health maintenance organizations, organizations for dental care and prepaid limited health service organizations are subject to certain other provisions of existing law. (NRS 695B.320, 695C.055, 695D.095, 695F.090) **Sections 138, 147, 154 and 157** of this bill revise such provisions to include

additional requirements for applicability. **Section 144** of this bill requires each health maintenance organization to develop, submit to the Commissioner and put into effect a plan to provide for the continuation of benefits to enrollees in the event of the insolvency or impairment of the health maintenance organization. **Section 145** of this bill authorizes the Commissioner to take certain actions regarding the operation of a health maintenance organization if the Commissioner determines that, because of the financial condition of the health maintenance organization, the continued operation of the health maintenance organization may be hazardous to its enrollees or creditors or to the general public. **Section 146** of this bill addresses the conservation, rehabilitation and liquidation of health maintenance organizations. **Section 149** of this bill revises provisions governing examinations of health maintenance organizations by the Commissioner or an examiner designated by the Commissioner. (NRS 695C.310)

Section 153 of this bill requires an organization for dental care to maintain a capital account with a minimum net worth of not less than \$500,000 unless a different amount is authorized by the Commissioner. **Section 155 and 158** of this bill revise requirements for organizations for dental care and prepaid limited health service organizations to maintain surety bonds or deposits by increasing the amount of such bonds or deposits from \$250,000 to \$500,000 and authorizing the Commissioner to increase the amount of such bonds or deposits under certain circumstances. (NRS 695D.170, 695F.200) **Section 158** also increases the minimum net worth a prepaid limited health service organization must maintain in a capital account from \$200,000 to \$500,000.

Existing law requires a managed care organization to report annually to the Commissioner regarding its methods for reviewing the quality of health care services provided to its insureds. (NRS 695G.130) **Section 159** of this bill changes the timeline for submitting such a report and requires that the report be submitted on a form prescribed by the Commissioner.

~~[Section 162 of this bill exempts the Commissioner from the Nevada Administrative Procedure Act for the purposes of establishing and adjusting certain standards and requirements relating to health insurance. (NRS 233B.039)]~~

Sections 103-106, 139, 140, 148, 160 and 161 of this bill remove the State Board of Health from the provisions governing systems for resolving complaints of insureds. (NRS 689A.745, 689A.750, 689B.0285, 389B.029, 695B.380, 695B.390, 695C.080, 695G.200, 695G.220)

Section 168 repeals: (1) the requirement for certain insurers and the Commissioner to submit annual reports addressing loss prevention and control programs (NRS 680A.290, 690B.370); (2) the requirement for certain insurers to make certain disclosures (NRS 689A.390, 689A.400, 689A.690, 689B.027, 689B.028, 689C.270, 689C.280, 689C.440, 689C.450, 695B.172, 695B.174); and (3) the requirement for a prepaid limited health service

organization to contract with an insurance company for certain purposes (NRS 695F.215).

Sections 17, 23, 40-43, 45-49, 87, 93-97, 99-102, 107, 108, 115, 116, 125, 126, 135, 136, 150 and 163 of this bill make conforming changes.

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

Section 1. Title 57 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 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Commissioner” means the Commissioner of Insurance and, if applicable:*

- 1. A deputy of the Commissioner; or*
- 2. The Division.*

Sec. 4. *“Insurer” includes, without limitation:*

- 1. A captive insurer that has been issued a certificate of authority pursuant to chapter 694C of NRS;*
- 2. A fraternal benefit society that has been issued a certificate of authority pursuant to chapter 695A of NRS;*
- 3. A health maintenance organization that has been issued a certificate of authority pursuant to chapter 695C of NRS;*
- 4. A nonprofit corporation for hospital, medical or dental services that has been issued a certificate of authority pursuant to chapter 695B of NRS;*
- 5. An organization for dental care that has been issued a certificate of authority pursuant to chapter 695D of NRS;*
- 6. A prepaid limited health service organization that has been issued a certificate of authority pursuant to chapter 695F of NRS;*
- 7. A risk retention group that has been issued a certificate of registration pursuant to chapter 695E of NRS;*
- 8. Any person who is engaged as principal and as indemnitor, surety or contractor in the business of entering into contracts of insurance; and*
- 9. Any person purporting to be an insurer listed in subsections 1 to 8, inclusive, or in the process of organizing, or holding himself or herself out as organizing, or proposing to organize in this State for the purpose of becoming an insurer listed in subsections 1 to 8, inclusive.*

Sec. 5. *The provisions of this chapter apply to:*

- 1. All domestic insurers;*
- 2. Any foreign insurer doing business in this State regarding whom an applicable official of the foreign insurer’s state of domicile has requested that the Commissioner apply the provisions of this chapter to the foreign insurer;*

3. All persons purporting to be an insurer, or in the process of organizing, or holding themselves out as organizing, or proposing to organize in this State for the purpose of becoming an insurer; and

4. All other persons to whom the provisions of this chapter are otherwise expressly made applicable by law.

Sec. 6. 1. The Commissioner may place an insurer under administrative supervision if:

(a) At any time, the Commissioner determines that:

(1) The insurer is in a hazardous financial condition as set forth in regulations adopted pursuant to NRS 680A.205 or 695B.150 or section 143, 152 or 156 of this act or any other applicable provision of this title;

(2) The insurer is in a hazardous financial condition pursuant to NRS 682A.510 or section 145 and 146 of this act or any other applicable provision of this title;

(3) The continued operation of the insurer transacting business in this State may be hazardous to the insureds or creditors of the insurer or to the general public;

(4) As described in subsection 5, the insurer appears to have exceeded its powers as granted by its license or certificate of authority, as applicable, or as granted by applicable law; or

(5) ~~The insurer has failed or refused to comply with any applicable provision of this Code; or~~

~~—(6)— The insurer is conducting its business fraudulently; or~~

(b) The insurer agrees to be placed under administrative supervision.

2. If the Commissioner places an insurer under administrative supervision pursuant to subsection 1:

(a) The Commissioner shall promptly notify the insurer that the insurer has been placed under administrative supervision, and include with that notice:

(1) The determination, if any, made by the Commissioner pursuant to paragraph (a) of subsection 1;

(2) A written list of the actions which the insurer must take to satisfy the Commissioner that the placement of the insurer under administrative supervision pursuant to subsection 1 is no longer appropriate;

(3) The initial period of administrative supervision established pursuant to paragraph (b);

(4) The actions, if any, identified by the Commissioner pursuant to subsection 2 of section 7 of this act; and

(5) A statement that the provisions of this chapter govern the administrative supervision of the insurer.

(b) Except as otherwise provided in this paragraph, the initial period of administrative supervision begins upon the insurer's receipt of the notice described in paragraph (a) and ends 60 days after the date of the Commissioner's determination pursuant to paragraph (a) of subsection 1 or the date of the insurer's agreement pursuant to paragraph (b) of

subsection 1, as applicable. The Commissioner may designate a different date for the end of the initial period of administrative supervision, if the Commissioner determines that a different date is appropriate and includes that date in the notice required by paragraph (a).

3. The insurer remains under administrative supervision pursuant to this section from the beginning of the initial period of administrative supervision established pursuant to paragraph (b) of subsection 2 until the date on which the insurer is released from administrative supervision by the Commissioner pursuant to paragraph (a) of subsection 4.

4. At the end of the initial period of supervision established pursuant to paragraph (b) of subsection 2 and at the end of any extended period of supervision established pursuant to paragraph (b) of this subsection, the Commissioner shall provide the insurer with notice and an opportunity for a hearing to determine whether the insurer has taken the actions specified pursuant to subparagraph (2) of paragraph (a) of subsection 2 to the satisfaction of the Commissioner. If the Commissioner determines that the insurer:

(a) Has taken such actions to the satisfaction of the Commissioner, the Commissioner shall release the insurer from administrative supervision; or

(b) Has not taken such actions to the satisfaction of the Commissioner, the Commissioner shall designate an extended period of supervision during which the insurer remains under administrative supervision.

5. For the purposes of subparagraph (2) of paragraph (a) of subsection 1, an insurer shall be deemed to have exceeded its powers if the insurer:

(a) Refused to permit the Commissioner, or an examiner authorized by the Commissioner, to examine its books, papers, accounts, records or affairs;

(b) Is a domestic insurer and unlawfully removed from this State books, papers, accounts or records necessary for an examination of the insurer;

(c) Failed or refused to promptly comply with any applicable statutes or regulations relating to financial reporting or any requests of the Commissioner relating thereto;

(d) Failed or refused to comply with an order of the Commissioner to make good, within the time prescribed by law, any prohibited deficiency in its capital, capital stock or surplus;

(e) Continued to transact insurance or write business in this State after its license or certificate of authority, as applicable, has been revoked or suspended by the Commissioner;

(f) Unlawfully, in violation of an order of the Commissioner, or without first having obtained written approval of the Commissioner if written approval is required by law, and whether accomplished by contract or otherwise:

(1) Completely reinsured its entire outstanding business; or

(2) Merged or substantially consolidated its entire property or business with another insurer;

(g) Engaged in any transaction in which it is not authorized to engage under the laws of this State; or

(h) Otherwise failed or refused to comply with a lawful order of the Commissioner.

Sec. 7. 1. During the period an insurer is under administrative supervision pursuant to section 6 of this act, the Commissioner or an appointee designated by the Commissioner shall serve as the administrative supervisor of the insurer.

2. The Commissioner may identify any one or more actions specified in subsection 3 as actions which the insurer shall not take during the period the insurer remains under administrative supervision pursuant to section 6 of this act unless the insurer obtains approval in advance from the administrative supervisor designated pursuant to subsection 1.

3. If identified by the Commissioner pursuant to subsection 2, the insurer shall not, without obtaining approval in advance from the administrative supervisor:

(a) Dispose of, convey or encumber any of its assets or its business in force;

(b) Withdraw money from any of its bank accounts;

(c) Lend any of its money;

(d) Invest any of its money;

(e) Transfer any of its property;

(f) Incur any debt, obligation or liability;

(g) Merge or consolidate with another insurer or any other business entity as defined in NRS 682A.025;

(h) Approve new premiums or renew any policies;

(i) Enter into any new reinsurance contract or treaty;

(j) Terminate, surrender, forfeit, convert or lapse any insurance policy, certificate or contract, except for nonpayment of premiums due;

(k) Release, pay or refund premium deposits, accrued cash or loan values, unearned premiums or other reserves on any insurance policy, certificate or contract;

(l) Make any material change in management; or

(m) Increase any salary or benefit of an officer or director, increase the preferential payment of a bonus or dividend or increase any other payment deemed by the Commissioner to be preferential.

Sec. 8. 1. Notwithstanding any other provision of law and except as set forth in this section and NRS 239.0115, any proceedings and hearings, and any notices, correspondence, reports, records and other information in the possession of the Commissioner, relating to the administrative supervision of any insurer pursuant to this chapter are confidential by law and privileged, are not subject to subpoena, are not subject to discovery and are not admissible in evidence in any private civil action.

2. The Commissioner may use the information specified in subsection 1 in the furtherance of any regulatory or legal action brought as part of his

or her official duties, including, without limitation, his or her duties as a receiver pursuant to chapter 696B of NRS.

3. Neither the Commissioner nor any other person who received access to any information specified in subsection 1 while acting under the authority of the Commissioner may be permitted or required to testify in any private civil action concerning the information.

4. In order to assist in the performance of the regulatory duties of the Commissioner, the Commissioner may:

(a) Share the information specified in subsection 1 with:

(1) Other state, federal and international regulatory agencies, including, without limitation, members of any supervisory college as defined in NRS 692C.359;

(2) The National Association of Insurance Commissioners and its affiliates and subsidiaries;

(3) Third party consultants designated by the Commissioner; and

(4) State, federal and international law enforcement authorities, if the Commissioner determines that the disclosure is necessary or proper for the enforcement of the laws of this State or another state,

↪ provided that the recipient agrees to maintain the confidentiality of the applicable information specified in subsection 1. No waiver of any applicable privilege or claim of confidentiality occurs because of the sharing of information pursuant to this paragraph.

(b) Open any proceedings or hearings to the public or make public any other information specified in subsection 1 if the Commissioner determines that it is in the best interest of the public or in the best interest of the insurer, the insureds or creditors of the insurer, or the general public.

Sec. 9. 1. During the period an insurer is under administrative supervision pursuant to section 6 of this act, the insurer may contest any action taken or proposed to be taken by the administrative supervisor designated pursuant to subsection 1 of section 7 of this act on the ground that the action would not result in improving the condition of the insurer. To contest an action taken or proposed to be taken by the administrative supervisor, the insurer must submit a request for reconsideration to the administrative supervisor. If the administrative supervisor, upon reconsideration, denies the insurer's request, the insurer may request a review of the decision of the administrative supervisor pursuant to NRS 679B.310 to 679B.370, inclusive.

2. Any action taken by the Commissioner pursuant to this chapter is subject to:

(a) Review pursuant to NRS 679B.310 to 679B.370, inclusive, and any regulations adopted pursuant thereto; and

(b) Judicial review pursuant to chapter 233B of NRS.

Sec. 10. Nothing in this chapter shall be construed to limit the authority of the Commissioner to institute delinquency proceedings against an insurer pursuant to chapter 696B of NRS for the purpose of conserving,

rehabilitating, reorganizing or liquidating the insurer, without regard to whether the Commissioner has currently or previously placed the insurer under administrative supervision pursuant to section 6 of this act.

Sec. 11. *Notwithstanding any other provision of law, at the time of any proceeding or during the pendency of any proceeding held pursuant to this chapter, the Commissioner may meet with an administrative supervisor designated by the Commissioner pursuant to subsection 1 of section 7 of this act, and with the attorney or other representative of the administrative supervisor designated pursuant to subsection 1 of section 7 of this act, without the presence of any other person:*

- 1. To carry out the duties of the Commissioner under this chapter; or*
- 2. To allow the administrative supervisor to carry out his or her duties under this chapter.*

Sec. 12. *The Commissioner may:*

- 1. Adopt any regulations necessary to carry out the purposes and provisions of this chapter;*
- 2. In addition to an administrative supervisor designated by the Commissioner pursuant to subsection 1 of section 7 of this act, employ any other counsels, actuaries, clerks and assistants as the Commissioner deems necessary for the administrative supervision of an insurer; and*
- 3. Require an insurer placed under administrative supervision to pay the compensation and expenses of the administrative supervisor designated by the Commissioner pursuant to subsection 1 of section 7 of this act and any other counsels, actuaries, clerks and assistants described in subsection 2.*

Sec. 13. *There shall be no liability on the part of, and no cause of action of any nature against, the Commissioner or any employee or agent of the Commissioner, or an administrative supervisor designated pursuant to subsection 1 of section 7 of this act, for any action taken by them in the performance of their powers and duties under this chapter.*

Sec. 14. NRS 679B.144 is hereby amended to read as follows:

679B.144 1. The Commissioner shall collect and maintain the information provided by insurers pursuant to NRS 690B.260 regarding each closed claim for medical malpractice filed against a person who is covered by a policy of insurance for medical malpractice in this state, including, without limitation:

- (a) The cause of the loss;
- (b) A description of the injury for which the claim was filed;
- (c) The sex of the injured person;
- (d) The names and number of defendants in each claim;
- (e) The type of coverage provided;
- (f) ~~The amount of the initial, highest and last reserves of an insurer for each claim before final resolution of the claim by settlement or trial;~~
- ~~—(g) The disposition of each claim;~~
- ~~—(h) The amount of money awarded through settlement or by verdict;~~
- (g) The amount of money awarded through settlement or by verdict;

~~[(i)]~~ **(h)** The sum of money paid to each claimant and the source of that sum;

~~[(i)]~~ **(i)** Any sum of money allocated to expenses for the adjustment of losses; and

~~[(k)]~~ **(j)** Any other information the Commissioner determines to be necessary or appropriate.

2. The Commissioner shall submit with the report to the Legislature required pursuant to NRS 679B.410 a summary of the information collected pursuant to this section.

3. The Commissioner ~~shall~~ **may** adopt regulations necessary to carry out the provisions of this section.

4. As used in this section, “policy of insurance for medical malpractice” means a policy that provides coverage for any medical professional liability of the insured under the policy.

Sec. 15. NRS 679B.240 is hereby amended to read as follows:

679B.240 To ascertain compliance with law, or relationships and transactions between any person and any insurer or proposed insurer, the Commissioner may, as often as he or she deems advisable, examine the accounts, records, documents and transactions relating to such compliance or relationships of:

1. Any **producer of insurance**, ~~agent,~~ solicitor, ~~broker,~~ surplus lines broker, general agent, adjuster, insurer representative, bail agent, motor club agent or any other licensee or any other person the Commissioner has reason to believe may be acting as or holding himself or herself out as any of the foregoing.

2. Any person having a contract under which the person enjoys in fact the exclusive or dominant right to manage or control an insurer.

3. Any insurance holding company or other person holding the shares of voting stock or the proxies of policyholders of a domestic insurer, to control the management thereof, as voting trustee or otherwise.

4. Any subsidiary of the insurer.

5. Any person engaged in this state in, or proposing to be engaged in this state in, or holding himself or herself out in this state as so engaging or proposing, or in this state assisting in, the promotion, formation or financing of an insurer or insurance holding corporation, or corporation or other group to finance an insurer or the production of its business.

6. Any independent review organization, as defined in NRS 695G.026.

Sec. 16. Chapter 680A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each insurer to which the Commissioner issues a certificate of authority shall notify the Commissioner of all material changes to the information provided by the insurer in its written application pursuant to NRS 680A.150, including, without limitation:

(a) Any change of address, such as a change to:

(1) The mailing address of the home office, or any other physical address, of the insurer; and

(2) Any other mailing address of the insurer, including, without limitation, the address used for general correspondence or for annual renewal notices;

(b) Any changes in the officers, directors or ownership of the insurer;

(c) Any changes to the manner of service of legal process against the insurer; and

(d) Any changes to the articles of incorporation, by-laws or power of attorney for the attorney-in-fact of the insurer.

2. The notice required by subsection 1 must be provided to the Commissioner within 30 days after the date on which the change occurs.

3. If an insurer changes its physical or mailing address without giving written notice and the Commissioner is unable to locate the insurer after diligent effort, the Commissioner may suspend or revoke the insurer's certificate of authority without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the insurer at its last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner. In lieu of such a suspension or revocation, the Commissioner may levy upon the insurer, and the insurer shall pay forthwith, an administrative fine of not more than \$2,000 for each act or violation.

Sec. 17. NRS 680A.095 is hereby amended to read as follows:

680A.095 1. Except as otherwise provided in subsection 3, an insurer which is not authorized to transact insurance in this State may not transact reinsurance with a domestic insurer in this State, by mail or otherwise, unless the insurer holds a certificate of authority as a reinsurer in accordance with the provisions of NRS 680A.010 to 680A.150, inclusive, 680A.160 to ~~680A.290,~~ **680A.280**, inclusive, **and section 16 of this act**, 680A.320 and 680A.330.

2. To qualify for authority only to transact reinsurance, an insurer must meet the same requirements for capital and surplus as are imposed on an insurer which is authorized to transact insurance in this State.

3. This section does not apply to the joint reinsurance of title insurance risks or to reciprocal insurance authorized pursuant to chapter 694B of NRS.

Sec. 18. NRS 680A.240 is hereby amended to read as follows:

680A.240 1. A property insurer or multiple line insurer authorized to transact insurance in Nevada shall have the right to issue property insurance policies under its own name and under additional "titles" or under additional "titles" duly registered by the insurer with the Commissioner.

2. ***A life insurer or multiple line insurer authorized to transact insurance in Nevada shall have the right to issue life or health insurance policies under its own name and under additional "titles" or under additional "titles" duly registered by the insurer with the Commissioner.***

3. The Commissioner shall, upon the insurer's request, furnish to the insurer the form required for such registration, and the insurer shall pay the fee for registration as specified in NRS 680B.010 (fee schedule). Registered titles shall be shown on the insurer's certificate of authority and shall remain in effect for so long as the insurer's certificate of authority is in effect, subject to earlier termination of the registration at the insurer's request.

~~3.1~~ 4. All business transacted by the insurer under additional titles shall be included in business and transactions of the insurer to be shown by its annual statement filed with the Commissioner, for all purposes under this Code.

Sec. 19. NRS 680A.270 is hereby amended to read as follows:

680A.270 1. Each authorized insurer shall annually on or before March 1, or within any reasonable extension of time therefor which the Commissioner for good cause may have granted on or before that date, file with the Commissioner a full and true statement of its financial condition, transactions and affairs as of December 31 preceding. The statement must be:

(a) In the general form and context of, and require information as called for by, an annual statement as is currently in general and customary use in the United States for the type of insurer and kinds of insurance to be reported upon, with any useful or necessary modification or adaptation thereof, supplemented by additional information required by the Commissioner;

(b) Prepared in accordance with:

(1) 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; and

(2) 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) Verified by the oath of the insurer's president or vice president and secretary or actuary, as applicable, or, in the absence of the foregoing, by two other principal officers, or if a reciprocal insurer, by the oath of the attorney-in-fact, or its like officers if a corporation.

2. The statement of an alien insurer must be verified by its United States manager or other officer who is authorized to do so, and may relate only to the insurer's transactions and affairs in the United States unless the Commissioner requires otherwise. If the Commissioner requires a statement as to the insurer's affairs throughout the world, the insurer shall file the statement with the Commissioner as soon as reasonably possible.

3. The Commissioner may refuse to continue, or may suspend or revoke, the certificate of authority of any insurer failing to file its annual statement when due.

4. At the time of filing, the insurer shall pay the fee for filing its annual statement as prescribed by NRS 680B.010.

5. The Commissioner may adopt regulations requiring each domestic, foreign and alien insurer which is authorized to transact insurance in this state to file the insurer's annual statement with the National Association of Insurance Commissioners or its successor organization.

6. Except as otherwise provided in NRS 239.0115, all ~~ratios of financial analyses and synopses of examinations concerning insurers that are submitted to the Division by the National Association of Insurance Commissioners' Insurance Regulatory Information System]~~ **work papers, documents and materials prepared pursuant to this section by or on behalf of the Division** are confidential and ~~may~~ **must** not be disclosed by the Division.

7. *To the extent that the Annual Statement Instructions referenced in subparagraph (1) of paragraph (b) of subsection 1 require the disclosure of compensation paid to or on behalf of an insurer's officers, directors or employees, the information may be filed with the Commissioner as an exhibit separate from the statement required by this section. Except as otherwise provided in NRS 239.0115, the compensation information described in this subsection is confidential and must not be disclosed by the Division.*

Sec. 20. NRS 680A.280 is hereby amended to read as follows:

680A.280 1. Any insurer failing, without just cause beyond the reasonable control of the insurer, to file ~~its~~ **an** annual statement as required in NRS **680A.265** and 680A.270 shall be required to pay a penalty of \$100 for each day's delay, but not to exceed \$3,000 in aggregate amount, to be recovered in the name of the State of Nevada by the Attorney General.

2. Any director, officer, agent or employee of any insurer who subscribes to, makes or concurs in making or publishing, any annual or other statement required by law, knowing the same to contain any material statement which is false, is guilty of a gross misdemeanor.

Sec. 21. NRS 680B.020 is hereby amended to read as follows:

680B.020 1. Notwithstanding the provisions of any general or special law, the possession of a license or certificate of authority issued under this Code shall be authorization to transact such business as indicated in such license or certificate of authority, and shall be in lieu of all licenses, whether for regulation or revenue, required to transact insurance business within the State of Nevada; but each city, town or county may require a license for revenue purposes only for any insurance ~~agent, broker,~~ analyst, adjuster or managing general agent **or producer of insurance** whose principal place of business is located within such city or town, or within the county outside the cities and towns of the county, respectively.

2. This section shall not be modified or repealed by any law of general application enacted after January 1, 1972, unless expressly referred to or expressly repealed therein.

Sec. 22. Chapter 681A of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commissioner may adopt regulations applicable to arrangements for reinsurance relating to:

(a) Life insurance policies with guaranteed non-level gross premiums or guaranteed non-level benefits;

(b) Universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(c) Variable annuities with guaranteed death or living benefits;

(d) Policies for long-term care insurance; or

(e) Such other life and health insurance and annuity products as to which the National Association of Insurance Commissioners adopts model regulatory requirements with respect to credit for reinsurance.

2. A regulation adopted pursuant to this section may require the ceding insurer, in calculating the amounts or forms of security required to be held pursuant to regulations adopted pursuant to this section, to use the Valuation Manual, as defined in NRS 681B.0071, which is in effect on the date as of which the calculation is made, to the extent applicable.

3. A regulation adopted pursuant to this section must not apply to a cession to an assuming insurer that:

(a) Is certified in this State or, if this State has not adopted regulations which provide for an assuming insurer to satisfy the requirements of NRS 681A.155 for credit to be allowed, certified in a minimum of five other states; or

(b) Maintains at least \$250,000,000 in capital and surplus when determined in accordance with the Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners, as amended, excluding the impact of any permitted or prescribed practices, and:

(1) Is licensed in at least 26 states; or

(2) Is licensed in at least 10 states, and licensed or accredited in at least 35 states.

Sec. 23. NRS 681A.140 is hereby amended to read as follows:

681A.140 As used in NRS 681A.140 to 681A.240, inclusive, **and section 22 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. 24. NRS 683A.060 is hereby amended to read as follows:

683A.060 1. A “managing general agent” is a person who:

(a) Negotiates and binds ceding reinsurance contracts on behalf of an insurer or manages all or part of the insurance business of an insurer, including the management of a separate division, department ~~to~~ **or** underwriting office; ~~to~~ **and**

(b) Acts as an agent for the insurer and with or without the authority, either separately or together with affiliates:

(1) Produces, directly or indirectly, and underwrites an amount of gross direct written premiums equal to or more than 5 percent of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year; and

(2) Adjusts or pays claims in excess of an amount determined by the Commissioner or negotiates reinsurance on behalf of the insurer.

2. A managing general agent includes a person with authority to appoint and to terminate the appointment of an agent for an insurer.

3. For the purposes of this chapter, the following are not managing general agents:

(a) An employee of the insurer;

(b) A manager of the United States branch of an alien insurer;

(c) An attorney authorized by and acting for the subscribers of a reciprocal insurer or interinsurance exchange; and

(d) An underwriting manager who, pursuant to a contract, manages all or part of the insurance operations of the insurer, is under common control with the insurer, is subject to the provisions of chapter 692C of NRS and whose compensation is not based on the volume of premiums written or the profit of the business written.

Sec. 25. NRS 683A.0892 is hereby amended to read as follows:

683A.0892 1. The Commissioner:

(a) Shall suspend or revoke the certificate of registration of an administrator if the Commissioner has determined, after notice and a hearing, that the administrator:

(1) Is in an unsound financial condition;

(2) Uses methods or practices in the conduct of business that are hazardous or injurious to insured persons or members of the general public; or

(3) Has failed to pay any judgment against the administrator in this State within 60 days after the judgment became final.

(b) May suspend or revoke the certificate of registration of an administrator if the Commissioner determines, after notice and a hearing, that the administrator:

(1) Has ~~willfully~~ **knowingly** violated or failed to comply with any provision of this Code, any regulation adopted pursuant to this Code or any order of the Commissioner;

(2) Has refused to be examined by the Commissioner or has refused to produce accounts, records or files for examination upon the request of the Commissioner;

(3) Has, without just cause, refused to pay claims or perform services pursuant to the administrator's contracts or has, without just cause, caused persons to accept less than the amount of money owed to them pursuant to the contracts, or has caused persons to employ an attorney or bring a civil action against the administrator to receive full payment or settlement of claims;

(4) Is affiliated with, managed by or owned by another administrator or an insurer who transacts insurance in this State without a certificate of authority or certificate of registration;

(5) Fails to comply with any of the requirements for a certificate of registration;

(6) Has been convicted of, or has entered a plea of guilty, guilty but mentally ill or nolo contendere to, a felony, whether or not adjudication was withheld;

(7) Has had his or her authority to act as an administrator in another state limited, suspended or revoked; or

(8) Has failed to file an annual report in accordance with NRS 683A.08528.

(c) May suspend or revoke the certificate of registration of an administrator if the Commissioner determines, after notice and a hearing, that a responsible person:

(1) Has refused to provide any information relating to the administrator's affairs or refused to perform any other legal obligation relating to an examination upon request by the Commissioner; or

(2) Has been convicted of, or has entered a plea of guilty, guilty but mentally ill or nolo contendere to, a felony committed on or after October 1, 2003, whether or not adjudication was withheld.

(d) May, upon notice to the administrator, suspend the certificate of registration of the administrator pending a hearing if:

(1) The administrator is impaired or insolvent;

(2) A proceeding for receivership, conservatorship or rehabilitation has been commenced against the administrator in any state; or

(3) The financial condition or the business practices of the administrator represent an imminent threat to the public health, safety or welfare of the residents of this State.

(e) May, in addition to or in lieu of the suspension or revocation of the certificate of registration of the administrator, impose a fine of \$2,000 for each act or violation.

2. As used in this section, “responsible person” means any person who is responsible for or controls or is authorized to control or advise the affairs of an administrator, including, without limitation:

(a) A member of the board of directors, board of trustees, executive committee or other governing board or committee of the administrator;

(b) The president, vice president, chief executive officer, chief operating officer or any other principal officer of an administrator, if the administrator is a corporation;

(c) A partner or member of the administrator, if the administrator is a partnership, association or limited-liability company; and

(d) Any shareholder or member of the administrator who directly or indirectly holds 10 percent or more of the voting stock, voting securities or voting interest of the administrator.

Sec. 26. NRS 683A.301 is hereby amended to read as follows:

683A.301 1. An applicant for a license as a producer of insurance or a licensee who desires to use a name other than his or her true name as shown on the license shall submit a request for approval of the name and file with the Commissioner a certified copy of the certificate or any renewal certificate filed pursuant to chapter 602 of NRS. An incorporated applicant or licensee shall file with the Commissioner a document showing the corporation’s true name and all fictitious names under which it conducts or intends to conduct business. A licensee shall file promptly with the Commissioner a written notice of any change in or discontinuance of the use of a fictitious name.

2. The Commissioner may disapprove in writing the use of a true name, other than the true name of a natural person who is the applicant or licensee, or a fictitious name of any applicant or licensee, on any of the following grounds:

(a) The name interferes with or is deceptively similar to a name already filed and in use by another licensee.

(b) Use of the name may mislead the public in any respect.

(c) The name states or implies that the applicant or licensee is an insurer, motor club or hospital service plan or is entitled to engage in activities related to insurance not permitted under the license applied for or held.

(d) The name states or implies that the licensee is an underwriter, but:

(1) A natural person licensed as ~~an agent or broker~~ **a producer of insurance** for life insurance may describe himself or herself as an underwriter or “chartered life underwriter” if entitled to do so;

(2) A natural person licensed for property and casualty insurance may use the designation “chartered property and casualty underwriter” if entitled thereto; and

(3) ~~[An insurance agent or brokers’]~~ **A trade association for producers of insurance** may use a name containing the word “underwriter.”

(e) The licensee submits a request to use more than one fictitious name at a single business location.

3. A licensee shall not use a name after written notice from the Commissioner indicates that its use violates the provisions of this section. If the Commissioner determines that the use is justified by mitigating circumstances, the Commissioner may permit, in writing, the use of the name to continue for a specified reasonable period upon conditions imposed by the Commissioner for the protection of the public consistent with this section.

4. Paragraphs (a), (c) and (d) of subsection 2 do not apply to the true name of an organization which on July 1, 1965, held under that name a type of license similar to those governed by this chapter, or to a fictitious name used on July 1, 1965, by a natural person or organization holding such a license, if the fictitious name was filed with the Commissioner on or before July 1, 1965.

Sec. 27. NRS 683C.020 is hereby amended to read as follows:

683C.020 1. Except as otherwise provided in subsection 2, no person may engage in the business of an insurance consultant unless a license has been issued to the person by the Commissioner.

2. An insurance consultant's license is not required for:

(a) An attorney licensed to practice law in this State who is acting in his or her professional capacity;

(b) A licensed ~~insurance agent,~~ **producer of insurance**, broker or surplus lines broker;

(c) A trust officer of a bank who is acting in the normal course of his or her employment; or

(d) An actuary or a certified public accountant who provides information, recommendations, advice or services in his or her professional capacity.

3. A person required to be licensed in this State who acts as an insurance consultant without a license is subject to an administrative fine of not more than \$1,000 for each act or violation.

Sec. 28. NRS 684B.030 is hereby amended to read as follows:

684B.030 1. Before the issuance of a motor vehicle physical damage appraiser's license the applicant shall file with the Commissioner, and thereafter maintain in force while so licensed, a surety bond in the amount of \$2,500 in favor of the people of the State of Nevada, executed by an authorized surety insurer approved by the Commissioner, and conditioned for the faithful performance of required duties.

2. The bond shall remain in force until the surety is released from liability by the Commissioner, or until cancelled by the surety. Without prejudice to any prior liability accrued, the surety may cancel the bond upon 30 days' advance written notice filed with the Commissioner.

3. A motor vehicle physical damage appraiser's license is automatically suspended if the appraiser does not file with the Commissioner a replacement bond before the date of cancellation of the previous bond. A

replacement bond must meet all requirements of this section for the initial bond.

Sec. 29. NRS 685A.150 is hereby amended to read as follows:

685A.150 A licensed surplus lines broker may accept surplus lines business from any ~~agent or broker~~ **producer of insurance** licensed in this state for the kind of insurance involved and may compensate the ~~agent or broker~~ **producer of insurance** therefor.

Sec. 30. NRS 686A.290 is hereby amended to read as follows:

686A.290 1. ~~[An agent, broker, solicitor,]~~ **A producer of insurance,** examining physician, applicant or other person shall not knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for insurance.

2. A person who violates this section is guilty of a category D felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

Sec. 31. NRS 686A.350 is hereby amended to read as follows:

686A.350 1. A license to engage in the business of a company is not required of any:

(a) State or federally chartered building association or savings and loan association.

(b) State or federally chartered bank.

(c) State or federally chartered credit union.

(d) Thrift company licensed pursuant to chapter 677 of NRS.

(e) ~~Insurance agent~~ **Producer of insurance** financing his or her own accounts.

(f) Insurer authorized to do business in this state financing its own policies or those of an affiliated company.

(g) Business, in addition to those included in paragraphs (a) to (d), inclusive, which is licensed and regulated by the Division of Financial Institutions of the Department of Business and Industry.

2. The provisions of NRS 686A.330 to 686A.520, inclusive, other than those which concern licensing, apply to persons exempt from licensing pursuant to subsection 1.

Sec. 32. NRS 686A.420 is hereby amended to read as follows:

686A.420 1. An agreement executed in this state must be dated and signed by the insured. The printed portion of the agreement must be in not less than 8-point type. The agreement must include:

(a) The name and the address and telephone number of the business of the **producer of insurance** ~~agent~~ for the insurance contract to which the agreement relates;

(b) The name and the address of the business or residence of the insured;

(c) The name, address and telephone number of the company to which payments must be made;

(d) A brief description of any insurance policy involved; and

(e) Such other information as may be required by the Commissioner.

2. An agreement must have at its top in type which is more prominent than the text of the agreement, the words “Agreement For Financing Premium” or words of similar meaning. An agreement must contain a notice in type which is more prominent than the text of the agreement which reads as follows:

Notice:

1. Do not sign this agreement before you have read it or if it contains any blank spaces.

2. You are entitled to a copy of this agreement which is complete.

Sec. 33. NRS 686A.680 is hereby amended to read as follows:

686A.680 **1.** An insurer that uses information from a consumer credit report shall not:

~~{1-}~~ **(a)** Use an insurance score that is calculated using income, gender, address, zip code, ethnic group, religion, marital status or nationality of the consumer as a factor, or would otherwise lead to unfair or invidious discrimination.

~~{2-}~~ **(b)** Deny, cancel or fail to renew a policy on the basis of credit information unless the insurer also considers other applicable underwriting factors that are independent of credit information and not expressly prohibited by this section.

~~{3-}~~ **(c)** Base renewal rates for a policy upon credit information unless the insurer also considers other applicable factors independent of credit information.

~~{4-}~~ **(d)** Take an adverse action against an applicant or policyholder based on the applicant or policyholder not having a credit card account unless the insurer also considers other applicable factors independent of credit information.

~~{5-}~~ **(e)** Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating a policy unless the insurer does any one of the following:

~~{(a)}~~ **(1)** Treats the applicant or policyholder as otherwise approved by the Commissioner, after the insurer presents to the Commissioner information indicating that such an absence or inability relates to the risk for the insurer.

~~{(b)}~~ **(2)** Treats the applicant or policyholder as if the applicant or policyholder had neutral credit information, as defined by the insurer.

~~{(c)}~~ **(3)** Excludes the use of credit information as a factor, and uses only underwriting criteria other than credit information.

~~{6-}~~ **(f)** Take an adverse action against an applicant or policyholder based on credit information, unless an insurer obtains and uses a consumer credit report issued or an insurance score calculated within 90 days from the date the policy is first written or renewal is issued.

~~{7-}~~ Except as otherwise provided in this subsection, use credit information regarding a policyholder without obtaining an updated consumer credit report regarding the policyholder and recalculating the insurance score at least once every 36 months. At the time of the annual renewal of a

~~policyholder's policy, the insurer shall, upon the request of the policyholder or the policyholder's agent, reunderwrite and rerate the policy based upon a current consumer credit report or insurance score. An insurer need not, at the request of a policyholder or the policyholder's agent, recalculate the insurance score of or obtain an updated consumer credit report of the policyholder more frequently than once in any 12 month period. An insurer may, at its discretion, obtain an updated consumer credit report regarding a policyholder more frequently than once every 36 months, if to do so is consistent with the underwriting guidelines of the insurer. An insurer does not need to obtain an updated consumer credit report for a policyholder if any one of the following applies:~~

~~—(a) The insurer is treating the policyholder as otherwise approved by the Commissioner.~~

~~—(b) The policyholder is in the most favorably priced tier of the insurer and all affiliates of the insurer. With respect to such a policyholder, the insurer may elect to obtain an updated consumer credit report if to do so is consistent with the underwriting guidelines of the insurer.~~

~~—(c) Credit information was not used for underwriting or rating the policyholder when the policy was initially written. The fact that credit information was not used initially does not preclude an insurer from using such information subsequently when underwriting or rating such a policyholder upon renewal, if to do so is consistent with the underwriting guidelines of the insurer.~~

~~—(d) The insurer reevaluates the policyholder at least once every 36 months based upon underwriting or rating factors other than credit information.~~

~~—8.} (g) Use the following as a negative factor in any insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a policy:~~

~~{(a)} (1) Credit inquiries not initiated by the applicant or policyholder, or inquiries requested by the applicant or policyholder for his or her own credit information.~~

~~{(b)} (2) Inquiries relating to insurance coverage, if so identified on the consumer credit report.~~

~~{(c)} (3) Collection accounts relating to medical treatment, if so identified on the consumer credit report.~~

~~{(d)} (4) Multiple lender inquiries, if identified on the consumer credit report as being related to home loans or mortgages and made within 30 days of one another, unless only one inquiry is considered.~~

~~{(e)} (5) Multiple lender inquiries, if identified on the consumer credit report as being related to a loan for an automobile and made within 30 days of one another, unless only one inquiry is considered.~~

2. Except as otherwise provided in this subsection, at the time of the annual renewal of a policyholder's policy, an insurer that uses information from a consumer credit report shall, upon the request of the policyholder or the policyholder's agent, reunderwrite and rerate the policy based upon

a current consumer credit report or insurance score. An insurer need not, at the request of a policyholder or the policyholder's agent, recalculate the insurance score of or obtain an updated consumer credit report of the policyholder more frequently than once in any 12-month period.

Sec. 34. Chapter 686B of NRS is hereby amended by adding thereto the provisions set forth as sections 35 to 39, inclusive, of this act.

Sec. 35. *“Large-deductible agreement” means any combination of one or more policies, endorsements, contracts or security arrangements, which provide for the policyholder to bear the risk of loss of a specified amount of \$25,000 or more per claim or occurrence covered under a policy of industrial insurance and which may be subject to an aggregate limit of the policyholder's reimbursement obligations.*

Sec. 36. 1. *The Commissioner shall consider each proposed increase or decrease in the rate of a health plan issued pursuant to the provisions of chapter 689A, 689B, 689C, 695B, 695C, 695D or 695F of NRS, including, without limitation, long-term care and Medicare supplement plans, filed with the Commissioner pursuant to subsection 1 of NRS 686B.070. If the Commissioner finds that a proposed increase will result in a rate which is not in compliance with NRS 686B.050 or subsection 3 of NRS 686B.070, the Commissioner shall disapprove the proposal. The Commissioner shall approve or disapprove each proposal not later than 60 days after the proposal is determined by the Commissioner to be complete pursuant to subsection 4. If the Commissioner fails to approve or disapprove the proposal within that period, the proposal shall be deemed approved.*

2. *Whenever an insurer has no legally effective rates as a result of the Commissioner's disapproval of rates or other act, the Commissioner shall on request specify interim rates for the insurer that are high enough to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by the Commissioner. When new rates become legally effective, the Commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are de minimis must not be required.*

3. *If the Commissioner disapproves a proposed rate pursuant to subsection 1, and an insurer requests a hearing to determine the validity of the action of the Commissioner, the insurer has the burden of showing compliance with the applicable standards for rates established in NRS 686B.010 to 686B.1799, inclusive, and sections 35 to 39, inclusive, of this act. Any such hearing must be held:*

(a) Within 30 days after the request for a hearing has been submitted to the Commissioner; or

(b) Within a period agreed upon by the insurer and the Commissioner.

↪ If the hearing is not held within the period specified in paragraph (a) or (b), or if the Commissioner fails to issue an order concerning the proposed

rate for which the hearing is held within 45 days after the hearing, the proposed rate shall be deemed approved.

4. The Commissioner shall by regulation specify the documents or any other information which must be included in a proposal to increase or decrease a rate submitted to the Commissioner pursuant to subsection 1. Each such proposal shall be deemed complete upon its filing with the Commissioner, unless the Commissioner, within 15 business days after the proposal is filed with the Commissioner, determines that the proposal is incomplete because the proposal does not comply with the regulations adopted by the Commissioner pursuant to this subsection.

Sec. 37. This section and sections 38 and 39 of this act apply to any policy of industrial insurance which:

1. Is issued by an insurer which:

(a) Has a rating of ~~not~~ less than "A-" from A.M. Best Company, Inc., or a substantially equivalent rating from another rating agency, as determined by the Commissioner; and

(b) Has less than \$200,000,000 in surplus, with surplus calculated as the difference between the insurer's net admitted assets and the insurer's total liabilities;

2. Contains a large-deductible agreement;

3. Is not issued to a federal, state or local governmental entity; and

4. Is issued for delivery or renewed on or after January 1, 2018.

Sec. 38. An insurer shall:

1. Require full collateralization of the outstanding obligations owed under a large-deductible agreement using one of the following methods:

(a) A surety bond issued by a surety insurer authorized to transact such insurance in this State, and whose financial strength and size ratings from A.M. Best Company, Inc., are not less than "A" and "V," respectively, or are substantially equivalent ratings from another rating agency, as determined by the Commissioner;

(b) An irrevocable letter of credit issued by a financial institution with an office physically located within this State, and the deposits of which are federally insured; or

(c) Cash or securities held in trust by a third party or the insurer and subject to a trust agreement for the express purpose of securing the policyholder's obligation under a large-deductible agreement, provided that if the assets are held by the insurer, those assets may not be commingled with the insurer's other assets; and

2. Limit the size of the policyholder's obligations under a large-deductible agreement to 20 percent of the total net worth of the policyholder at the inception of the policy and again at each renewal, as determined by an audited financial statement as of the most recent fiscal year-end for which such a statement is available, with the total net worth of the policyholder calculated as the difference between the total assets and the total liabilities of the policyholder.

Sec. 39. *Except when otherwise specifically approved by the Commissioner in writing or by electronic communication, any insurer determined to be in a hazardous financial condition pursuant to NRS 680A.205, or the equivalent provisions of law in any other state as determined by the Commissioner, is prohibited from issuing or renewing a policy that includes a large-deductible agreement.*

Sec. 40. NRS 686B.010 is hereby amended to read as follows:

686B.010 1. The Legislature intends that NRS 686B.010 to 686B.1799, inclusive, **and sections 35 to 39, inclusive, of this act** be liberally construed to achieve the purposes stated in subsection 2, which constitute an aid and guide to interpretation but not an independent source of power.

2. The purposes of NRS 686B.010 to 686B.1799, inclusive, **and sections 35 to 39, inclusive, of this act** are to:

(a) Protect policyholders and the public against the adverse effects of excessive, inadequate or unfairly discriminatory rates;

(b) Encourage, as the most effective way to produce rates that conform to the standards of paragraph (a), independent action by and reasonable price competition among insurers;

(c) Provide formal regulatory controls for use if independent action and price competition fail;

(d) Authorize cooperative action among insurers in the rate-making process, and to regulate such cooperation in order to prevent practices that tend to bring about monopoly or to lessen or destroy competition;

(e) Encourage the most efficient and economic marketing practices; and

(f) Regulate the business of insurance in a manner that will preclude application of federal antitrust laws.

Sec. 41. NRS 686B.020 is hereby amended to read as follows:

686B.020 As used in NRS 686B.010 to 686B.1799, inclusive, **and sections 35 to 39, inclusive, of this act**, unless the context otherwise requires:

1. “Advisory organization,” except as limited by NRS 686B.1752, means any person or organization which is controlled by or composed of two or more insurers and which engages in activities related to rate making. For the purposes of this subsection, two or more insurers with common ownership or operating in this State under common ownership constitute a single insurer. An advisory organization does not include:

(a) A joint underwriting association;

(b) An actuarial or legal consultant; or

(c) An employee or manager of an insurer.

2. “Market segment” means any line or kind of insurance or, if it is described in general terms, any subdivision thereof or any class of risks or combination of classes.

3. “Rate service organization” means any person, other than an employee of an insurer, who assists insurers in rate making or filing by:

(a) Collecting, compiling and furnishing loss or expense statistics;

(b) Recommending, making or filing rates or supplementary rate information; or

(c) Advising about rate questions, except as an attorney giving legal advice.

4. "Supplementary rate information" includes any manual or plan of rates, statistical plan, classification, rating schedule, minimum premium, policy fee, rating rule, rule of underwriting relating to rates and any other information prescribed by regulation of the Commissioner.

Sec. 42. NRS 686B.030 is hereby amended to read as follows:

686B.030 1. Except as otherwise provided in subsection 2 and NRS 686B.125, the provisions of NRS 686B.010 to 686B.1799, inclusive, **and sections 35 to 39, inclusive, of this act** apply to all kinds and lines of direct insurance written on risks or operations in this State by any insurer authorized to do business in this State, except:

- (a) Ocean marine insurance;
- (b) Contracts issued by fraternal benefit societies;
- (c) Life insurance and credit life insurance;
- (d) Variable and fixed annuities;
- (e) Credit accident and health insurance;
- (f) Property insurance for business and commercial risks;
- (g) Casualty insurance for business and commercial risks other than insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS;
- (h) Surety insurance;
- (i) Health insurance offered through a group health plan maintained by a large employer; and
- (j) Credit involuntary unemployment insurance.

2. The exclusions set forth in paragraphs (f) and (g) of subsection 1 extend only to issues related to the determination or approval of premium rates.

Sec. 43. NRS 686B.040 is hereby amended to read as follows:

686B.040 1. Except as otherwise provided in subsection 2, the Commissioner may by rule exempt any person or class of persons or any market segment from any or all of the provisions of NRS 686B.010 to 686B.1799, inclusive, **and sections 35 to 39, inclusive, of this act**, if and to the extent that the Commissioner finds their application unnecessary to achieve the purposes of those sections.

2. The Commissioner may not, by rule or otherwise, exempt an insurer from the provisions of NRS 686B.010 to 686B.1799, inclusive, **and sections 35 to 39, inclusive, of this act** with regard to insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional duty toward a patient.

Sec. 44. NRS 686B.110 is hereby amended to read as follows:

686B.110 1. ~~The~~ **Except as otherwise provided in section 36 of this act, the** Commissioner shall consider each proposed increase or decrease in

the rate of any kind or line of insurance or subdivision thereof filed with the Commissioner pursuant to subsection 1 of NRS 686B.070. If the Commissioner finds that a proposed increase will result in a rate which is not in compliance with NRS 686B.050 or subsection 3 of NRS 686B.070, the Commissioner shall disapprove the proposal. The Commissioner shall approve or disapprove each proposal no later than 30 days after it is determined by the Commissioner to be complete pursuant to subsection 6. If the Commissioner fails to approve or disapprove the proposal within that period, the proposal shall be deemed approved.

2. If the Commissioner disapproves a proposed increase or decrease in any rate pursuant to subsection 1, the Commissioner shall send a written notice of disapproval to the insurer or the rate service organization that filed the proposal. The notice must set forth the reasons the proposal is not in compliance with NRS 686B.050 or subsection 3 of NRS 686B.070 and must be sent to the insurer or the rate service organization not more than 30 days after the Commissioner determines that the proposal is complete pursuant to subsection 6.

3. Upon receipt of a written notice of disapproval from the Commissioner pursuant to subsection 2 or 6, the insurer or rate service organization may request that the Commissioner reconsider the proposed increase or decrease. The request for reconsideration must be received by the Commissioner not more than 30 days after the insurer or rate service organization receives the written notice of disapproval from the Commissioner, except that if the insurer or rate service organization requests, in writing, an extension of 30 additional days in which to request a reconsideration, the Commissioner shall grant the extension. A request for reconsideration submitted pursuant to this subsection may include, without limitation, any documents or other information for review by the Commissioner in reconsidering the proposal. The Commissioner shall approve or disapprove the proposal upon reconsideration not later than 30 days after receipt of the request for reconsideration and shall notify the insurer or rate service organization of his or her approval or disapproval.

4. Whenever an insurer has no legally effective rates as a result of the Commissioner's disapproval of rates or other act, the Commissioner shall on request specify interim rates for the insurer that are high enough to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by the Commissioner. When new rates become legally effective, the Commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are de minimis must not be required.

5. If the Commissioner disapproves a proposed rate pursuant to subsection 1 ~~or~~ or subsection 6 or upon reconsideration pursuant to subsection 3, and an insurer requests a hearing to determine the validity of the action of the Commissioner, the insurer has the burden of showing

compliance with the applicable standards for rates established in NRS 686B.010 to 686B.1799, inclusive ~~11~~, **and sections 35 to 39, inclusive, of this act.** Any such hearing must be held:

(a) Within 30 days after the request for a hearing has been submitted to the Commissioner; or

(b) Within a period agreed upon by the insurer and the Commissioner.

➔ If the hearing is not held within the period specified in paragraph (a) or (b), or if the Commissioner fails to issue an order concerning the proposed rate for which the hearing is held within 45 days after the hearing, the proposed rate shall be deemed approved.

6. The Commissioner shall by regulation specify the documents or any other information which must be included in a proposal to increase or decrease a rate submitted to the Commissioner pursuant to subsection 1. Each such proposal shall be deemed complete upon its filing with the Commissioner, unless the Commissioner, within 15 business days after the proposal is filed with the Commissioner, determines that the proposal is incomplete because the proposal does not comply with the regulations adopted by the Commissioner pursuant to this subsection. The Commissioner shall notify the insurer or rate service organization if the Commissioner determines that the proposal is incomplete. The notice must be sent within 15 business days after the proposal is filed with the Commissioner and must set forth the documents or other information that is required to complete the proposal. The Commissioner may disapprove the proposal if the insurer or rate service organization fails to provide the documents or other information to the Commissioner within 30 days after the insurer or rate service organization receives the notice that the proposal is incomplete. If the Commissioner disapproves the proposal pursuant to this subsection, the Commissioner shall notify the insurer or rate service organization of that fact in writing.

Sec. 45. NRS 686B.115 is hereby amended to read as follows:

686B.115 1. Any hearing held by the Commissioner to determine whether rates comply with the provisions of NRS 686B.010 to 686B.1799, inclusive, **and sections 35 to 39, inclusive, of this act** must be open to members of the public.

2. All costs for transcripts prepared pursuant to such a hearing must be paid by the insurer requesting the hearing.

3. At any hearing which is held by the Commissioner to determine whether rates comply with the provisions of NRS 686B.010 to 686B.1799, inclusive, **and sections 35 to 39, inclusive, of this act**, and which involves rates for insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional duty toward a patient, if a person is not otherwise authorized pursuant to this title to become a party to the hearing by intervention, the person is entitled to provide testimony at the hearing if, not later than 2 days

before the date set for the hearing, the person files with the Commissioner a written statement which states:

- (a) The name and title of the person;
- (b) The interest of the person in the hearing; and
- (c) A brief summary describing the purpose of the testimony the person will offer at the hearing.

4. If a person provides testimony at a hearing in accordance with subsection 3:

(a) The Commissioner may, if the Commissioner finds it necessary to preserve order, prevent inordinate delay or protect the rights of the parties at the hearing, place reasonable limitations on the duration of the testimony and prohibit the person from providing testimony that is not relevant to the issues raised at the hearing.

(b) The Commissioner shall consider all relevant testimony provided by the person at the hearing in determining whether the rates comply with the provisions of NRS 686B.010 to 686B.1799, inclusive ~~to~~, **and sections 35 to 39, inclusive, of this act.**

Sec. 46. NRS 686B.1751 is hereby amended to read as follows:

686B.1751 As used in NRS 686B.1751 to 686B.1799, inclusive, **and sections 35, 37, 38 and 39 of this act**, unless the context otherwise requires, the words and terms defined in NRS 686B.1752 to 686B.1762, inclusive, **and section 35 of this act** have the meanings ascribed to them in those sections.

Sec. 47. NRS 686B.1763 is hereby amended to read as follows:

686B.1763 1. NRS 686B.1751 to 686B.1799, inclusive, **and sections 35, 37, 38 and 39 of this act**, apply to insurers providing industrial insurance and to the Advisory Organization designated by the Commissioner. The Commissioner shall administer the provisions of these sections.

2. These provisions apply to all industrial insurance issued in this state except reinsurance.

Sec. 48. NRS 686B.1789 is hereby amended to read as follows:

686B.1789 A hearing required by any of the provisions of NRS 686B.1751 to 686B.1799, inclusive, **and sections 35, 37, 38 and 39 of this act**, is governed by NRS 679B.310 to 679B.370, inclusive, except that any limits of time imposed by NRS 686B.1751 to 686B.1799, inclusive, **and sections 35, 37, 38 and 39 of this act**, control.

Sec. 49. NRS 686B.1793 is hereby amended to read as follows:

686B.1793 1. An insurer or other person who violates any provision of NRS 686B.1751 to 686B.1799, inclusive, **and sections 35, 37, 38 and 39 of this act**, shall, upon the order of the Commissioner, pay an administrative fine not to exceed \$1,000 for each violation and not to exceed \$10,000 for each willful violation. These administrative fines are in addition to any other penalty provided by law. Any insurer using a rate before it has been filed with the Commissioner as required by NRS 686B.1775, shall be deemed to have committed a separate violation for each day the insurer failed to file the rate.

2. The Commissioner may suspend or revoke the license of any advisory organization or insurer who fails to comply with an order within the time specified by the Commissioner or any extension of that time made by the Commissioner. Any suspension of a license is effective for the time stated by the Commissioner in his or her order or until the order is modified, rescinded or reversed.

3. The Commissioner, by written order, may impose a penalty or suspend a license pursuant to this section only after written notice to the insurer, organization or plan for apportioned risks and a hearing.

Sec. 50. Chapter 687B of NRS is hereby amended by adding thereto the provisions set forth as sections 51 to 85, inclusive, of this act.

Sec. 51. *As used in sections 51 to 85, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 52 to 64, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 52. *“Covered person” means a policyholder, subscriber, enrollee or other person participating in a network plan.*

Sec. 53. *“Evidence of coverage” means any certificate, agreement or contract issued to a covered person by a health carrier setting forth the coverage to which the covered person is entitled pursuant to a network plan.*

Sec. 54. *“Health benefit plan” has the meaning ascribed to it in NRS 695G.019.*

Sec. 55. *“Health care services” has the meaning ascribed to it in NRS 695G.022.*

Sec. 56. *“Health carrier” has the meaning ascribed to it in NRS 695G.024.*

Sec. 57. *“Intermediary” means a person authorized to negotiate and execute a contract between a provider of health care and a health carrier entered into for the purposes of a network plan, whether the person acts on behalf of the provider of health care or the health carrier.*

Sec. 58. *“Medically necessary” has the meaning ascribed to it in NRS 695G.055.*

Sec. 59. *“Network” means a defined set of providers of health care who are under contract with a health carrier to provide health care services pursuant to a network plan offered or issued by the health carrier.*

Sec. 60. *“Network plan” means a health benefit plan offered or issued by a health carrier under which the financing and delivery of health care services, including, without limitation, items and services paid for as health care services, are provided, in whole or in part, through a defined set of providers of health care under contract with the health carrier. The term does not include an arrangement for the financing of premiums.*

Sec. 61. *“Participating provider of health care” means a provider of health care who, under a contract with a health carrier, has agreed to provide health care services to covered persons pursuant to a network plan*

with an expectation of receiving payment, other than coinsurance, copayments or deductibles, directly or indirectly from the health carrier.

Sec. 62. *“Primary care physician” has the meaning ascribed to it in NRS 695G.060.*

Sec. 63. *“Provider of health care” has the meaning ascribed to it in NRS 695G.070.*

Sec. 64. *“Utilization review” has the meaning ascribed to it in NRS 695G.080.*

Sec. 65. *If a health carrier offers or issues a network plan, the health carrier shall, with regard to that network plan:*

1. *Comply with all applicable requirements set forth in sections 51 to 85, inclusive, of this act;*

2. *As applicable, ensure that each contract entered into for the purposes of the network plan between a participating provider of health care and the health carrier complies with the requirements set forth in sections 51 to 85, inclusive, of this act; and*

3. *As applicable, ensure that the network plan complies with the requirements set forth in sections 51 to 85, inclusive, of this act.*

Sec. 66. *A health carrier which offers or issues a network plan shall, with regard to that network plan, establish a mechanism by which each participating provider of health care in the network will be notified on an ongoing basis of the specific health care services which are covered by the network plan and for which the participating provider of health care will be responsible, including, without limitation, any restrictions or conditions on the health care services.*

Sec. 67. *Each contract entered into for the purposes of a network plan between a participating provider of health care and the health carrier must include, without limitation, a provision which is substantially similar to the following:*

Provider of health care agrees that in no event, including but not limited to, nonpayment by the health carrier or intermediary, insolvency of the health carrier or intermediary or breach of this agreement, shall the provider of health care bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against, a covered person or a person (other than the health carrier or intermediary) acting on behalf of the covered person for health care services provided pursuant to this agreement. This agreement does not prohibit the provider of health care from collecting coinsurance, deductibles or copayments, as specifically provided in the evidence of coverage, or fees for uncovered services delivered on a fee-for-service basis to covered persons. This agreement does not prohibit a provider of health care (except for a provider of health care who is employed full-time on the staff of the health carrier and has agreed to provide health care services

exclusively to the health carrier's covered persons and no others) and a covered person from agreeing to continue health care services solely at the expense of the covered person, as long as the provider of health care has clearly informed the covered person that the health carrier may not cover or continue to cover a specific health care service or health care services. Except as provided herein, this agreement does not prohibit the provider of health care from pursuing any available legal remedy.

Sec. 68. Each contract entered into for the purposes of a network plan between a participating provider of health care and the health carrier must provide that in the event of the insolvency of the health carrier or any applicable intermediary, or in the event of any other cessation of operations of the health carrier or intermediary, the participating provider of health care must continue to deliver health care services covered by the network plan to a covered person without billing the covered person for any amount other than coinsurance, deductibles or copayments, as specifically provided in the evidence of coverage, until the earlier of:

1. The date of the cancellation of the covered person's coverage under the network plan pursuant to NRS 687B.310, including, without limitation, any extension of coverage provided pursuant to:

(a) The terms of the contract between the covered person and the health carrier;

(b) NRS 689A.04036, 689B.0303, 695B.1901, 695C.1691 and 695G.164, as applicable; or

(c) Any applicable federal law for covered persons who are in an active course of treatment or totally disabled; or

2. The date on which the contract between the health carrier and the provider of health care would have terminated if the health carrier or intermediary, as applicable, had remained in operation, including, without limitation, any extension of coverage provided pursuant to:

(a) The terms of the contract between the covered person and the health carrier;

(b) NRS 689A.04036, 689B.0303, 695B.1901, 695C.1691 and 695G.164, as applicable; or

(c) Any applicable federal law for covered persons who are in an active course of treatment or totally disabled.

Sec. 69. The provisions included in a contract to comply with the requirements set forth in sections 67 and 68 of this act shall be construed in favor of the covered person, shall survive the termination of the contract regardless of the reason for the termination, including, without limitation, the insolvency of the health carrier or any applicable intermediary, and shall supersede any oral or written contrary agreement between a participating provider of health care and a covered person or the representative of a covered person if the contrary agreement is inconsistent

with provisions included in the contract to comply with the requirements set forth in sections 67 and 68 of this act.

Sec. 70. Each contract entered into for the purposes of a network plan between a participating provider of health care and the health carrier must ~~prohibit the participating provider of health care from collecting or attempting to collect from a covered person any money owed to the participating provider of health care by the health carrier.~~ provide that written notice must be provided to the participating provider of health care as soon as practicable in the event:

1. That a court determined the health carrier or any applicable intermediary to be insolvent; or
2. Of any other cessation of operations of the health carrier or any applicable intermediary.

Sec. 71. A health carrier which offers or issues a network plan shall notify each participating provider of health care in the network of the responsibilities of the participating provider of health care with respect to any applicable administrative policies and programs of the health carrier including, without limitation, any applicable administrative policies and programs concerning:

1. Terms of payment;
2. Utilization review;
3. Quality assessment and improvement;
4. Credentialing;
5. Procedures for grievances and appeals;
6. Requirements for data reporting;
7. Requirements for timely notice to the health carrier of changes in the practices of the participating provider of health care, such as discontinuance of accepting new patients;
8. Requirements for confidentiality; and
9. Any applicable federal or state programs.

Sec. 72. A health carrier which offers or issues a network plan shall not offer an inducement to a participating provider of health care in the network that would encourage or otherwise incent the participating provider of health care to deliver health care services to a covered person which are less than those which are medically necessary.

Sec. 73. A health carrier which offers or issues a network plan shall not prohibit a participating provider of health care in the network from:

1. Discussing any specific treatment option or all treatment options with a covered person irrespective of the position of the health carrier on the treatment options;
2. Advocating on behalf of a covered person within any utilization review process or any process for grievances or appeals established by the health carrier or a person contracting with the health carrier; or
3. Advocating on behalf of a covered person in accordance with any rights or remedies available under applicable state or federal law.

Sec. 74. Each contract entered into for the purposes of a network plan between a participating provider of health care and the health carrier must require the participating provider of health care to make health records available to appropriate state and federal authorities involved in assessing the quality of care or investigating the grievances or complaints of covered persons, and to comply with the applicable state and federal laws related to the confidentiality of medical and health records and the covered person's right to see, obtain copies of or amend their medical and health records.

Sec. 75. ~~{1. Each contract entered into for the purposes of a network plan between a participating provider of health care and the health carrier must provide that:~~

~~—(a) The health carrier shall provide notice not less than 90 days in advance to the participating provider of health care before the health carrier removes the participating provider of health care from the network without cause;~~

~~—(b) The participating provider of health care shall provide notice not less than 90 days in advance to the health carrier before the participating provider of health care leaves the network without cause;~~

~~—(c) The health carrier or participating provider of health care or both, as specified in the contract, shall make a good faith effort to provide written notice, within 30 days after receipt or issuance of the notice referenced in paragraph (a) or (b), as applicable, that the participating provider of health care will no longer be part of the network;~~

~~—(1) To all covered persons who participate in the network plan, are patients of the participating provider of health care and have received health care services from the participating provider of health care on a regular basis; or~~

~~—(2) If the participating provider of health care is a primary care physician, to all covered persons who participate in the network plan and are patients of the participating provider of health care;~~

~~—(d) If the health carrier removes the participating provider of health care from the network for cause or the participating provider of health care leaves the network for cause, the health carrier or the participating provider of health care, or both, as specified in the contract, shall make a good faith effort to provide written notice within 30 days after the removal or departure, as applicable, that the participating provider of health care will no longer be part of the network;~~

~~—(1) To all covered persons who participate in the network plan, are patients of the participating provider of health care and have received health care services from the participating provider of health care on a regular basis; or~~

~~—(2) If the participating provider of health care is a primary care physician, to all covered persons who participate in the network plan and are patients of the participating provider of health care; and~~

~~—(c) The participating provider of health care shall, upon providing or receiving the notice referenced in paragraph (a) or (b), or upon leaving or being removed from the network as referenced in paragraph (d), promptly provide to the health carrier a list of the covered persons who are patients of the participating provider of health care and who participate in the network plan.~~

~~—2. The Commissioner shall adopt regulations that define, for the purposes of this section, the terms:~~

~~—(a) “Patients of the participating provider of health care”; and~~

~~—(b) “Regular basis.” (Deleted by amendment.)~~

Sec. 76. ~~[1. Except as otherwise provided in this section, if a covered person is receiving health care services pursuant to a network plan for a medical condition from a participating provider of health care in the network and the contract between the participating provider of health care and the health carrier is terminated during the course of the medical treatment, the network plan must provide that:~~

~~—(a) The covered person may continue to obtain health care services for the medical condition from the provider of health care pursuant to this section, if:~~

~~—(1) The covered person is actively undergoing a medically necessary course of treatment; and~~

~~—(2) The provider of health care and the covered person agree that the continuity of care is desirable.~~

~~—(b) The provider of health care is entitled to receive reimbursement from the health carrier for the health care services provided to the covered person pursuant to this section, if the provider of health care agrees:~~

~~—(1) To provide health care services under the terms of the contract between the provider of health care and the health carrier with regard to the covered person, including, without limitation, the rates of payment for providing health care services, as those terms existed before the termination of the contract between the provider of health care and the health carrier; and~~

~~—(2) Not to seek payment from the covered person for any health care services provided by the provider of health care that could not have been received from the covered person were the provider of health care still under contract with the health carrier.~~

~~—2. The coverage required by subsection 1 must be provided until the later of:~~

~~—(a) The 120th day after the date on which the contract is terminated; or~~

~~—(b) If the medical condition is pregnancy, the 45th day after:~~

~~—(1) The date of delivery; or~~

~~—(2) If the pregnancy does not end in delivery, the date of the end of the pregnancy.~~

~~—3. The requirements of this section do not apply to a provider of health care if:~~

~~—(a) The provider of health care was under contract with the health carrier and the health carrier terminated that contract because of the medical incompetence or professional misconduct of the provider of health care; and~~

~~—(b) The health carrier did not enter into another contract with the provider of health care after the contract was terminated pursuant to paragraph (a);~~

~~4. An evidence of coverage for a network plan subject to the provisions of sections 51 to 85, inclusive, of this act has the legal effect of including the coverage required by this section, and any provision of the evidence of coverage or renewal thereof that is in conflict with this section is void.~~
(Deleted by amendment.)

Sec. 77. Each contract entered into for the purposes of a network plan between a participating provider of health care and the health carrier must prohibit the health carrier and the participating provider of health care from assigning or delegating the rights and responsibilities of either party under the contract without the prior written consent of the other party.

Sec. 78. 1. ~~{Except as otherwise provided in this section, a}~~ A health carrier which offers or issues a network plan shall ensure that ~~each~~ participating ~~{provider}~~ providers of health care in the network ~~{furnishes}~~ are responsible for furnishing covered {benefits} services to all covered persons without regard to the participation of the covered person in the network plan as a private purchaser of the network plan or as a participant in a publicly financed program of health care services.

2. This section does not apply to circumstances when the participating provider of health care should not render services due to limitations arising from a lack of training, experience or skill or licensing restrictions.

Sec. 79. A health carrier which offers or issues a network plan shall notify ~~each~~ the participating ~~{provider}~~ providers of health care in the network of his or her obligations, if any, to collect applicable coinsurance, copayments or deductibles from a covered person pursuant to the evidence of coverage, or of the obligations, if any, of the participating provider of health care to notify a covered person of the personal financial obligations of the covered person for health care services that are not covered.

Sec. 80. A health carrier which offers or issues a network plan shall not penalize a participating provider of health care in the network because the participating provider of health care, in good faith, reports to state or federal authorities any act or practice by the health carrier that jeopardizes the health or welfare of a covered person.

Sec. 81. A health carrier which offers or issues a network plan shall establish a mechanism by which a participating provider of health care in the network may, in a timely manner at the time health care services are to be provided, determine whether the person to whom the health care services are to be provided is a covered person or is within a grace period for the payment of a premium during which the health carrier may hold a

claim for health care services pending receipt of the payment of the premium.

Sec. 82. A health carrier which offers or issues a network plan shall establish procedures for the resolution of administrative, payment or other disputes between a participating provider of health care in the network and the health carrier.

Sec. 83. 1. A contract entered into for the purposes of a network plan between a participating provider of health care and the health carrier must not contain a provision that conflicts with any provision in the network plan or any requirement set forth in sections 51 to 85, inclusive, of this act.

2. At the time a participating provider of health care signs a contract described in subsection 1, the health carrier and, if applicable, the intermediary shall notify the participating provider of health care of all provisions of the contract and all documents incorporated by reference in the contract.

3. While a contract described in subsection 1 is in force, the health carrier shall provide timely notice to the participating provider of health care of any changes to the provisions of the contract or the documents incorporated by reference in the contract that would result in a material change in the contract.

4. For the purposes of subsection 3, the contract must define what is to be considered timely notice and what is to be considered a material change.

Sec. 84. A health carrier which offers or issues a network plan shall inform a participating provider of health care with whom the health carrier has contracted for the purposes of the network plan of the status of the participating provider of health care as a provider of health care in the network plan and the status and inclusion of the participating provider of health care on any list of providers of health care maintained by the health carrier. The health carrier shall provide in a timely manner the information required by this section to the participating provider of health care:

- 1. Upon the request of the participating provider of health care; and*
- 2. Upon any change to the status or inclusion of the participating provider of health care as described in this section.*

Sec. 85. The Commissioner may adopt any regulations necessary to carry out the purposes and provisions of sections 51 to 85, inclusive, of this act.

Sec. 86. NRS 687B.385 is hereby amended to read as follows:

687B.385 An insurer shall not **refuse to issue**, cancel, refuse to renew or increase the premium for renewal of a policy of motor vehicle insurance covering private passenger cars or commercial vehicles as a result of any ~~claims~~:

- 1. Claims** made under ~~the~~ **any policy of insurance** with respect to which the insured was not at fault ~~it~~;

2. Claims made under any policy of insurance for which the insurer has not made any payment or for which the insurer recovered the entirety of the insurer's payment on the claim by means of salvage, subrogation or another mechanism; or

3. Inquiries made regarding an actual or potential claim under any policy of insurance regarding:

(a) The existence of insurance coverage for any matter; or

(b) Any hypothetical or informational matter pertaining to insurance.

Sec. 87. NRS 687B.470 is hereby amended to read as follows:

687B.470 1. ~~["Health"]~~ **As used in NRS 687B.470 to 687B.500, inclusive, "health benefit plan"** means a policy, contract, certificate or agreement offered by a carrier to provide for, deliver payment for, arrange for the payment of, pay for or reimburse any of the costs of health care services. Except as otherwise provided in this section, the term includes catastrophic health insurance policies and a policy that pays on a cost-incurred basis.

2. The term does not include:

(a) Coverage that is only for accident or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Coverage for medical payments under a policy of automobile insurance;

(f) Credit insurance;

(g) Coverage for on-site medical clinics;

(h) Other similar insurance coverage specified pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Coverage under a short-term health insurance policy; and

(j) Coverage under a blanket student accident and health insurance policy.

3. The term does not include the following benefits if the benefits are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of a health benefit plan:

(a) Limited-scope dental or vision benefits;

(b) Benefits for long-term care, nursing home care, home health care or community-based care, or any combination thereof; and

(c) Such other similar benefits as are specified in any federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

4. The term does not include the following benefits if the benefits are provided under a separate policy, certificate or contract, there is no coordination between the provisions of the benefits and any exclusion of

benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid for a claim without regard to whether benefits are provided for such a claim under any group health plan maintained by the same plan sponsor:

- (a) Coverage that is only for a specified disease or illness; and
- (b) Hospital indemnity or other fixed indemnity insurance.

5. The term does not include any of the following, if offered as a separate policy, certificate or contract of insurance:

(a) Medicare supplemental health insurance as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. § 1395ss, as that section existed on July 16, 1997;

(b) Coverage supplemental to the coverage provided pursuant to the Civilian Health and Medical Program of Uniformed Services, CHAMPUS, 10 U.S.C. §§ 1071 et seq.; and

(c) Similar supplemental coverage provided under a group health plan.

Sec. 88. NRS 687B.490 is hereby amended to read as follows:

687B.490 1. A carrier that offers coverage in the **small employer** group or individual market must, before making any network plan available for sale in this State, demonstrate the capacity to deliver services adequately by applying to the Commissioner for the issuance of a network plan and submitting a description of the procedures and programs to be implemented to meet the requirements described in subsection 2.

2. The Commissioner shall determine, within 90 days after receipt of the application required pursuant to subsection 1, if the carrier, with respect to the network plan:

(a) Has demonstrated the willingness and ability to ensure that health care services will be provided in a manner to ensure both availability and accessibility of adequate personnel and facilities in a manner that enhances availability, accessibility and continuity of service;

(b) Has organizational arrangements established in accordance with regulations promulgated by the Commissioner; and

(c) Has a procedure established in accordance with regulations promulgated by the Commissioner to develop, compile, evaluate and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services and such other matters as may be reasonably required by the Commissioner.

3. The Commissioner may certify that the carrier and the network plan meet the requirements of subsection 2, or may determine that the carrier and the network plan do not meet such requirements. Upon a determination that the carrier and the network plan do not meet the requirements of subsection 2, the Commissioner shall specify in what respects the carrier and the network plan are deficient.

4. A carrier approved to issue a network plan pursuant to this section must file annually with the Commissioner a summary of information

compiled pursuant to subsection 2 in a manner determined by the Commissioner.

5. The Commissioner shall, not less than once each year, or more often if deemed necessary by the Commissioner for the protection of the interests of the people of this State, make a determination concerning the availability and accessibility of the health care services of any network plan approved pursuant to this section.

6. The expense of any determination made by the Commissioner pursuant to this section must be assessed against the carrier and remitted to the Commissioner.

7. When making any determination concerning the availability and accessibility of the services of any network plan or proposed network plan pursuant to this section, the Commissioner shall consider services that may be provided through telehealth, as defined in NRS 629.515, pursuant to the network plan or proposed network plan to be available services.

8. As used in this section ~~[-“network”]~~:

(a) **“Network plan”** has the meaning ascribed to it in NRS 689B.570.

(b) **“Small employer”** has the meaning ascribed to it in NRS 689C.095.

Sec. 89. NRS 687B.500 is hereby amended to read as follows:

687B.500 1. The premium rate charged by a health insurer for health benefit plans offered in the individual or small **employer** group market may vary with respect to the particular plan or coverage involved based solely on these characteristics:

(a) Whether the plan or coverage applies to an individual or a family;

(b) Geographic rating area;

(c) Tobacco use, except that the rate shall not vary by a ratio of more than 1.5 to 1 for like individuals who vary in tobacco use; and

(d) Age, except that the rate must not vary by a ratio of more than 3 to 1 for like individuals of different age who are age 21 years or older and that the variation in rate must be actuarially justified for individuals who are under the age of 21 years, consistent with the uniform age rating curve established in the Federal Act. For the purpose of identifying the appropriate age adjustment under this paragraph and the age band defined in the Federal Act to a specific enrollee, the enrollee’s age as of the date of policy issuance or renewal must be used.

2. The provisions of subsection 1:

(a) Apply to a fraternal benefit society organized under chapter 695A of NRS; and

(b) Do not apply to grandfathered plans.

3. As used in this section, “small employer” has the meaning ascribed to it in NRS 689C.095.

Sec. 90. NRS 689.185 is hereby amended to read as follows:

689.185 1. Except as otherwise provided in subsection 2:

(a) Before the issuance of a certificate of authority, the seller shall post with the Commissioner and thereafter maintain in force a bond in the

principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value of not less than the amount of the bond required by the Commissioner.

(b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or the agents of the seller, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

(c) ***A certificate of authority issued to a seller is automatically suspended if the seller does not file with the Commissioner a replacement bond before the date of cancellation of the previous bond. A replacement bond must meet all requirements of this subsection for the initial bond.***

(d) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. The Commissioner may waive the requirements of subsection 1 if the seller agrees:

(a) To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and

(b) Not to collect any money from the purchaser of a prepaid contract.

Sec. 91. NRS 689.495 is hereby amended to read as follows:

689.495 1. Except as otherwise provided in subsection 2:

(a) Before the issuance of a permit to a seller, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value not less than the amount of the bond required by the Commissioner.

(b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or the agents of the seller, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

(c) *A permit issued to a seller is automatically suspended if the seller does not file with the Commissioner a replacement bond before the date of cancellation of the previous bond. A replacement bond must meet all requirements of this subsection for the initial bond.*

(d) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. The Commissioner may waive the requirements of subsection 1 if the seller agrees:

(a) To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and

(b) Not to collect any money from the purchaser of a prepaid contract.

Sec. 92. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *An individual carrier shall make the unified rate review template and rate filing documentation used by the individual carrier and any information and documents described in any regulations adopted pursuant to 689A.700 available to the Commissioner upon request. Except in cases of violations of the provisions of this chapter, the unified rate review template and rate filing documentation used by an individual carrier are considered proprietary, constitute a trade secret and are not subject to disclosure by the Commissioner to persons outside of the Division except as agreed to by the individual carrier or as ordered by a court of competent jurisdiction.*

2. *As used in this section, "rate filing documentation" and "unified rate review template" have the meanings ascribed to them in 45 C.F.R. § 154.215.*

Sec. 93. NRS 689A.020 is hereby amended to read as follows:

689A.020 Nothing in this chapter applies to or affects:

1. Any policy of liability or workers' compensation insurance with or without supplementary expense coverage therein.

2. Any group or blanket policy.

3. Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to health insurance as to:

(a) Provide additional benefits in case of death or dismemberment or loss of sight by accident or accidental means; or

(b) Operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity if the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract.

4. Reinsurance, except as otherwise provided in NRS 689A.470 to 689A.740, inclusive, **and section 92 of this act**, and 689C.610 to 689C.940, inclusive, relating to the program of reinsurance.

Sec. 94. NRS 689A.04033 is hereby amended to read as follows:

689A.04033 1. A policy of health insurance must provide coverage for medical treatment which a policyholder or subscriber receives as part of a clinical trial or study if:

(a) The medical treatment is provided in a Phase I, Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or in a Phase II, Phase III or Phase IV study or clinical trial for the treatment of chronic fatigue syndrome;

(b) The clinical trial or study is approved by:

(1) An agency of the National Institutes of Health as set forth in 42 U.S.C. § 281(b);

(2) A cooperative group;

(3) The Food and Drug Administration as an application for a new investigational drug;

(4) The United States Department of Veterans Affairs; or

(5) The United States Department of Defense;

(c) In the case of:

(1) A Phase I clinical trial or study for the treatment of cancer, the medical treatment is provided at a facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer; or

(2) A Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or chronic fatigue syndrome, the medical treatment is provided by a provider of health care and the facility and personnel for the clinical trial or study have the experience and training to provide the treatment in a capable manner;

(d) There is no medical treatment available which is considered a more appropriate alternative medical treatment than the medical treatment provided in the clinical trial or study;

(e) There is a reasonable expectation based on clinical data that the medical treatment provided in the clinical trial or study will be at least as effective as any other medical treatment;

(f) The clinical trial or study is conducted in this State; and

(g) The policyholder or subscriber has signed, before participating in the clinical trial or study, a statement of consent indicating that the policyholder or subscriber has been informed of, without limitation:

(1) The procedure to be undertaken;

(2) Alternative methods of treatment; and

(3) The risks associated with participation in the clinical trial or study, including, without limitation, the general nature and extent of such risks.

2. Except as otherwise provided in subsection 3, the coverage for medical treatment required by this section is limited to:

(a) Coverage for any drug or device that is approved for sale by the Food and Drug Administration without regard to whether the approved drug or device has been approved for use in the medical treatment of the policyholder or subscriber.

(b) The cost of any reasonably necessary health care services that are required as a result of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study or as a result of any complication arising out of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study, to the extent that such health care services would otherwise be covered under the policy of health insurance.

(c) The cost of any routine health care services that would otherwise be covered under the policy of health insurance for a policyholder or subscriber participating in a Phase I clinical trial or study.

(d) The initial consultation to determine whether the policyholder or subscriber is eligible to participate in the clinical trial or study.

(e) Health care services required for the clinically appropriate monitoring of the policyholder or subscriber during a Phase II, Phase III or Phase IV clinical trial or study.

(f) Health care services which are required for the clinically appropriate monitoring of the policyholder or subscriber during a Phase I clinical trial or study and which are not directly related to the clinical trial or study.

➔ Except as otherwise provided in NRS 689A.04036, the services provided pursuant to paragraphs (b), (c), (e) and (f) must be covered only if the services are provided by a provider with whom the insurer has contracted for such services. If the insurer has not contracted for the provision of such services, the insurer shall pay the provider the rate of reimbursement that is paid to other providers with whom the insurer has contracted for similar services and the provider shall accept that rate of reimbursement as payment in full.

3. Particular medical treatment described in subsection 2 and provided to a policyholder or subscriber is not required to be covered pursuant to this section if that particular medical treatment is provided by the sponsor of the clinical trial or study free of charge to the policyholder or subscriber.

4. The coverage for medical treatment required by this section does not include:

(a) Any portion of the clinical trial or study that is customarily paid for by a government or a biotechnical, pharmaceutical or medical industry.

(b) Coverage for a drug or device described in paragraph (a) of subsection 2 which is paid for by the manufacturer, distributor or provider of the drug or device.

(c) Health care services that are specifically excluded from coverage under the policyholder's or subscriber's policy of health insurance, regardless of whether such services are provided under the clinical trial or study.

(d) Health care services that are customarily provided by the sponsors of the clinical trial or study free of charge to the participants in the trial or study.

(e) Extraneous expenses related to participation in the clinical trial or study including, without limitation, travel, housing and other expenses that a participant may incur.

(f) Any expenses incurred by a person who accompanies the policyholder or subscriber during the clinical trial or study.

(g) Any item or service that is provided solely to satisfy a need or desire for data collection or analysis that is not directly related to the clinical management of the policyholder or subscriber.

(h) Any costs for the management of research relating to the clinical trial or study.

5. An insurer who delivers or issues for delivery a policy of health insurance specified in subsection 1 may require copies of the approval or certification issued pursuant to paragraph (b) of subsection 1, the statement of consent signed by the policyholder or subscriber, protocols for the clinical trial or study and any other materials related to the scope of the clinical trial or study relevant to the coverage of medical treatment pursuant to this section.

6. An insurer who delivers or issues for delivery a policy specified in subsection 1 shall:

(a) Include in ~~the~~ **any** disclosure ~~[required pursuant to NRS 689A.390]~~ **of the coverage provided by the policy** notice to each policyholder and subscriber under the policy of the availability of the benefits required by this section.

(b) Provide the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for coverage that are required under the policy.

7. A policy of health insurance subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2006, has the legal effect of including the coverage required by this section, and any provision of the policy that conflicts with this section is void.

8. An insurer who delivers or issues for delivery a policy specified in subsection 1 is immune from liability for:

(a) Any injury to a policyholder or subscriber caused by:

(1) Any medical treatment provided to the policyholder or subscriber in connection with his or her participation in a clinical trial or study described in this section; or

(2) An act or omission by a provider of health care who provides medical treatment or supervises the provision of medical treatment to the policyholder or subscriber in connection with his or her participation in a clinical trial or study described in this section.

(b) Any adverse or unanticipated outcome arising out of a policyholder's or subscriber's participation in a clinical trial or study described in this section.

9. As used in this section:

(a) "Cooperative group" means a network of facilities that collaborate on research projects and has established a peer review program approved by the National Institutes of Health. The term includes:

(1) The Clinical Trials Cooperative Group Program; and

(2) The Community Clinical Oncology Program.

(b) "Facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer" means a facility or an affiliate of a facility that:

(1) Has in place a Phase I program which permits only selective participation in the program and which uses clear-cut criteria to determine eligibility for participation in the program;

(2) Operates a protocol review and monitoring system which conforms to the standards set forth in the "Policies and Guidelines Relating to the Cancer Center Support Grant" published by the Cancer Centers Branch of the National Cancer Institute;

(3) Employs at least two researchers and at least one of those researchers receives funding from a federal grant;

(4) Employs at least three clinical investigators who have experience working in Phase I clinical trials or studies conducted at a facility designated as a comprehensive cancer center by the National Cancer Institute;

(5) Possesses specialized resources for use in Phase I clinical trials or studies, including, without limitation, equipment that facilitates research and analysis in proteomics, genomics and pharmacokinetics;

(6) Is capable of gathering, maintaining and reporting electronic data; and

(7) Is capable of responding to audits instituted by federal and state agencies.

(c) "Provider of health care" means:

(1) A hospital; or

(2) A person licensed pursuant to chapter 630, 631 or 633 of NRS.

Sec. 95. NRS 689A.0427 is hereby amended to read as follows:

689A.0427 1. No policy of health insurance that provides coverage for hospital, medical or surgical expenses may be delivered or issued for delivery in this state unless the policy includes coverage for the management and treatment of diabetes, including, without limitation, coverage for the self-management of diabetes.

2. An insurer who delivers or issues for delivery a policy specified in subsection 1:

(a) Shall include in ~~the~~ **any** disclosure ~~required pursuant to NRS 689A.390~~ **of the coverage provided by the policy** notice to each policyholder and subscriber under the policy of the availability of the benefits required by this section.

(b) Shall provide the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for coverage that are required under the policy.

3. A policy of health insurance subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 1998, has the legal effect of including the coverage required by this section, and any provision of the policy that conflicts with this section is void.

4. As used in this section:

(a) “Coverage for the management and treatment of diabetes” includes coverage for medication, equipment, supplies and appliances that are medically necessary for the treatment of diabetes.

(b) “Coverage for the self-management of diabetes” includes:

(1) The training and education provided to an insured person after the insured person is initially diagnosed with diabetes which is medically necessary for the care and management of diabetes, including, without limitation, counseling in nutrition and the proper use of equipment and supplies for the treatment of diabetes;

(2) Training and education which is medically necessary as a result of a subsequent diagnosis that indicates a significant change in the symptoms or condition of the insured person and which requires modification of the insured person’s program of self-management of diabetes; and

(3) Training and education which is medically necessary because of the development of new techniques and treatment for diabetes.

(c) “Diabetes” includes type I, type II and gestational diabetes.

Sec. 96. NRS 689A.470 is hereby amended to read as follows:

689A.470 As used in NRS 689A.470 to 689A.740, inclusive, **and section 92 of this act**, unless the context otherwise requires, the words and terms defined in NRS 689A.475 to 689A.600, inclusive, have the meanings ascribed to them in those sections.

Sec. 97. NRS 689A.615 is hereby amended to read as follows:

689A.615 For the purposes of NRS 689A.470 to 689A.740, inclusive ~~to~~ **, and section 92 of this act:**

1. Any plan, fund or program which would not be, but for section 2721(e) of the Public Health Service Act, as amended by Public Law 104-191, as that section existed on July 16, 1997, an employee welfare benefit plan and which is established or maintained by a partnership to the extent that the plan, fund or program provides medical care to current or former partners in the partnership or to their dependents, as defined under the terms of the plan, fund or program, directly or through insurance, reimbursement or otherwise, must be treated, subject to subsection 2, as an employee welfare benefit plan which is a group health plan.

2. In the case of a group health plan, a partnership shall be deemed to be the employer of each partner.

Sec. 98. NRS 689A.630 is hereby amended to read as follows:

689A.630 1. Except as otherwise provided in this section, coverage under an individual health benefit plan must be renewed by the individual carrier that issued the plan, at the option of the individual, unless:

(a) The individual has failed to pay premiums or contributions in accordance with the terms of the health benefit plan or the individual carrier has not received timely premium payments.

(b) The individual has performed an act or a practice that constitutes fraud or has made an intentional misrepresentation of material fact under the terms of the coverage.

(c) The individual carrier decides to discontinue offering and renewing all health benefit plans delivered or issued for delivery in this state. If the individual carrier decides to discontinue offering and renewing such plans, the individual carrier shall:

(1) Provide notice of its intention to the Commissioner and the chief regulatory officer for insurance in each state in which the individual carrier is licensed to transact insurance at least 60 days before the date on which notice of cancellation or nonrenewal is delivered or mailed to the persons covered by the insurance to be discontinued pursuant to subparagraph (2).

(2) Provide notice of its intention to all persons covered by the discontinued insurance and to the Commissioner and the chief regulatory officer for insurance in each state in which such a person is known to reside. The notice must be made at least 180 days before the nonrenewal of any health benefit plan by the individual carrier.

(3) Discontinue all health insurance issued or delivered for issuance for individuals in this state and not renew coverage under any health benefit plan issued to such individuals.

(d) The Commissioner finds that the continuation of the coverage in this state by the individual carrier would not be in the best interests of the policyholders or certificate holders of the individual carrier or would impair the ability of the individual carrier to meet its contractual obligations. If the Commissioner makes such a finding, the Commissioner shall assist the persons covered by the discontinued insurance in this state in finding replacement coverage.

2. An individual carrier may discontinue ~~the issuance and renewal of a form of~~ a product ~~of a health benefit plan if the Commissioner finds that the form of the product offered by the individual carrier is obsolete and is being replaced with comparable coverage. A form of a product of a health benefit plan may be discontinued by the individual carrier~~ pursuant to this subsection only if:

(a) The individual carrier notifies the Commissioner ~~and the chief regulatory officer for insurance in each state in which it is licensed~~ of its decision pursuant to this subsection to discontinue ~~the issuance and renewal of the form of~~ the product at least 60 days before the individual carrier notifies the persons covered by the discontinued ~~insurance~~ **product** pursuant to paragraph (b).

(b) The individual carrier notifies each person covered by the discontinued ~~insurance, the Commissioner and the chief regulatory officer for insurance in each state in which a person covered by the discontinued insurance is known to reside~~ **product** of the decision of the individual carrier to discontinue offering ~~the form of~~ the product. The notice must be made to persons covered by the discontinued ~~insurance~~ **product** at least ~~180~~ **90** days before the date on which the individual carrier will discontinue offering ~~the form of~~ the product.

(c) The individual carrier offers to each person covered by the discontinued ~~insurance~~ **product** the option to purchase any other health benefit plan currently offered by the individual carrier to individuals in this state.

(d) In exercising the option to discontinue ~~the form of~~ the product and in offering the option to purchase other coverage pursuant to paragraph (c), the individual carrier acts uniformly without regard to the claim experience of the persons covered by the discontinued ~~insurance~~ **product** or any health status-related factor relating to those persons or beneficiaries covered by the discontinued ~~form of the~~ product or any persons or beneficiaries who may become eligible for such coverage.

3. An individual carrier may discontinue the issuance and renewal of a health benefit plan that is made available to individuals pursuant to this chapter only through a bona fide association if:

(a) The membership of the individual in the association was the basis for the provision of coverage;

(b) The membership of the individual in the association ceases; and

(c) The coverage is terminated pursuant to this subsection uniformly without regard to any health status-related factor relating to the covered individual.

4. An individual carrier that elects not to renew a health benefit plan pursuant to paragraph (c) of subsection 1 shall not write new business for individuals pursuant to this chapter for 5 years after the date on which notice is provided to the Commissioner pursuant to subparagraph (2) of paragraph (c) of subsection 1.

5. If an individual carrier does business in only one geographic service area of this state, the provisions of this section apply only to the operations of the individual carrier in that service area.

Sec. 99. 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~~ 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 ~~and~~ , **and section 92 of this act.**

Sec. 100. NRS 689A.715 is hereby amended to read as follows:

689A.715 1. An employee welfare benefit plan for providing benefits for employees of more than one employer under which individual health insurance coverage is provided must comply with the provisions of NRS 679B.139 and 689A.470 to 689A.740, inclusive, **and section 92 of this act**, and the regulations adopted by the Commissioner pursuant thereto.

2. As used in this section, the term “employee welfare benefit plan for providing benefits for employees of more than one employer” is intended to be equivalent to the term “employee welfare benefit plan which is a multiple employer welfare arrangement” as used in federal statutes and regulations.

Sec. 101. NRS 689A.725 is hereby amended to read as follows:

689A.725 For the purposes of NRS 689A.470 to 689A.740, inclusive, **and section 92 of this act**, a plan for coverage of a bona fide association must:

1. Conform with **any regulations adopted pursuant to** NRS ~~689A.690 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. 102. NRS 689A.740 is hereby amended to read as follows:

689A.740 The Commissioner shall adopt regulations as necessary to carry out the provisions of NRS 689A.470 to 689A.740, inclusive ~~of~~, **and section 92 of this act**.

Sec. 103. NRS 689A.745 is hereby amended to read as follows:

689A.745 1. Except as otherwise provided in subsection 4, each insurer that issues a policy of health insurance in this State shall establish a system for resolving any complaints of an insured concerning health care services covered under the policy. The system must be approved by the Commissioner ~~. In consultation with the State Board of Health.~~

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a policy of health insurance issued by the insurer.

3. The Commissioner ~~for the State Board of Health~~ may examine the system for resolving complaints established pursuant to subsection 1 at such times as ~~either~~ **the Commissioner** deems necessary or appropriate.

4. Each insurer that issues a policy of health insurance in this State that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care shall provide a system for resolving any complaints of an insured concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive.

Sec. 104. NRS 689A.750 is hereby amended to read as follows:

689A.750 1. Each insurer that issues a policy of health insurance in this State shall submit to the Commissioner ~~and the State Board of Health~~ an annual report regarding its system for resolving complaints established pursuant to subsection 1 of NRS 689A.745 on a form prescribed by the Commissioner ~~in consultation with the State Board of Health~~ which includes, without limitation:

(a) A description of the procedures used for resolving any complaints of an insured;

(b) The total number of complaints and appeals handled through the system for resolving complaints since the last report and a compilation of the causes underlying the complaints filed;

- (c) The current status of each complaint and appeal filed; and
- (d) The average amount of time that was needed to resolve a complaint and an appeal, if any.

2. Each insurer shall maintain records of complaints filed with it which concern something other than health care services and shall submit to the Commissioner a report summarizing such complaints at such times and in such format as the Commissioner may require.

Sec. 105. NRS 689B.0285 is hereby amended to read as follows:

689B.0285 1. Except as otherwise provided in subsection 4, each insurer that issues a policy of group health insurance in this State shall establish a system for resolving any complaints of an insured concerning health care services covered under the policy. The system must be approved by the Commissioner ~~in consultation with the State Board of Health.~~

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a policy of group health insurance issued by the insurer.

3. The Commissioner ~~for the State Board of Health~~ may examine the system for resolving complaints established pursuant to subsection 1 at such times as ~~either~~ **the Commissioner** deems necessary or appropriate.

4. Each insurer that issues a policy of group health insurance in this State that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care shall provide a system for resolving any complaints of an insured concerning the health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive.

Sec. 106. NRS 689B.029 is hereby amended to read as follows:

689B.029 1. Each insurer that issues a policy of group health insurance in this State shall submit to the Commissioner ~~and the State Board of Health~~ an annual report regarding its system for resolving complaints established pursuant to subsection 1 of NRS 689B.0285 on a form prescribed by the Commissioner ~~in consultation with the State Board of Health~~ which includes, without limitation:

- (a) A description of the procedures used for resolving any complaints of an insured;
- (b) The total number of complaints and appeals handled through the system for resolving complaints since the last report and a compilation of the causes underlying the complaints filed;
- (c) The current status of each complaint and appeal filed; and
- (d) The average amount of time that was needed to resolve a complaint and an appeal, if any.

2. Each insurer shall maintain records of complaints filed with it which concern something other than health care services and shall submit to the

Commissioner a report summarizing such complaints at such times and in such format as the Commissioner may require.

Sec. 107. NRS 689B.0306 is hereby amended to read as follows:

689B.0306 1. A policy of group health insurance must provide coverage for medical treatment which a person insured under the group policy receives as part of a clinical trial or study if:

(a) The medical treatment is provided in a Phase I, Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or in a Phase II, Phase III or Phase IV study or clinical trial for the treatment of chronic fatigue syndrome;

(b) The clinical trial or study is approved by:

(1) An agency of the National Institutes of Health as set forth in 42 U.S.C. § 281(b);

(2) A cooperative group;

(3) The Food and Drug Administration as an application for a new investigational drug;

(4) The United States Department of Veterans Affairs; or

(5) The United States Department of Defense;

(c) In the case of:

(1) A Phase I clinical trial or study for the treatment of cancer, the medical treatment is provided at a facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer; or

(2) A Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or chronic fatigue syndrome, the medical treatment is provided by a provider of health care and the facility and personnel for the clinical trial or study have the experience and training to provide the treatment in a capable manner;

(d) There is no medical treatment available which is considered a more appropriate alternative medical treatment than the medical treatment provided in the clinical trial or study;

(e) There is a reasonable expectation based on clinical data that the medical treatment provided in the clinical trial or study will be at least as effective as any other medical treatment;

(f) The clinical trial or study is conducted in this State; and

(g) The insured has signed, before participating in the clinical trial or study, a statement of consent indicating that the insured has been informed of, without limitation:

(1) The procedure to be undertaken;

(2) Alternative methods of treatment; and

(3) The risks associated with participation in the clinical trial or study, including, without limitation, the general nature and extent of such risks.

2. Except as otherwise provided in subsection 3, the coverage for medical treatment required by this section is limited to:

(a) Coverage for any drug or device that is approved for sale by the Food and Drug Administration without regard to whether the approved drug or

device has been approved for use in the medical treatment of the insured person.

(b) The cost of any reasonably necessary health care services that are required as a result of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study or as a result of any complication arising out of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study, to the extent that such health care services would otherwise be covered under the policy of group health insurance.

(c) The cost of any routine health care services that would otherwise be covered under the policy of group health insurance for an insured participating in a Phase I clinical trial or study.

(d) The initial consultation to determine whether the insured is eligible to participate in the clinical trial or study.

(e) Health care services required for the clinically appropriate monitoring of the insured during a Phase II, Phase III or Phase IV clinical trial or study.

(f) Health care services which are required for the clinically appropriate monitoring of the insured during a Phase I clinical trial or study and which are not directly related to the clinical trial or study.

➔ Except as otherwise provided in NRS 689B.0303, the services provided pursuant to paragraphs (b), (c), (e) and (f) must be covered only if the services are provided by a provider with whom the insurer has contracted for such services. If the insurer has not contracted for the provision of such services, the insurer shall pay the provider the rate of reimbursement that is paid to other providers with whom the insurer has contracted for similar services and the provider shall accept that rate of reimbursement as payment in full.

3. Particular medical treatment described in subsection 2 and provided to a person insured under the group policy is not required to be covered pursuant to this section if that particular medical treatment is provided by the sponsor of the clinical trial or study free of charge to the person insured under the group policy.

4. The coverage for medical treatment required by this section does not include:

(a) Any portion of the clinical trial or study that is customarily paid for by a government or a biotechnical, pharmaceutical or medical industry.

(b) Coverage for a drug or device described in paragraph (a) of subsection 2 which is paid for by the manufacturer, distributor or provider of the drug or device.

(c) Health care services that are specifically excluded from coverage under the insured's policy of group health insurance, regardless of whether such services are provided under the clinical trial or study.

(d) Health care services that are customarily provided by the sponsors of the clinical trial or study free of charge to the participants in the trial or study.

(e) Extraneous expenses related to participation in the clinical trial or study including, without limitation, travel, housing and other expenses that a participant may incur.

(f) Any expenses incurred by a person who accompanies the insured during the clinical trial or study.

(g) Any item or service that is provided solely to satisfy a need or desire for data collection or analysis that is not directly related to the clinical management of the insured.

(h) Any costs for the management of research relating to the clinical trial or study.

5. An insurer who delivers or issues for delivery a policy of group health insurance specified in subsection 1 may require copies of the approval or certification issued pursuant to paragraph (b) of subsection 1, the statement of consent signed by the insured, protocols for the clinical trial or study and any other materials related to the scope of the clinical trial or study relevant to the coverage of medical treatment pursuant to this section.

6. An insurer who delivers or issues for delivery a policy of group health insurance specified in subsection 1 shall:

(a) Include in ~~the~~ **any disclosure [required pursuant to NRS 689B.027] of the coverage provided by the policy** notice to each group policyholder of the availability of the benefits required by this section.

(b) Provide the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for coverage that are required under the policy.

7. A policy of group health insurance subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2006, has the legal effect of including the coverage required by this section, and any provision of the policy that conflicts with this section is void.

8. An insurer who delivers or issues for delivery a policy of group health insurance specified in subsection 1 is immune from liability for:

(a) Any injury to the insured caused by:

(1) Any medical treatment provided to the insured in connection with his or her participation in a clinical trial or study described in this section; or

(2) An act or omission by a provider of health care who provides medical treatment or supervises the provision of medical treatment to the insured in connection with his or her participation in a clinical trial or study described in this section.

(b) Any adverse or unanticipated outcome arising out of an insured's participation in a clinical trial or study described in this section.

9. As used in this section:

(a) "Cooperative group" means a network of facilities that collaborate on research projects and has established a peer review program approved by the National Institutes of Health. The term includes:

(1) The Clinical Trials Cooperative Group Program; and

(2) The Community Clinical Oncology Program.

(b) “Facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer” means a facility or an affiliate of a facility that:

(1) Has in place a Phase I program which permits only selective participation in the program and which uses clear-cut criteria to determine eligibility for participation in the program;

(2) Operates a protocol review and monitoring system which conforms to the standards set forth in the “Policies and Guidelines Relating to the Cancer Center Support Grant” published by the Cancer Centers Branch of the National Cancer Institute;

(3) Employs at least two researchers and at least one of those researchers receives funding from a federal grant;

(4) Employs at least three clinical investigators who have experience working in Phase I clinical trials or studies conducted at a facility designated as a comprehensive cancer center by the National Cancer Institute;

(5) Possesses specialized resources for use in Phase I clinical trials or studies, including, without limitation, equipment that facilitates research and analysis in proteomics, genomics and pharmacokinetics;

(6) Is capable of gathering, maintaining and reporting electronic data; and

(7) Is capable of responding to audits instituted by federal and state agencies.

(c) “Provider of health care” means:

(1) A hospital; or

(2) A person licensed pursuant to chapter 630, 631 or 633 of NRS.

Sec. 108. NRS 689B.0357 is hereby amended to read as follows:

689B.0357 1. No group policy of health insurance that provides coverage for hospital, medical or surgical expenses may be delivered or issued for delivery in this state unless the policy includes coverage for the management and treatment of diabetes, including, without limitation, coverage for the self-management of diabetes.

2. An insurer who delivers or issues for delivery a policy specified in subsection 1:

(a) Shall include in ~~the~~ **any** disclosure ~~required pursuant to NRS 689B.0271~~ **of the coverage provided by the policy** notice to each policyholder and subscriber under the policy of the availability of the benefits required by this section.

(b) Shall provide the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for coverage that are required under the policy.

3. A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 1998, has the legal effect of including the coverage required by this section, and any provision of the policy that conflicts with this section is void.

4. As used in this section:

(a) "Coverage for the management and treatment of diabetes" includes coverage for medication, equipment, supplies and appliances that are medically necessary for the treatment of diabetes.

(b) "Coverage for the self-management of diabetes" includes:

(1) The training and education provided to the employee or member of the insured group after the employee or member is initially diagnosed with diabetes which is medically necessary for the care and management of diabetes, including, without limitation, counseling in nutrition and the proper use of equipment and supplies for the treatment of diabetes;

(2) Training and education which is medically necessary as a result of a subsequent diagnosis that indicates a significant change in the symptoms or condition of the employee or member of the insured group and which requires modification of his or her program of self-management of diabetes; and

(3) Training and education which is medically necessary because of the development of new techniques and treatment for diabetes.

(c) "Diabetes" includes type I, type II and gestational diabetes.

Sec. 109. NRS 689B.061 is hereby amended to read as follows:

689B.061 A policy of group health insurance which offers a difference of payment between preferred providers of health care and providers of health care who are not preferred:

1. May not require an insured, another insurer who issues policies of group health insurance, a nonprofit medical service corporation or a health maintenance organization to pay any amount in excess of the deductible or coinsurance due from the insured based on the rates agreed upon with a provider.

2. Must require that the deductible and payment for coinsurance paid by the insured to a preferred provider of health care be applied to the negotiated reduced rates of that provider.

3. ~~Must include for providers of health care who are not preferred a provision establishing the point at which an insured's payment for coinsurance is no longer required to be paid if such a provision is included for preferred providers of health care. Such provisions must be based on a calendar year. The point at which an insured's payment for coinsurance is no longer required to be paid for providers of health care who are not preferred must not be greater than twice the amount for preferred providers of health care, regardless of the method of payment.~~

~~4.1~~ Must provide that if there is a particular service which a preferred provider of health care does not provide and the provider of health care who is treating the insured requests the service and the insurer determines that the use of the service is necessary for the health of the insured, the service shall be deemed to be provided by the preferred provider of health care.

~~5.1~~ 4. Must require the insurer to process a claim of a provider of health care who is not preferred not later than 30 working days after the date on which proof of the claim is received.

Sec. 110. NRS 689B.560 is hereby amended to read as follows:

689B.560 1. Except as otherwise provided in this section, coverage under a policy of group health insurance must be renewed by the carrier at the option of the plan sponsor, unless:

(a) The plan sponsor has failed to pay premiums or contributions in accordance with the terms of the group health insurance or the carrier has not received timely premium payments;

(b) The plan sponsor has performed an act or a practice that constitutes fraud or has made an intentional misrepresentation of material fact under the terms of the coverage;

(c) The plan sponsor has failed to comply with any material provision of the group health insurance relating to employer contributions and group participation; or

(d) The carrier decides to discontinue offering coverage under group health insurance. If the carrier decides to discontinue offering and renewing such insurance, the carrier shall:

(1) Provide notice of its intention to the Commissioner and the chief regulatory officer for insurance in each state in which the carrier is licensed to transact insurance at least 60 days before the date on which notice of cancellation or nonrenewal is delivered or mailed to the persons covered by the discontinued insurance pursuant to subparagraph (2).

(2) Provide notice of its intention to all persons covered by the discontinued insurance and to the Commissioner and the chief regulatory officer for insurance in each state in which such a person is known to reside. The notice must be made at least 180 days before the discontinuance of any group health plan by the carrier.

(3) Discontinue all health insurance issued or delivered for issuance for persons in this state and not renew coverage under any group health insurance issued to such persons.

2. A carrier may discontinue ~~the issuance and renewal of a form of~~ a product ~~of group health insurance if the Commissioner finds that the form of the product~~ offered ~~by the carrier is obsolete and is being replaced with comparable coverage. A form of a product may be discontinued by the carrier~~ to employers pursuant to this subsection only if:

(a) The carrier notifies the Commissioner ~~and the chief regulatory officer in each state in which it is licensed~~ of its decision pursuant to this subsection to discontinue ~~the issuance and renewal of the form of~~ the product at least 60 days before the ~~individual~~ carrier notifies the affected employers and persons covered ~~by the discontinued insurance~~ pursuant to paragraph (b).

(b) The carrier notifies each affected employer and person covered ~~by the discontinued insurance and the Commissioner and the chief regulatory officer in each state in which such a person is known to reside~~ of the decision of the carrier to discontinue ~~offering the form of~~ the product. The notice must be made at least ~~180~~ 90 days before the date on which the carrier will discontinue offering ~~the form of~~ the product.

(c) The carrier offers to each ~~person covered by the discontinued insurance~~ **affected employer** the option to purchase any other health benefit plan currently offered by the carrier to ~~large~~ groups in this state.

(d) In exercising the option to discontinue ~~the form of~~ the product and in offering the option to purchase other coverage pursuant to paragraph (c), the carrier acts uniformly without regard to the claim experience of the persons covered by the discontinued ~~insurance~~ **product** or any health status-related factor relating to those persons or beneficiaries covered by the discontinued ~~form of the~~ product or any person or beneficiary who may become eligible for such coverage.

3. A carrier may discontinue the issuance and renewal of any type of group health insurance offered by the carrier in this state that is made available pursuant to this chapter only to a member of a bona fide association if:

(a) The membership of the person in the bona fide association was the basis for the provision of coverage under the group health insurance;

(b) The membership of the person in the bona fide association ceases; and

(c) Coverage is terminated pursuant to this subsection for all such former members uniformly without regard to any health status-related factor relating to the former member.

4. A carrier that elects not to renew group health insurance pursuant to paragraph (d) of subsection 1 shall not write new business pursuant to this chapter for 5 years after the date on which notice is provided to the Commissioner pursuant to subparagraph (2) of paragraph (d) of subsection 1.

5. If the carrier does business in only one geographic service area of this state, the provisions of this section apply only to the operations of the carrier in that service area.

6. As used in this section, "bona fide association" has the meaning ascribed to it in NRS 689A.485.

Sec. 111. NRS 689C.111 is hereby amended to read as follows:

689C.111 ~~1. If an employer was not in existence throughout the entire preceding calendar year, the determination of whether the employer is a small or large employer must be based on the average number of employees reasonably expected to be employed on business days in the current calendar year.~~

~~2. Except as otherwise provided by specific statute, the provisions of this chapter that apply to a small employer at the time that a carrier issues a health benefit plan to the small employer pursuant to the provisions of this chapter continue to apply at least until the plan anniversary following the date on which the small employer no longer meets the requirements of being a small employer.~~

~~3.~~ An employee leasing company which has more than 50 employees, including leased employees at client locations, and which sponsors a fully insured health benefit plan for those employees shall be deemed to be a large employer for the purposes of this chapter.

Sec. 112. NRS 689C.310 is hereby amended to read as follows:

689C.310 1. Except as otherwise provided in subsections 2 and 3, a carrier shall renew a health benefit plan at the option of the small employer who purchased the plan.

2. A carrier may refuse to issue or to renew a health benefit plan if:

(a) The carrier discontinues transacting insurance in this state or in the geographic service area of this state where the employer is located;

(b) The employer fails to pay the premiums or contributions required by the terms of the plan;

(c) The employer misrepresents any information regarding the employees covered under the plan or other information regarding eligibility for coverage under the plan;

(d) The plan sponsor has engaged in an act or practice that constitutes fraud to obtain or maintain coverage under the plan;

(e) The employer is not in compliance with the minimum requirements for participation or employer contribution as set forth in the plan; or

(f) The employer fails to comply with any of the provisions of this chapter.

3. A carrier may require a small employer to exclude a particular employee or a dependent of the particular employee from coverage under a health benefit plan as a condition to renewal of the plan if the employee or dependent of the employee commits fraud upon the carrier or misrepresents a material fact which affects his or her coverage under the plan.

4. A carrier shall discontinue the issuance and renewal of coverage to a small employer if the Commissioner finds that the continuation of the coverage would not be in the best interests of the policyholders or certificate holders of the carrier in this state or would impair the ability of the carrier to meet its contractual obligations. If the Commissioner makes such a finding, the Commissioner shall assist the affected small employers in finding replacement coverage.

5. A carrier may discontinue ~~the issuance and renewal of a form of~~ a product ~~of a health benefit plan~~ offered to small employers ~~pursuant to this chapter if the Commissioner finds that the form of the product offered by the carrier is obsolete and is being replaced with comparable coverage. A form of a product of a health benefit plan may be discontinued by a carrier~~ pursuant to this subsection only if:

(a) The carrier notifies the Commissioner ~~and the chief regulatory officer for insurance in each state in which it is licensed~~ of its decision pursuant to this subsection to discontinue ~~the issuance and renewal of the form of~~ the product at least 60 days before the carrier notifies the affected small employers pursuant to paragraph (b).

(b) The carrier notifies each affected small employer ~~and the Commissioner and the chief regulatory officer for insurance in each state in which any affected small employer is located or eligible employee resides~~ of the decision of the carrier to discontinue ~~offering the form of~~ the product.

The notice must be made at least ~~180~~ 90 days before the date on which the carrier will discontinue offering ~~the form of~~ the product.

(c) The carrier offers to each affected small employer the option to purchase any other health benefit plan currently offered by the carrier to small employers in this state.

(d) In exercising the option to discontinue ~~the particular form of~~ the product and in offering the option to purchase other coverage pursuant to paragraph (c), the carrier acts uniformly without regard to the claims experience of the affected small employers or any health status-related factor relating to any participant or beneficiary covered by the discontinued product or any new participant or beneficiary who may become eligible for such coverage.

6. A carrier may discontinue the issuance and renewal of a health benefit plan offered to a small employer or an eligible employee pursuant to this chapter only through a bona fide association if:

(a) The membership of the small employer or eligible employee in the association was the basis for the provision of coverage;

(b) The membership of the small employer or eligible employee in the association ceases; and

(c) The coverage is terminated pursuant to this subsection uniformly without regard to any health status-related factor relating to the small employer or eligible employee or dependent of the eligible employee.

7. If a carrier does business in only one geographic service area of this state, the provisions of this section apply only to the operations of the carrier in that service area.

Sec. 113. NRS 689C.350 is hereby amended to read as follows:

689C.350 A health benefit plan which offers a difference of payment between preferred providers of health care and providers of health care who are not preferred:

1. Must require that the deductible and payment for coinsurance paid by the insured to a preferred provider of health care be applied to the negotiated reduced rates of that provider.

2. ~~Must include for providers of health care who are not preferred a provision establishing the point at which an insured's payment for coinsurance is no longer required to be paid if such a provision is included for preferred providers of health care. Such provisions must be based on a plan year. The point at which an insured's payment for coinsurance is no longer required to be paid for providers of health care who are not preferred must not be greater than twice the amount for preferred providers of health care, regardless of the method of payment.~~

~~3.~~ Must provide that if there is a particular service which a preferred provider of health care does not provide and the provider of health care who is treating the insured requests the service and the insurer determines that the use of the service is necessary for the health of the insured, the service shall be deemed to be provided by the preferred provider of health care.

Sec. 114. NRS 689C.470 is hereby amended to read as follows:

689C.470 1. Except as otherwise provided in NRS 689C.360 to 689C.600, inclusive, a carrier shall renew a contract as to all insured small employers that are members of a voluntary purchasing group and their employees and dependents at the request of the purchaser unless:

- (a) Required premiums are not paid;
- (b) The insured employer or other purchaser is guilty of fraud or misrepresentation;
- (c) Provisions of the contract are breached;
- (d) The number or percentage of employees covered under the contract is less than the number or percentage of eligible employees required by the contract;
- (e) The employer or purchaser is no longer engaged in the business in which it was engaged on the effective date of the contract; or
- (f) The Commissioner finds that the continuation of the coverage is not in the best interests of the persons insured under the contract or would impair the carrier's ability to meet its contractual obligations. If nonrenewal occurs as a result of findings pursuant to this subsection, the Commissioner shall assist affected persons in replacing coverage.

2. A carrier may discontinue ~~issuance and renewal of a form of~~ a product ~~[of a health benefit plan]~~ offered to a small employer or purchasers pursuant to NRS 689C.360 to 689C.600, inclusive, ~~[if the Commissioner finds that the form of the product offered by the carrier is obsolete and is being replaced with comparable coverage. A form of a product of a health benefit plan may be discontinued by a carrier pursuant to this subsection]~~ only if:

(a) The carrier notifies the Commissioner ~~[and the chief regulatory officer for insurance in each state in which it is licensed]~~ of its decision pursuant to this subsection to discontinue ~~[offering and renewing the form of]~~ the product at least 60 days before the carrier notifies the affected small employers and purchasers pursuant to paragraph (b).

(b) The carrier notifies each affected small employer and purchaser ~~[, and the Commissioner and the chief regulatory officer for insurance in each state in which any affected small employer is located or employee resides,]~~ of the decision of the carrier to discontinue ~~[offering the form of]~~ the product. The notice must be made at least ~~[180]~~ 90 days before the date on which the carrier will discontinue offering ~~[the form of]~~ the product.

(c) The carrier offers to each affected small employer and purchaser the option to purchase any other health benefit plan currently offered by the carrier to small employers in this state.

(d) In exercising the option to discontinue ~~[the particular form of]~~ the product and in offering the option to purchase other coverage pursuant to paragraph (c), the carrier acts uniformly without regard to the claim experience of the affected small employers and any health status-related factor relating to any participant or beneficiary covered by the discontinued

product or any new participant or beneficiary who may become eligible for such coverage.

3. A carrier may discontinue the issuance and renewal of a health benefit plan offered to a voluntary purchasing group pursuant to this chapter only through a bona fide association if:

(a) The membership of the small employer who employs the members of the voluntary purchasing group or the purchaser in the association was the basis for the provision of coverage;

(b) The membership of that small employer or the purchaser in the association ceases; and

(c) The coverage is terminated pursuant to this subsection uniformly without regard to any health status-related factor relating to the small employer or the purchaser or his or her dependent.

Sec. 115. NRS 689C.520 is hereby amended to read as follows:

689C.520 1. Before the issuance of a certificate of registration, each voluntary purchasing group shall, to the satisfaction of the Commissioner:

(a) Establish the conditions of membership in the group and require as a condition of membership that all employers include all their eligible employees. The group may not differentiate among classes of membership on the basis of the kind of employment, race, religion, sex, education, health or income. The group shall set reasonable fees for membership which will finance all reasonable and necessary costs incurred in administering the group.

(b) Provide to members of the group and their eligible employees ***any applicable disclosures of the coverage provided by any proposed contracts and any applicable*** information ~~meeting the requirements of NRS 689C.440 regarding~~ ***regarding available benefits and carriers provided by*** any proposed contracts.

2. In addition to the information required pursuant to subsection 1, a voluntary purchasing group shall provide annually to members of the group information regarding available benefits and carriers.

Sec. 116. NRS 690B.200 is hereby amended to read as follows:

690B.200 As used in NRS 690B.200 to ~~690B.370,~~ **690B.360**, inclusive, unless the context otherwise requires, the words and terms defined in NRS 690B.210 to 690B.240, inclusive, have the meanings ascribed to them in those sections.

Sec. 117. NRS 690B.250 is hereby amended to read as follows:

690B.250 Except as more is required in NRS 630.3067 and 633.526:

1. Each insurer which issues a policy of insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS for a breach of his or her professional duty toward a patient shall report to the board which licensed the practitioner within 45 days each settlement or award made or judgment rendered by reason of a claim, if the settlement, award or judgment is for more than \$5,000, giving the name ~~and address~~ of the claimant and the practitioner and the circumstances of the case.

2. A practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS who does not have insurance covering liability for a breach of his or her professional duty toward a patient shall report to the board which issued the practitioner's license within 45 days of each settlement or award made or judgment rendered by reason of a claim, if the settlement, award or judgment is for more than \$5,000, giving the practitioner's name, ~~and address,~~ the name ~~and address~~ of the claimant and the circumstances of the case.

3. These reports are public records and must be made available for public inspection within a reasonable time after they are received by the licensing board.

Sec. 118. NRS 690B.260 is hereby amended to read as follows:

690B.260 1. Each insurer which issues a policy of insurance covering the liability of a physician licensed under chapter 630 of NRS or an osteopathic physician licensed under chapter 633 of NRS for a breach of his or her professional duty toward a patient shall, within 45 days after the end of a calendar quarter, submit a report to the Commissioner concerning each claim that was closed during that calendar quarter under such a policy of insurance issued by the insurer and any change during that calendar quarter to any claim under such a policy of insurance issued by the insurer that was closed during a previous calendar quarter. The report must include, without limitation:

(a) The name ~~and address~~ of the claimant and the insured under each policy;

(b) A statement setting forth the circumstances of that case;

(c) Information indicating whether any payment was made on a claim and the amount of the payment, if any; and

(d) The information specified in subsection 1 of NRS 679B.144 for each claim.

2. An insurer who fails to comply with the provisions of subsection 1 is subject to the imposition of an administrative fine pursuant to NRS 679B.460.

3. The Commissioner shall, within 30 days after receiving a report from an insurer pursuant to this section, submit a report to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, setting forth the information provided to the Commissioner by the insurer pursuant to this section.

Sec. 119. NRS 690B.350 is hereby amended to read as follows:

690B.350 1. *The requirements of this section apply only if, after a hearing convened at the discretion of the Commissioner, the Commissioner determines that the market for professional liability insurance issued to any class, type or specialty of practitioner licensed pursuant to chapter 630, 631 or 633 of NRS is not competitive and that such insurance is unavailable or unaffordable for a substantial number of such practitioners.*

2. *If the Commissioner convenes a hearing pursuant to subsection 1 and issues a finding that the market for professional liability insurance*

issued to any class, type or specialty of practitioner licensed pursuant to chapter 630, 631 or 633 of NRS is not competitive, the Commissioner may designate that class, type or specialty of practitioner to be an essential medical specialty.

3. Except as otherwise provided in this section, if an insurer intends to cancel, terminate or otherwise not renew all policies of professional liability insurance that it has issued to any class, type or specialty of practitioner licensed pursuant to chapter 630, 631 or 633 of NRS, the insurer must provide 120 days' notice of its intended action to the Commissioner and the practitioners before its intended action becomes effective.

~~{2.}~~ 4. If an insurer intends to cancel, terminate or otherwise not renew a specific policy of professional liability insurance that it has issued to a practitioner who is practicing in one or more of the essential medical specialties designated by the Commissioner:

(a) The insurer must provide 120 days' notice to the practitioner before its intended action becomes effective; and

(b) The Commissioner may require the insurer to delay its intended action for a period of not more than 60 days if the Commissioner determines that a replacement policy is not readily available to the practitioner.

~~{3.}~~ 5. If an insurer intends to cancel, terminate or otherwise not renew all policies of professional liability insurance that it has issued to practitioners who are practicing in one or more of the essential medical specialties designated by the Commissioner:

(a) The insurer must provide 120 days' notice of its intended action to the Commissioner and the practitioners before its intended action becomes effective; and

(b) The Commissioner may require the insurer to delay its intended action for a period of not more than 60 days if the Commissioner determines that replacement policies are not readily available to the practitioners.

~~{4.} On or before April 1 of each year, the Commissioner shall:~~

~~—(a) Determine whether there are any medical specialties in this State which are essential as a matter of public policy and which must be protected pursuant to this section from certain adverse actions relating to professional liability insurance that may impair the availability of those essential medical specialties to the residents of this State; and~~

~~—(b) Make a list containing the essential medical specialties designated by the Commissioner and provide the list to each insurer that issues policies of professional liability insurance to practitioners who are practicing in one or more of the essential medical specialties.~~

~~—5.}~~ 6. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.

~~{6.} Until the Commissioner determines which, if any, medical specialties are to be designated as essential medical specialties, the following medical specialties shall be deemed to be essential medical specialties for the purposes of this section:~~

- ~~—(a) Emergency medicine.~~
- ~~—(b) Neurosurgery.~~
- ~~—(c) Obstetrics and gynecology.~~
- ~~—(d) Orthopedic surgery.~~
- ~~—(e) Pediatrics.~~
- ~~—(f) Trauma surgery.~~

Sec. 120. NRS 690B.360 is hereby amended to read as follows:

690B.360 1. The Commissioner ~~shall~~ **may** collect all information which is pertinent to monitoring whether an insurer that issues professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS is complying with the applicable standards for rates established in NRS 686B.010 to 686B.1799, inclusive ~~1-1~~, **and sections 35 to 39, inclusive, of this act.** Such information ~~must~~ **may** include, without limitation:

- (a) The amount of gross premiums collected with regard to each medical specialty;
- (b) Information relating to loss ratios;
- (c) Information reported pursuant to NRS ~~690B.250;~~ **690B.260;** and
- (d) Information reported pursuant to NRS 679B.430 and 679B.440.

2. In addition to the information collected pursuant to subsection 1, the Commissioner may request any additional information from an insurer:

- (a) Whose rates and credit utilization are materially different from other insurers in the market for professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS in this State;
- (b) Whose credit utilization shows a substantial change from the previous year; or
- (c) Whose information collected pursuant to subsection 1 indicates a potentially adverse trend.

3. If the Commissioner requests additional information from an insurer pursuant to subsection 2, the Commissioner ~~shall~~ **may**:

- (a) Determine whether the additional information offers a reasonable explanation for the results described in paragraph (a), (b) or (c) of subsection 2; and
- (b) Take any steps permitted by law that are necessary and appropriate to assure the ongoing stability of the market for professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS in this State.

4. On an ongoing basis, the Commissioner ~~shall~~:

- ~~—(a) Analyze~~ **may analyze** and evaluate the information collected pursuant to this section to determine trends in and measure the health of the market for professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS in this State . ~~1-1 and~~
- ~~—(b) Prepare~~

5. ***If the Commissioner convenes a hearing pursuant to subsection 1 of NRS 690B.350 and determines that the market for professional liability***

insurance issued to any class, type or specialty of practitioner licensed pursuant to chapter 630, 631 or 633 of NRS is not competitive and that such insurance is unavailable or unaffordable for a substantial number of such practitioners, the Commissioner shall prepare and submit a report of the Commissioner's findings and recommendations to the Director of the Legislative Counsel Bureau for transmittal to members of the Legislature . ~~[on or before November 15 of each year.]~~

Sec. 121. Chapter 690C of NRS is hereby amended by adding thereto the provisions set forth as sections 122, 123 and 124 of this act.

Sec. 122. *"Controlling person" means a person who qualifies as a controlling person of a provider pursuant to section 123 of this act.*

Sec. 123. ~~1. A person is a controlling person of a provider if~~

~~(a) The person:~~

~~1. Is an officer of the provider~~ ~~is a business entity and the person possesses~~ ; or

~~2. Possesses the authority to set the policy and direct the management of the business entity~~ ;

~~(b) The provider is a corporation and the person:~~

~~(1) Possesses direct or indirect control of 25 percent or more of the voting securities of the corporation; or~~

~~(2) Is the president, the secretary or a director of the corporation;~~

~~(c) The provider is a partnership and the person is a general partner of the partnership; or~~

~~(d) The provider is a limited partnership and the person is a controlling person of a business entity which is the general partner of the limited partnership.~~

~~2. As used in this section, "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.] in connection with its service contract business.~~

Sec. 124. 1. Except as otherwise provided in this section, a provider shall not transfer any liability relating to a service contract to another provider or any other person, including, without limitation, another provider or other person with whom the original provider has merged or plans to merge.

2. A provider may transfer a liability relating to a service contract to another provider or any other person if, before the liability is transferred:

(a) The original provider submits a proposal to the Commissioner to transfer the liability; and

(b) The Commissioner approves the proposal pursuant to subsection 3.

3. The Commissioner may approve a proposal made by a provider pursuant to subsection 2 if the Commissioner determines, after reviewing the financial condition of the provider or other person to whom the liability is proposed to be transferred, that the proposed recipient of the transfer has

adequate financial resources to enable the proposed recipient to pay in full and in a timely manner all liabilities proposed to be transferred to the proposed recipient.

4. The provisions of this section do not apply to any transaction relating to a contractual liability insurance policy into which the provider enters to satisfy the requirements of NRS 690C.170.

Sec. 125. NRS 690C.010 is hereby amended to read as follows:

690C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 690C.020 to 690C.080, inclusive, **and section 122 of this act**, have the meanings ascribed to them in those sections.

Sec. 126. NRS 690C.100 is hereby amended to read as follows:

690C.100 1. The provisions of this title do not apply to:

- (a) A warranty;
- (b) A maintenance agreement;
- (c) A service contract provided by a public utility on its transmission device if the service contract is regulated by the Public Utilities Commission of Nevada;
- (d) A service contract sold or offered for sale to a person who is not a consumer;
- (e) A service contract for goods if the purchase price of the goods is less than \$250; or
- (f) ~~Except as otherwise provided in NRS 690C.240, a~~ A service contract issued, sold or offered for sale by a vehicle dealer on vehicles sold by the dealer, if the dealer is licensed pursuant to NRS 482.325 and the service contract obligates either the dealer or the manufacturer of the vehicle, or an affiliate of the dealer or manufacturer, to provide all services under the service contract.

2. The sale of a service contract pursuant to this chapter does not constitute the business of insurance for the purposes of 18 U.S.C. §§ 1033 and 1034.

3. As used in this section:

- (a) “Maintenance agreement” means a contract for a limited period that provides only for scheduled maintenance.
- (b) “Warranty” means a warranty provided solely by a manufacturer, importer or seller of goods for which the manufacturer, importer or seller did not receive separate consideration and that:
 - (1) Is not negotiated or separated from the sale of the goods;
 - (2) Is incidental to the sale of the goods; and
 - (3) Guarantees to indemnify the consumer for defective parts, mechanical or electrical failure, labor or other remedial measures required to repair or replace the goods.

Sec. 127. NRS 690C.160 is hereby amended to read as follows:

690C.160 1. A provider who wishes to issue, sell or offer for sale service contracts in this state must submit to the Commissioner:

- (a) A registration application on a form prescribed by the Commissioner;

(b) Proof that the provider has complied with the requirements for **financial** security set forth in NRS 690C.170;

(c) A copy of each type of service contract the provider proposes to issue, sell or offer for sale;

(d) The name, address and telephone number of each administrator with whom the provider intends to contract; ~~and~~

(e) A fee of \$1,000 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110 ~~[-]~~; and

~~(f) [A completed personal information form from each controlling person of the provider on a form prescribed by the Commissioner; and~~

~~(g) A completed criminal history questionnaire from each controlling person of the provider on a form prescribed by the Commissioner.] The following information for each controlling person:~~

(1) Whether the person, in the last 10 years, has been:

(I) Convicted of a felony or misdemeanor of which an essential element is fraud;

(II) Insolvent or adjudged bankrupt;

(III) Refused a license or registration as a service contract provider or had an existing license or registration as a service contract provider suspended or revoked by any state or governmental agency or authority; or

(IV) Fined by any state or governmental agency or authority in any matter regarding service contracts; and

(2) Whether there are any pending criminal actions against the person other than moving traffic violations.

2. In addition to the fee required by subsection 1, a provider must pay a fee of \$25 for each type of service contract the provider files with the Commissioner.

3. A certificate of registration is valid for 1 year after the date the Commissioner issues the certificate to the provider. A provider may renew his or her certificate of registration if, before the certificate expires, the provider submits to the Commissioner ~~[-]~~:

(a) An application on a form prescribed by the Commissioner [-, a];

(b) A fee of \$1,000 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110 [-]; and

(c) ~~[A completed personal information form and completed criminal history questionnaire from each.] The information required by paragraph (f) of subsection 1:~~

(1) If an existing controlling person ~~[of the provider who]~~ has had a change in any of the information previously submitted to the Commissioner ~~[pursuant to this section]; or~~

(2) For a controlling person who has not previously submitted ~~[-]~~ ~~personal]~~ the information ~~[form or criminal history questionnaire]~~ required by paragraph (f) of subsection 1 to the Commissioner ~~[-]~~ ~~pursuant to this section.]~~

4. All fees paid pursuant to this section are nonrefundable.

5. Each application submitted pursuant to this section, including, without limitation, an application for renewal, must:

(a) Be signed by an executive officer, if any, of the provider or, if the provider does not have an executive officer, by a controlling person of the provider; and

(b) Have attached to it an affidavit signed by the person described in paragraph (a) which meets the requirements of subsection 6.

6. Before signing the application described in subsection 5, the person who signs the application shall ~~to~~

~~(a) Verify the accuracy of the information in the application; and~~

~~(b) Attach to the application an affidavit affirming that the information in the application is accurate and that he or she has verified the information in the application.~~ verify that the information provided is accurate to the best of his or her knowledge.

Sec. 128. NRS 690C.170 is hereby amended to read as follows:

690C.170 1. To be issued a certificate of registration, a provider must comply with one of the following ~~to~~

~~1.1~~ **to provide for financial security:**

(a) Purchase a contractual liability insurance policy which **names the Division as an additional insured and which** insures the obligations of each service contract the provider issues, sells or offers for sale. The contractual liability insurance policy must ~~be~~:

(1) Be issued by an insurer which is licensed, registered or otherwise authorized to transact insurance in this state or pursuant to the provisions of chapter 685A of NRS.

(2) Contain a provision prohibiting the insurer from terminating the policy until a notice of termination has been mailed or delivered to the Commissioner at least 60 days prior to the termination of the policy. Any such termination shall not reduce the responsibility of the insurer for service contracts issued by the provider prior to the effective date of termination.

~~{2.1}~~ (b) Maintain a reserve account **in this State** and deposit with the Commissioner security as provided in this subsection. The reserve account must contain at all times an amount of money equal to at least 40 percent of the unearned gross consideration received by the provider for any unexpired service contracts. **The reserve account must be kept separate from the operating accounts of the provider and must be clearly identified as the “(Provider’s Name) Nevada Service Contracts Funded Reserve Account.”**

The Commissioner may examine the reserve account at any time. The provider shall also deposit with the Commissioner security in an amount that is equal to \$25,000 or 10 percent of the unearned gross consideration received by the provider for any unexpired service contracts, whichever is greater. The security must be:

~~{(a)}~~ (1) A surety bond issued by a surety company authorized to do business in this State;

~~[(b)]~~ (2) Securities of the type eligible for deposit pursuant to NRS 682B.030;

~~[(c)]~~ (3) Cash;

~~[(d)]~~ (4) An irrevocable letter of credit issued by a financial institution approved by the Commissioner; or

~~[(e)]~~ (5) In any other form prescribed by the Commissioner.

~~[(3)]~~ (c) Maintain, or be a subsidiary of a parent company that maintains, a net worth or stockholders' equity of at least \$100,000,000. Upon request, a provider shall provide to the Commissioner a copy of the most recent Form 10-K report or Form 20-F report filed by the provider or parent company of the provider with the Securities and Exchange Commission within the previous year. If the provider or parent company is not required to file those reports with the Securities and Exchange Commission, the provider shall provide to the Commissioner a copy of the most recently audited financial statements of the provider or parent company. If the net worth or stockholders' equity of the parent company of the provider is used to comply with the requirements of this subsection, the parent company must guarantee to carry out the duties of the provider under any service contract issued or sold by the provider.

2. *A provider shall not use any money in a reserve account described in paragraph (b) of subsection 1 for any purpose other than to pay an obligation of the provider under an unexpired service contract.*

3. *A provider shall maintain the financial security required by subsection 1 until:*

(a) *The provider ceases doing business in this State; and*

(b) ~~[(The certificate of registration of the provider expires; and~~

~~-(c)]~~ *The provider has performed or otherwise satisfied all liabilities and obligations under all unexpired service contracts issued by the provider.*

4. *If the certificate of registration of a provider has not expired and the provider fails to maintain the financial security required by subsection 1, including, without limitation, if the financial security is cancelled or lapses, the provider shall not issue or sell a service contract on or after the effective date of such failure until the provider submits to the Commissioner proof satisfactory to the Commissioner that the provider is in compliance with subsection 1.*

Sec. 129. NRS 690C.240 is hereby amended to read as follows:

690C.240 1. A provider ~~[who, whether directly or through a vehicle dealer licensed pursuant to NRS 482.325, enters into a vehicle service contract with a buyer]~~ shall, within 30 days after ceasing doing business in this State, notify ~~[any buyer who purchased such a contract]~~ **the Commissioner and each holder of an unexpired service contract** in writing of the fact that the provider has ceased doing business in this State. ~~[If the specified period of the vehicle service contract has not yet expired.]~~

2. The provisions of this section do not:

(a) Render a service contract void pursuant to NRS 690C.250;

- (b) Cancel a service contract pursuant to NRS 690C.270; or
- (c) Release the provider from any liability imposed by a violation of any provision of this chapter.

~~{3. As used in this section:~~

- ~~—(a) “Buyer” means the buyer of a vehicle service contract.~~
- ~~—(b) “Vehicle service contract” means a contract pursuant to which a provider, in exchange for separately stated consideration, is obligated for a specified period to a buyer to repair, replace or perform maintenance on, or indemnify or reimburse the buyer for the costs of repairing, replacing or performing maintenance on, a motor vehicle which is described in the vehicle service contract and which has an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including, without limitation, a contract that includes a provision for incidental payment of indemnity under limited circumstances, including, without limitation, towing, rental and emergency road service.]~~

Sec. 130. NRS 691C.340 is hereby amended to read as follows:

691C.340 ~~{1. The Commissioner shall, by regulation, establish reasonable rates as described in this chapter and in accordance with the standards established in NRS 686B.050 and 686B.060. The rates must be reasonable in relation to the benefits provided and must not be excessive, inadequate or unfairly discriminatory.~~

~~—2.]~~ The Commissioner may, by regulation, establish rates that an insurer may use without filing pursuant to NRS 691C.320. In establishing such rates, the Commissioner shall consider and apply the following factors:

- ~~{(a)}~~ 1. Actual and expected loss experience;
- ~~{(b)}~~ 2. General and administrative expenses;
- ~~{(c)}~~ 3. Loss settlement and adjustment expenses;
- ~~{(d)}~~ 4. Reasonable creditor compensation;
- ~~{(e)}~~ 5. The manner in which premiums are charged;
- ~~{(f)}~~ 6. Other acquisition costs;
- ~~{(g)}~~ 7. Reserves;
- ~~{(h)}~~ 8. Taxes;
- ~~{(i)}~~ 9. Regulatory license fees and fund assessments;
- ~~{(j)}~~ 10. Reasonable insurer profit; and
- ~~{(k)}~~ 11. Other relevant data consistent with generally accepted actuarial standards.

Sec. 131. NRS 691C.390 is hereby amended to read as follows:

691C.390 1. Each individual policy or certificate of insurance must provide for a refund of unearned premiums if the credit personal property insurance is cancelled before the scheduled date of termination of the insurance.

2. Except as otherwise provided in this section, any refund must be provided to the person to whom it is entitled as soon as practicable after the date of cancellation of the insurance.

3. ~~{The Commissioner shall, by regulation, establish the minimum amount of unearned premiums that must remain outstanding at the time of cancellation in order for a person to be entitled to a refund. If the amount of unearned premiums that remains outstanding at the time of cancellation is less than the minimum amount established by regulation, the person is not entitled to a refund.~~

~~—4.1~~ The formula that an insurer uses to determine the amount of a refund must be submitted to and approved by the Commissioner before it is used.

Sec. 132. Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A corporation organized under this chapter shall contract with an insurance company licensed in this State or authorized to do business in this State for the provision of insurance, indemnity or reimbursement against the cost of hospital services, medical services and dental services which are provided by the corporation.

2. The contract of insurance required by subsection 1 must include a provision that, in the case of the insolvency or impairment of the corporation, the insurance company will pay all claims made by an insured for the period for which a premium has been or will be paid to the corporation for the insured. The contract of insurance required by subsection 1 must specifically provide for the:

(a) Continuation of benefits to each insured for the period for which a premium has been or will be paid to the corporation for the insured until the expiration or termination of the insured's contract with the corporation;

(b) Continuation of benefits for each insured who is receiving inpatient services in a medical facility or facility for the dependent at the time of the insolvency or impairment of the corporation until the inpatient services are no longer medically necessary and the insured is discharged from the medical facility or facility for the dependent; and

(c) Payment of a provider of health care not affiliated with the corporation who provided medically necessary services to an insured, as described in the insured's contract with the corporation, the insured's policy or the insured's evidence of coverage.

3. As used in this section:

(a) "Facility for the dependent" has the meaning ascribed to it in NRS 449.0045.

(b) "Impairment" means that a corporation organized under this chapter is not insolvent and has been:

(1) Deemed to be impaired pursuant to NRS 695B.150; or

(2) Placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(c) "Insolvency" or "insolvent" means that a corporation organized under this chapter has been:

(1) Deemed to be insolvent pursuant to NRS 695B.150;

(2) *Declared insolvent by a court of competent jurisdiction; or*

(3) *Placed under an order of liquidation by a court of competent jurisdiction.*

(d) *“Medical facility” has the meaning ascribed to it in NRS 449.0151.*

(e) *“Medically necessary” has the meaning ascribed to it in NRS 695G.055.*

(f) *“Provider of health care” has the meaning ascribed to it in NRS 629.031.*

Sec. 133. NRS 695B.150 is hereby amended to read as follows:

695B.150 **1.** A corporation organized under this chapter shall be deemed to be insolvent if ~~its~~:

(a) *The corporation fails to meet its obligations as they mature;*

(b) *The assets of the corporation are less than the sum of its liabilities and the minimum surplus required to be maintained by the corporation under this Code for authority to transact the kinds of insurance transacted; and*

(c) *The reserve fund of the corporation is ~~impaired so as to be~~ less than the amounts set forth in NRS 695B.140.*

2. *In addition to the provisions of subsection 1, a corporation organized under this chapter shall be deemed to be insolvent as otherwise expressly provided in this Code.*

3. For the purposes of determining ~~such~~ insolvency pursuant to subsection 1 or 2 and the financial condition of the corporation, for the purposes of preparation of annual statements, and for all other purposes not otherwise expressly provided for in this chapter, the corporation is subject to all requirements of the laws of the State of Nevada as to assets, liabilities and reserves which are applicable to mutual nonassessable life or health insurers.

4. *A corporation organized under this chapter shall be deemed to be impaired if the assets of the corporation are less than the sum of its liabilities and the minimum surplus required to be maintained by the corporation under this Code for authority to transact the kinds of insurance transacted.*

5. *The Commissioner may adopt regulations to define when a corporation organized under this chapter is considered to be in a hazardous financial condition and to set forth the standards to be considered by the Commissioner in determining whether the continued operation of such a corporation transacting business in this State may be considered to be hazardous to its insureds or creditors or to the general public.*

6. *If the Commissioner determines after a hearing that any corporation organized under this chapter is in a hazardous financial condition, the Commissioner may, instead of suspending or revoking the certificate of authority of the corporation, limit the certificate of authority as the Commissioner deems reasonably necessary to correct, eliminate or remedy*

any conduct, condition or ground that is deemed to be a cause of the hazardous financial condition.

7. An order or decision of the Commissioner under this section is subject to review in accordance with NRS 679B.310 to 679B.370, inclusive, at the request of any party to the proceedings whose interests are substantially affected.

Sec. 134. NRS 695B.185 is hereby amended to read as follows:

695B.185 A group contract for hospital, medical or dental services which offers a difference of payment between preferred providers of health care and providers of health care who are not preferred:

1. May not require a deductible of more than \$600 difference per admission to a facility for inpatient treatment which is not a preferred provider of health care.

2. May not require a deductible of more than \$500 difference per treatment, other than inpatient treatment at a hospital, by a provider which is not preferred.

3. May not require an insured, another insurer who issues policies of group health insurance, a nonprofit medical service corporation or a health maintenance organization to pay any amount in excess of the deductible or coinsurance due from the insured based on the rates agreed upon with a provider.

4. May not provide for a difference in percentage rates of payment for coinsurance of more than 30 percentage points between the copayment required to be paid by the insured to a preferred provider of health care and the copayment required to be paid by the insured to a provider of health care who is not preferred.

5. Must require that the deductible and payment for coinsurance paid by the insured to a preferred provider of health care be applied to the negotiated reduced rates of that provider.

~~6. Must include for providers of health care who are not preferred a provision establishing the point at which an insured's payment for coinsurance is no longer required to be paid if such a provision is included for preferred providers of health care. Such provisions must be based on a calendar year. The point at which an insured's payment for coinsurance is no longer required to be paid for providers of health care who are not preferred must not be greater than twice the amount for preferred providers of health care, regardless of the method of payment.~~

~~—7.1~~ Must provide that if there is a particular service which a preferred provider of health care does not provide and the provider of health care who is treating the insured determines that the use of the service is necessary for the health of the insured, the service shall be deemed to be provided by the preferred provider of health care.

~~18.1~~ 7. Must require the corporation to process a claim of a provider of health care who is not preferred not later than 30 working days after the date on which proof of the claim is received.

Sec. 135. NRS 695B.1903 is hereby amended to read as follows:

695B.1903 1. A policy of health insurance issued by a medical services corporation must provide coverage for medical treatment which a person insured under the policy receives as part of a clinical trial or study if:

(a) The medical treatment is provided in a Phase I, Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or in a Phase II, Phase III or Phase IV study or clinical trial for the treatment of chronic fatigue syndrome;

(b) The clinical trial or study is approved by:

(1) An agency of the National Institutes of Health as set forth in 42 U.S.C. § 281(b);

(2) A cooperative group;

(3) The Food and Drug Administration as an application for a new investigational drug;

(4) The United States Department of Veterans Affairs; or

(5) The United States Department of Defense;

(c) In the case of:

(1) A Phase I clinical trial or study for the treatment of cancer, the medical treatment is provided at a facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer; or

(2) A Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or chronic fatigue syndrome, the medical treatment is provided by a provider of health care and the facility and personnel for the clinical trial or study have the experience and training to provide the treatment in a capable manner;

(d) There is no medical treatment available which is considered a more appropriate alternative medical treatment than the medical treatment provided in the clinical trial or study;

(e) There is a reasonable expectation based on clinical data that the medical treatment provided in the clinical trial or study will be at least as effective as any other medical treatment;

(f) The clinical trial or study is conducted in this State; and

(g) The insured has signed, before participating in the clinical trial or study, a statement of consent indicating that the insured has been informed of, without limitation:

(1) The procedure to be undertaken;

(2) Alternative methods of treatment; and

(3) The risks associated with participation in the clinical trial or study, including, without limitation, the general nature and extent of such risks.

2. Except as otherwise provided in subsection 3, the coverage for medical treatment required by this section is limited to:

(a) Coverage for any drug or device that is approved for sale by the Food and Drug Administration without regard to whether the approved drug or device has been approved for use in the medical treatment of the insured person.

(b) The cost of any reasonably necessary health care services that are required as a result of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study or as a result of any complication arising out of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study, to the extent that such health care services would otherwise be covered under the policy of health insurance.

(c) The cost of any routine health care services that would otherwise be covered under the policy of health insurance for an insured participating in a Phase I clinical trial or study.

(d) The initial consultation to determine whether the insured is eligible to participate in the clinical trial or study.

(e) Health care services required for the clinically appropriate monitoring of the insured during a Phase II, Phase III or Phase IV clinical trial or study.

(f) Health care services which are required for the clinically appropriate monitoring of the insured during a Phase I clinical trial or study and which are not directly related to the clinical trial or study.

➔ Except as otherwise provided in NRS 695B.1901, the services provided pursuant to paragraphs (b), (c), (e) and (f) must be covered only if the services are provided by a provider with whom the medical services corporation has contracted for such services. If the medical services corporation has not contracted for the provision of such services, the medical services corporation shall pay the provider the rate of reimbursement that is paid to other providers with whom the medical services corporation has contracted for similar services and the provider shall accept that rate of reimbursement as payment in full.

3. Particular medical treatment described in subsection 2 and provided to a person insured under the policy is not required to be covered pursuant to this section if that particular medical treatment is provided by the sponsor of the clinical trial or study free of charge to the person insured under the policy.

4. The coverage for medical treatment required by this section does not include:

(a) Any portion of the clinical trial or study that is customarily paid for by a government or a biotechnical, pharmaceutical or medical industry.

(b) Coverage for a drug or device described in paragraph (a) of subsection 2 which is paid for by the manufacturer, distributor or provider of the drug or device.

(c) Health care services that are specifically excluded from coverage under the insured's policy of health insurance, regardless of whether such services are provided under the clinical trial or study.

(d) Health care services that are customarily provided by the sponsors of the clinical trial or study free of charge to the participants in the trial or study.

(e) Extraneous expenses related to participation in the clinical trial or study including, without limitation, travel, housing and other expenses that a participant may incur.

(f) Any expenses incurred by a person who accompanies the insured during the trial or study.

(g) Any item or service that is provided solely to satisfy a need or desire for data collection or analysis that is not directly related to the clinical management of the insured.

(h) Any costs for the management of research relating to the clinical trial or study.

5. A medical services corporation that delivers or issues for delivery a policy of health insurance specified in subsection 1 may require copies of the approval or certification issued pursuant to paragraph (b) of subsection 1, the statement of consent signed by the insured, protocols for the clinical trial or study and any other materials related to the scope of the clinical trial or study relevant to the coverage of medical treatment pursuant to this section.

6. A medical services corporation that delivers or issues for delivery a policy of health insurance specified in subsection 1 shall:

(a) Include in ~~the~~ **any** disclosure ~~required pursuant to NRS 695B.172~~ **of the coverage provided by the policy** notice to each person insured under the policy of the availability of the benefits required by this section.

(b) Provide the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for coverage that are required under the policy.

7. A policy of health insurance subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2006, has the legal effect of including the coverage required by this section, and any provision of the policy that conflicts with this section is void.

8. A medical services corporation that delivers or issues for delivery a policy of health insurance specified in subsection 1 is immune from liability for:

(a) Any injury to the insured caused by:

(1) Any medical treatment provided to the insured in connection with his or her participation in a clinical trial or study described in this section; or

(2) An act or omission by a provider of health care who provides medical treatment or supervises the provision of medical treatment to the insured in connection with his or her participation in a clinical trial or study described in this section.

(b) Any adverse or unanticipated outcome arising out of an insured's participation in a clinical trial or study described in this section.

9. As used in this section:

(a) "Cooperative group" means a network of facilities that collaborate on research projects and has established a peer review program approved by the National Institutes of Health. The term includes:

(1) The Clinical Trials Cooperative Group Program; and

(2) The Community Clinical Oncology Program.

(b) "Facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer" means a facility or an affiliate of a facility that:

(1) Has in place a Phase I program which permits only selective participation in the program and which uses clear-cut criteria to determine eligibility for participation in the program;

(2) Operates a protocol review and monitoring system which conforms to the standards set forth in the "Policies and Guidelines Relating to the Cancer Center Support Grant" published by the Cancer Centers Branch of the National Cancer Institute;

(3) Employs at least two researchers and at least one of those researchers receives funding from a federal grant;

(4) Employs at least three clinical investigators who have experience working in Phase I clinical trials or studies conducted at a facility designated as a comprehensive cancer center by the National Cancer Institute;

(5) Possesses specialized resources for use in Phase I clinical trials or studies, including, without limitation, equipment that facilitates research and analysis in proteomics, genomics and pharmacokinetics;

(6) Is capable of gathering, maintaining and reporting electronic data; and

(7) Is capable of responding to audits instituted by federal and state agencies.

(c) "Provider of health care" means:

(1) A hospital; or

(2) A person licensed pursuant to chapter 630, 631 or 633 of NRS.

Sec. 136. NRS 695B.1927 is hereby amended to read as follows:

695B.1927 1. No contract for hospital or medical service that provides coverage for hospital, medical or surgical expenses may be delivered or issued for delivery in this state unless the contract includes coverage for the management and treatment of diabetes, including, without limitation, coverage for the self-management of diabetes.

2. An insurer who delivers or issues for delivery a contract specified in subsection 1:

(a) Shall include in ~~the~~ **any** disclosure ~~required pursuant to NRS 695B.1721~~ **of the coverage provided by the contract** notice to each policyholder or subscriber covered under the contract of the availability of the benefits required by this section.

(b) Shall provide the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for coverage that are required under the contract.

3. A contract for hospital or medical service subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 1998, has the legal effect of including the coverage required by this section, and any provision of the contract that conflicts with this section is void.

4. As used in this section:

(a) “Coverage for the management and treatment of diabetes” includes coverage for medication, equipment, supplies and appliances that are medically necessary for the treatment of diabetes.

(b) “Coverage for the self-management of diabetes” includes:

(1) The training and education provided to a person covered under the contract after the person is initially diagnosed with diabetes which is medically necessary for the care and management of diabetes, including, without limitation, counseling in nutrition and the proper use of equipment and supplies for the treatment of diabetes;

(2) Training and education which is medically necessary as a result of a subsequent diagnosis that indicates a significant change in the symptoms or condition of the person covered under the contract and which requires modification of the person’s program of self-management of diabetes; and

(3) Training and education which is medically necessary because of the development of new techniques and treatment for diabetes.

(c) “Diabetes” includes type I, type II and gestational diabetes.

Sec. 137. NRS 695B.290 is hereby amended to read as follows:

695B.290 Any agent of a nonprofit hospital or medical or dental service corporation who acts as such in the solicitation, negotiation, procurement or making of a hospital service or medical or dental care contract shall be qualified, examined and licensed in the same manner and pay the same fees as provided for ~~health insurance agents~~ **a producer of insurance** in NRS 680B.010 (fee schedule), chapter 683A of NRS and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

Sec. 138. NRS 695B.320 is hereby amended to read as follows:

695B.320 **1.** Nonprofit hospital and medical or dental service corporations are subject to the provisions of this chapter, and to the provisions of chapters 679A and 679B of NRS, NRS 686A.010 to 686A.315, inclusive, 687B.010 to 687B.040, inclusive, 687B.070 to 687B.140, inclusive, 687B.150, 687B.160, 687B.180, 687B.200 to 687B.255, inclusive, 687B.270, 687B.310 to 687B.380, inclusive, 687B.410, 687B.420, 687B.430, 687B.500 and chapters ~~692B~~, 692C, ~~693A~~ and 696B of NRS, to the extent applicable and not in conflict with the express provisions of this chapter.

2. *For the purposes of this section and the provisions set forth in subsection 1, a nonprofit hospital and medical or dental service corporation is included in the meaning of the term “insurer.”*

Sec. 139. NRS 695B.380 is hereby amended to read as follows:

695B.380 **1.** Except as otherwise provided in subsection 4, each insurer that issues a contract for hospital or medical services in this State shall establish a system for resolving any complaints of an insured concerning health care services covered under the policy. The system must be approved by the Commissioner. ~~[in consultation with the State Board of Health.]~~

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review

board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a contract for hospital or medical services issued by the insurer.

3. The Commissioner ~~for the State Board of Health~~ may examine the system for resolving complaints established pursuant to subsection 1 at such times as ~~either~~ **the Commissioner** deems necessary or appropriate.

4. Each insurer that issues a contract specified in subsection 1 shall, if the contract provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care, provide a system for resolving any complaints of an insured concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive.

Sec. 140. NRS 695B.390 is hereby amended to read as follows:

695B.390 1. Each insurer that issues a contract for hospital or medical services in this State shall submit to the Commissioner ~~and the State Board of Health~~ an annual report regarding its system for resolving complaints established pursuant to subsection 1 of NRS 695B.380 on a form prescribed by the Commissioner ~~in consultation with the State Board of Health~~ which includes, without limitation:

(a) A description of the procedures used for resolving any complaints of an insured;

(b) The total number of complaints and appeals handled through the system for resolving complaints since the last report and a compilation of the causes underlying the complaints filed;

(c) The current status of each complaint and appeal filed; and

(d) The average amount of time that was needed to resolve a complaint and an appeal, if any.

2. Each insurer shall maintain records of complaints filed with it which concern something other than health care services and shall submit to the Commissioner a report summarizing such complaints at such times and in such format as the Commissioner may require.

Sec. 141. Chapter 695C of NRS is hereby amended by adding thereto the provisions set forth as sections 142 to 146, inclusive, of this act.

Sec. 142. 1. A health maintenance organization shall contract with an insurance company licensed in this State or authorized to do business in this State for the provision of insurance, indemnity or reimbursement against the cost of health care services which are provided by the health maintenance organization.

2. The contract of insurance required by subsection 1 must include a provision that, in the case of the insolvency or impairment of the health maintenance organization, the insurance company will pay all claims made by an enrollee for the period for which a premium has been or will be paid to the health maintenance organization for the enrollee. The contract of insurance required by subsection 1 must specifically provide for the:

(a) Continuation of benefits to each enrollee for the period for which a premium has been or will be paid to the health maintenance organization for the enrollee until the expiration or termination of the enrollee's contract with the health maintenance organization;

(b) Continuation of benefits for each enrollee who is receiving inpatient services in a medical facility or facility for the dependent at the time of the insolvency or impairment of the health maintenance organization until the inpatient services are no longer medically necessary and the enrollee is discharged from the medical facility or facility for the dependent; and

(c) Payment of a provider of health care not affiliated with the health maintenance organization who provided medically necessary services to an enrollee, as described in the enrollee's evidence of coverage.

3. As used in this section:

(a) "Facility for the dependent" has the meaning ascribed to it in NRS 449.0045.

(b) "Impairment" means that a health maintenance organization is not insolvent and has been:

(1) Deemed to be impaired pursuant to section 143 of this act; or

(2) Placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(c) "Insolvency" or "insolvent" means that a health maintenance organization has been:

(1) Deemed to be insolvent pursuant to section 143 of this act;

(2) Declared insolvent by a court of competent jurisdiction; or

(3) Placed under an order of liquidation by a court of competent jurisdiction.

(d) "Medical facility" has the meaning ascribed to it in NRS 449.0151.

(e) "Medically necessary" has the meaning ascribed to it in NRS 695G.055.

(f) "Provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 143. 1. A health maintenance organization shall be deemed to be insolvent if:

(a) The health maintenance organization fails to meet its obligations as they mature; and

(b) The assets of the health maintenance organization are less than the sum of its liabilities and the minimum surplus required to be maintained by the health maintenance organization under this Code for authority to transact business in this State.

2. In addition to the provisions of subsection 1, a health maintenance organization shall be deemed to be insolvent as otherwise expressly provided in this Code.

3. A health maintenance organization shall be deemed to be impaired if the assets of the health maintenance organization are less than the sum of its liabilities and the minimum surplus required to be maintained by the

health maintenance organization under this Code for authority to transact business in this State.

4. *The Commissioner may adopt regulations to define when a health maintenance organization is considered to be in a hazardous financial condition and to set forth the standards to be considered by the Commissioner in determining whether the continued operation of a health maintenance organization transacting business in this State may be considered to be hazardous to its enrollees or creditors or to the general public.*

5. *If the Commissioner determines after a hearing that any health maintenance organization is in a hazardous financial condition, the Commissioner may, instead of suspending or revoking the certificate of authority of the health maintenance organization, limit the certificate of authority as the Commissioner deems reasonably necessary to correct, eliminate or remedy any conduct, condition or ground that is deemed to be a cause of the hazardous financial condition.*

6. *An order or decision of the Commissioner under this section is subject to review in accordance with NRS 679B.310 to 679B.370, inclusive, at the request of any party to the proceedings whose interests are substantially affected.*

Sec. 144. 1. *Each health maintenance organization shall develop, submit to the Commissioner for approval and, after such approval, put into effect a plan to provide for the continuation of benefits to enrollees in the event of the insolvency or impairment of the health maintenance organization, including, without limitation, the benefits described in subsection 2 of section 142 of this act. A plan developed pursuant to this subsection must include, without limitation:*

(a) A contract of insurance which complies with the requirements of section 142 of this act; and

(b) Provisions in each contract between the health maintenance organization and a provider which obligate the provider, in the event of the health maintenance organization's insolvency or impairment, to provide all covered services as described in the contract to enrollees through the periods of time described in subsection 2 of section 142 of this act.

2. *Before approving a plan submitted pursuant to subsection 1, the Commissioner may require the health maintenance organization to include in the plan:*

(a) Reserves or additional reserves for protection against insolvency or impairment;

(b) Letters of credit acceptable to the Commissioner; and

(c) Any other arrangements determined by the Commissioner to be appropriate to ensure the continuation of benefits as described in subsection 2 of section 142 of this act to enrollees.

Sec. 145. 1. *If the Commissioner determines that, because of the financial condition of a health maintenance organization, the continued*

operation of the health maintenance organization is or may be hazardous to its enrollees or creditors or to the general public, or that the health maintenance organization has violated any law of this State to which the health maintenance organization is subject, the Commissioner may, after notice and a hearing, order the health maintenance organization to take any action the Commissioner deems reasonably necessary to correct, eliminate or remedy the condition or violation, including, without limitation:

(a) Reducing the total amount of the present and potential liability of the health maintenance organization for benefits by reinsurance or any other method acceptable to the Commissioner;

(b) Suspending, limiting or reducing the volume of new business being written or accepted by the health maintenance organization for any period of time specified by the Commissioner;

(c) Reducing the expenses of the health maintenance organization by any method acceptable to the Commissioner; and

(d) Increasing the capital and surplus of the health maintenance organization by contribution.

2. The Commissioner may adopt regulations to:

(a) Set standards and criteria for early warning that the continued operation of a health maintenance organization may be hazardous to its enrollees or creditors or to the general public; and

(b) For the purposes of subsection 1, set standards for evaluating the financial condition of a health maintenance organization.

3. The authority conferred upon the Commissioner pursuant to this section is in addition to the authority of the Commissioner pursuant to chapter 696B of NRS. Any order issued by the Commissioner pursuant to this section may, at the discretion of the Commissioner, be in addition to any order issued by the Commissioner pursuant to chapter 696B of NRS.

Sec. 146. 1. Any conservation, rehabilitation or liquidation of a health maintenance organization shall be deemed to be the conservation, rehabilitation or liquidation of an insurer and must be conducted under the supervision of the Commissioner pursuant to chapter 696B of NRS.

2. The Commissioner may apply to a court of competent jurisdiction for an order directing the Commissioner to conserve, rehabilitate or liquidate a health maintenance organization:

(a) Upon any ground provided in chapter 696B of NRS; or

(b) If, as determined by the Commissioner, the continued operation of the health maintenance organization is or may be hazardous to its enrollees or creditors or to the general public.

3. In the event of a rehabilitation or liquidation of a health maintenance organization, a claim of an enrollee or of a beneficiary of an enrollee shall be deemed to have the same priority as would be provided to a claim of a policyholder or insured of an insurer, or of a beneficiary of

such a policyholder or insured, in the event of the rehabilitation or liquidation of the insurer.

4. In the event of a distribution of the general assets of a health maintenance organization:

(a) If an enrollee is liable to a provider for health care services provided pursuant to and covered by the applicable health care plan, that liability shall be deemed to be a claim of the enrollee for distribution of the general assets of the health maintenance organization.

(b) A provider under contract with the health maintenance organization who is obligated by law or contract to hold an enrollee harmless from liability for health care services provided pursuant to and covered by the applicable health care plan shall be deemed to have a priority for distribution of the general assets of the health maintenance organization immediately following that of an enrollee as described in this section and immediately preceding any other priority for distribution which, pursuant to this section and chapter 696B of NRS, would follow that of an enrollee.

Sec. 147. NRS 695C.055 is hereby amended to read as follows:

695C.055 1. The provisions of NRS 449.465, 679A.200, 679B.700, **subsections 6 and 7 of NRS 680A.270**, subsections 2, 4, 18, 19 and 32 of NRS 680B.010, NRS 680B.020 to 680B.060, inclusive, chapter 686A of NRS, NRS 687B.500 and ~~chapter~~ **chapters 692C and 695G** of NRS apply to a health maintenance organization.

2. For the purposes of subsection 1, unless the context requires that a provision apply only to insurers, any reference in those sections to “insurer” must be replaced by “health maintenance organization.”

Sec. 148. NRS 695C.080 is hereby amended to read as follows:

695C.080 1. The Commissioner shall determine whether the applicant for a certificate of authority, with respect to health care services to be furnished:

(a) Has demonstrated the willingness and ability to ensure that such health care services will be provided in a manner to ensure both availability and accessibility of adequate personnel and facilities and in a manner enhancing availability, accessibility and continuity of service;

(b) Has organizational arrangements, established in accordance with regulations promulgated by the Commissioner ; ~~and in consultation with the State Board of Health;~~ and

(c) Has a procedure established in accordance with regulations of the Commissioner to develop, compile, evaluate and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services and such other matters as may be reasonably required by the Commissioner.

2. Within 90 days of receipt of the application for issuance of a certificate of authority, the Commissioner shall certify whether the proposed health maintenance organization meets the requirements of subsection 1. If

the Commissioner certifies that the health maintenance organization does not meet such requirements, it shall specify in what respects it is deficient.

Sec. 149. NRS 695C.310 is hereby amended to read as follows:

695C.310 1. The Commissioner shall make an examination of the affairs of any health maintenance organization and providers with whom such organization has contracts, agreements or other arrangements pursuant to its health care plan as often as the Commissioner deems it necessary for the protection of the interests of the people of this State ~~[. An examination must be made]~~, **but** not less frequently than once every 3 years.

2. The Commissioner shall make an examination concerning ~~[the quality of health care services of any health maintenance organization and providers with whom such organization has contracts, agreements or other arrangements pursuant to its health care plan]~~ **any compliance program used by a health maintenance organization and any report, as determined to be appropriate by the Commissioner, regarding the health maintenance organization produced by an organization which examines best practices in the insurance industry. The Commissioner shall make such an examination** as often as ~~[it]~~ **the Commissioner** deems **it** necessary for the protection of the interests of the people of this State ~~[. An examination must be made]~~, **but** not less frequently than once every 3 years.

3. ~~[Every]~~ **In making an examination pursuant to subsection 1 or 2, the Commissioner:**

(a) **Shall determine whether the health maintenance organization is in compliance with this Code, including, without limitation, whether any relationship or transaction between the health maintenance organization and any another health maintenance organization is in compliance with this Code; and**

(b) **May examine any account, record, document or transaction of any health maintenance organization or any provider which relates to:**

(1) **Compliance with this Code by the health maintenance organization which is the subject of the examination;**

(2) **Any relationship or transaction between the health maintenance organization which is the subject of the examination and any other health maintenance organization; or**

(3) **Any relationship or transaction between the health maintenance organization which is the subject of the examination and any provider.**

4. **Except as otherwise provided in this subsection, for the purposes of an examination pursuant to subsection 1 or 2, each** health maintenance organization and provider shall **, upon the request of the Commissioner or an examiner designated by the Commissioner,** submit its books and records relating to ~~[the]~~ **any applicable** health care plan to ~~[an examination made pursuant to subsection 1 or 2 and in every way facilitate the examination.]~~ **the Commissioner or the examiner, as applicable.** Medical records of natural persons and records of physicians providing service pursuant to a contract ~~[to the]~~ **with a** health maintenance organization are not subject to

such examination, although the records , ***except privileged medical information***, are subject to subpoena upon a showing of good cause. For the purpose of examinations, the Commissioner may administer oaths to, and examine the officers and agents of ~~the~~ **a** health maintenance organization and the principals of ~~such~~ providers concerning their business.

~~4.1~~ 5. The expenses of examinations pursuant to this section must be assessed against the **health maintenance** organization being examined and remitted to the Commissioner.

~~5.1~~ 6. In lieu of ~~such~~ **an** examination ~~it~~ **pursuant to this section**, the Commissioner may accept the report of an examination made by the insurance commissioner ~~for the state board of health~~ of another state ~~it~~ **or an applicable regulatory agency of another state**.

Sec. 150. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if the Commissioner finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The Commissioner certifies that the health maintenance organization:

(1) Does not meet the requirements of subsection 1 of NRS 695C.080;

or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees ~~or~~ **or creditors or to the general public;**

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as the Commissioner may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 151. Chapter 695D of NRS is hereby amended by adding thereto the provisions set forth as sections 152 and 153 of this act.

Sec. 152. 1. *The Commissioner may adopt regulations to define when an organization for dental care is considered to be in a hazardous financial condition and to set forth the standards to be considered by the Commissioner in determining whether the continued operation of an organization for dental care transacting business in this State may be considered to be hazardous to its members or creditors or to the general public.*

2. *If the Commissioner determines after a hearing that any organization for dental care is in a hazardous financial condition, the Commissioner may, instead of suspending or revoking the certificate of authority of the organization, limit the certificate of authority as the Commissioner deems reasonably necessary to correct, eliminate or remedy any conduct, condition or ground that is deemed to be a cause of the hazardous financial condition.*

3. *An order or decision of the Commissioner under this section is subject to review in accordance with NRS 679B.310 to 679B.370, inclusive, at the request of any party to the proceedings whose interests are substantially affected.*

Sec. 153. Each organization for dental care which receives a certificate of authority shall maintain a capital account with a net worth of not less than \$500,000 unless a lesser amount is permitted in writing by the Commissioner. The account must not be obligated for any accrued liabilities and must consist of cash, securities or a combination thereof which is acceptable to the Commissioner.

Sec. 154. NRS 695D.095 is hereby amended to read as follows:

695D.095 1. An organization for dental care is not exempt from the provisions of NRS 679B.700. If an organization is an admitted health insurer, as that term is defined in NRS 449.450, it is not exempt from the fees imposed pursuant to NRS 449.465.

2. For the purposes of this section and the provisions set forth in subsection 1, an organization for dental care is included in the meaning of the term "insurer."

Sec. 155. NRS 695D.170 is hereby amended to read as follows:

695D.170 1. ~~Before~~ **Except as otherwise provided in this section, before** a certificate of authority may be issued to an organization for dental care:

(a) The officers responsible for operating the organization must file with the Commissioner a collective fidelity bond for \$1,000,000; and

(b) The organization must file with the Commissioner a surety bond in the sum of ~~[\$250,000]~~ **\$500,000** or deposit with the Commissioner cash or securities acceptable to the Commissioner in the sum of ~~[\$250,000,]~~ **\$500,000,**

↪ to guarantee the organization's performance pursuant to this chapter.

2. If the bond is furnished in:

(a) Cash, the Commissioner shall deposit the money in the State Treasury for credit to the Fund for Bonds of Organizations for Dental Care which is hereby created as a trust fund.

(b) Negotiable securities, the principal must be placed without restriction at the disposal of the Commissioner, but any income must inure to the benefit of the organization.

3. The Commissioner may reduce the **required amount of the** organization's **surety** bond or deposit:

(a) To \$125,000, if the obligations assumed by the organization under the plan can be satisfied for less than \$125,000.

(b) To any amount if the organization demonstrates that it has commitments of money from federal, state or municipal governments or their political subdivisions or other comparable resources which are sufficient to ensure the ability of the organization to satisfy its obligations.

4. The Commissioner may increase the required amount of the organization's surety bond or deposit to any amount the Commissioner determines to be appropriate pursuant to subsection 5 if the Commissioner determines that the current level of the surety bond or deposit is insufficient to provide protection to the members in the event of:

(a) *Insolvency; or*

(b) *A determination by the Commissioner that the organization is in a hazardous financial condition.*

5. *When determining the appropriate amount of an increase pursuant to subsection 4, the Commissioner must base his or her determination on the type, volume and nature of premiums written and premiums assumed by the organization.*

6. *The amount of the organization's surety bond or deposit required pursuant to this section:*

(a) *Is in addition to any reserve required by this chapter and any reserve established by the organization according to good business and accounting practices for incurred but unreported claims and other similar claims;*

(b) *May increase the amount of net worth required pursuant to this chapter; and*

(c) *May increase the amount of risk-based capital required pursuant to NRS 681B.550.*

7. Any final judgment against the organization which is unpaid is a lien on the **surety** bond or deposit and is subject to execution 30 days after entry of the judgment. Any **surety** bond or deposit which is reduced by this lien must be increased by the organization to the amount required by this section within 90 days after the judgment is paid.

~~{5-}~~ 8. If an organization is dissolved, liquidated or otherwise terminated:

(a) That amount of the **surety** bond or deposit which is necessary to satisfy the outstanding obligations of the organization may not be withdrawn for at least 3 years after the certificate of authority has been terminated.

(b) Any balance remaining after money has been withheld to pay the organization's debts and liens must be paid to the organization by the Commissioner no later than 90 days after the certificate of authority has been terminated.

Sec. 156. Chapter 695F of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Commissioner may adopt regulations to define when a prepaid limited health service organization is considered to be in a hazardous financial condition and to set forth the standards to be considered by the Commissioner in determining whether the continued operation of a prepaid limited health service organization transacting business in this State may be considered to be hazardous to its enrollees or creditors or to the general public.*

2. *If the Commissioner determines after a hearing that any prepaid limited health service organization is in a hazardous financial condition, the Commissioner may, instead of suspending or revoking the prepaid limited health service organization's certificate of authority, limit the certificate of authority of the prepaid limited health service organization as the Commissioner deems reasonably necessary to correct, eliminate or*

remedy any conduct, condition or ground that is deemed to be a cause of the hazardous financial condition.

3. An order or decision of the Commissioner under this section is subject to review in accordance with NRS 679B.310 to 679B.370, inclusive, at the request of any party to the proceedings whose interests are substantially affected.

Sec. 157. NRS 695F.090 is hereby amended to read as follows:

695F.090 **1.** Prepaid limited health service organizations are subject to the provisions of this chapter and to the following provisions, to the extent reasonably applicable:

~~{1-}~~ **(a)** NRS 687B.310 to 687B.420, inclusive, concerning cancellation and nonrenewal of policies.

~~{2-}~~ **(b)** NRS 687B.122 to 687B.128, inclusive, concerning readability of policies.

~~{3-}~~ **(c)** The requirements of NRS 679B.152.

~~{4-}~~ **(d)** The fees imposed pursuant to NRS 449.465.

~~{5-}~~ **(e)** NRS 686A.010 to 686A.310, inclusive, concerning trade practices and frauds.

~~{6-}~~ **(f)** The assessment imposed pursuant to NRS 679B.700.

~~{7-}~~ **(g)** Chapter 683A of NRS.

~~{8-}~~ **(h)** To the extent applicable, the provisions of NRS 689B.340 to 689B.580, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance.

~~{9-}~~ **(i)** NRS 689A.035, 689A.0463, 689A.410, 689A.413 and 689A.415.

~~{10-}~~ **(j)** NRS 680B.025 to 680B.039, inclusive, concerning premium tax, premium tax rate, annual report and estimated quarterly tax payments. For the purposes of this subsection, unless the context otherwise requires that a section apply only to insurers, any reference in those sections to “insurer” must be replaced by a reference to “prepaid limited health service organization.”

~~{11-}~~ **(k)** Chapter 692C of NRS, concerning holding companies.

~~{12-}~~ **(l)** NRS 689A.637, concerning health centers.

2. For the purposes of this section and the provisions set forth in subsection 1, a prepaid limited health service organization is included in the meaning of the term “insurer.”

Sec. 158. NRS 695F.200 is hereby amended to read as follows:

695F.200 ~~{Each}~~

1. Except as otherwise provided in this section, each prepaid limited health service organization which receives a certificate of authority shall maintain a:

~~{1-}~~ **(a)** Capital account with a net worth of not less than ~~[\$200,000]~~ **\$500,000** unless a lesser amount is permitted in writing by the Commissioner. The account must not be obligated for any accrued liabilities and must consist of cash, securities or a combination thereof which is acceptable to the Commissioner.

~~{2.}~~ (b) Surety bond or deposit of cash or securities for the protection of enrollees of not less than ~~[\$250,000.]~~ **\$500,000.**

2. The Commissioner may increase the required amount of the organization's capital account and the surety bond or deposit to any amounts the Commissioner determines to be appropriate pursuant to subsection 3 if the Commissioner determines that such an increase is necessary to:

(a) Assist the Commissioner in the performance of his or her regulatory duties;

(b) Ensure that the organization complies with the requirements of this Code; or

(c) Ensure the solvency of the organization.

3. When determining the appropriate amount of an increase pursuant to subsection 2, the Commissioner must base his or her determination on the type, volume and nature of premiums written and premiums assumed by the organization.

4. The amount of the organization's capital account and surety bond or deposit required pursuant to this section:

(a) Is in addition to any reserve required by this chapter and any reserve established by the organization according to good business and accounting practices for incurred but unreported claims and other similar claims; and

(b) May increase the amount of risk-based capital required pursuant to NRS 681B.550.

5. The amount of the organization's surety bond or deposit required pursuant to this section may increase the amount of net worth required pursuant to this section.

Sec. 159. NRS 695G.130 is hereby amended to read as follows:

695G.130 1. In addition to any other report which is required to be filed with the Commissioner, each managed care organization shall file with the Commissioner, ~~{on or before March 1 of each year,}~~ **with its annual filing made pursuant to NRS 686B.070 of forms and rates relating to policies of insurance for individuals and small employer groups,** a report regarding its methods for reviewing the quality of health care services provided to its insureds.

~~{2.—Each managed care organization shall include in its report the criteria, data, benchmarks or studies used to:~~

~~—(a) Assess the nature, scope, quality and accessibility of health care services provided to insureds; or~~

~~—(b) Determine any reduction or modification of the provision of health care services to insureds.~~

~~—3.—Except as already required to be filed with the Commissioner, if the managed care organization is not owned and operated by a public entity and has more than 100 insureds, the report filed pursuant to subsection 1 must include:~~

~~—(a) A copy of all of its quarterly and annual financial reports;~~

~~—(b) A statement of any financial interest it has in any other business which is related to health care that is greater than 5 percent of that business or \$5,000, whichever is less; and~~

~~—(c) A description of each complaint filed with or against it that resulted in arbitration, a lawsuit or other legal proceeding, unless disclosure is prohibited by law or a court order.~~

~~—4.} **The report must be submitted on a form prescribed by the Commissioner.**~~

2. A report filed pursuant to this section must be made available for public inspection within a reasonable time after it is received by the Commissioner.

3. *As used in this section, “small employer” has the meaning ascribed to it in NRS 689C.095.*

Sec. 160. NRS 695G.200 is hereby amended to read as follows:

695G.200 1. Each managed care organization shall establish a system for resolving complaints of an insured concerning:

(a) Payment or reimbursement for covered health care services;

(b) Availability, delivery or quality of covered health care services, including, without limitation, an adverse determination made pursuant to utilization review; or

(c) The terms and conditions of a health care plan.

↪ The system must be approved by the Commissioner . ~~[in consultation with the State Board of Health.]~~

2. If an insured makes an oral complaint, a managed care organization shall inform the insured that if the insured is not satisfied with the resolution of the complaint, the insured must file the complaint in writing to receive further review of the complaint.

3. Each managed care organization shall:

(a) Upon request, assign an employee of the managed care organization to assist an insured or other person in filing a complaint or appealing a decision of the review board;

(b) Authorize an insured who appeals a decision of the review board to appear before the review board to present testimony at a hearing concerning the appeal; and

(c) Authorize an insured to introduce any documentation into evidence at a hearing of a review board and require an insured to provide the documentation required by the health care plan of the insured to the review board not later than 5 business days before a hearing of the review board.

4. The Commissioner may examine the system for resolving complaints established pursuant to this section at such times as ~~[either]~~ **the Commissioner** deems necessary or appropriate.

Sec. 161. NRS 695G.220 is hereby amended to read as follows:

695G.220 1. Each managed care organization shall submit to the Commissioner an annual report regarding its system for resolving complaints established pursuant to NRS 695G.200 on a form prescribed by the

Commissioner ~~[in consultation with the State Board of Health]~~ which includes, without limitation:

(a) A description of the procedures used for resolving complaints of an insured;

(b) The total number of complaints and appeals handled through the system for resolving complaints since the last report and a compilation of the causes underlying the complaints filed;

(c) The current status of each complaint and appeal filed; and

(d) The average amount of time that was needed to resolve a complaint and an appeal, if any.

2. Each managed care organization shall maintain records of complaints filed with it which concern something other than health care services and shall submit to the Commissioner a report summarizing such complaints at such times and in such format as the Commissioner may require.

Sec. 162. ~~[NRS 233B.039 is hereby amended to read as follows:~~

~~233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:~~

~~(a) The Governor;~~

~~(b) Except as otherwise provided in NRS 209.221, the Department of Corrections;~~

~~(c) The Nevada System of Higher Education;~~

~~(d) The Office of the Military;~~

~~(e) The Nevada Gaming Control Board;~~

~~(f) Except as otherwise provided in NRS 368A.140 and 463.765, the Nevada Gaming Commission;~~

~~(g) The Division of Welfare and Supportive Services of the Department of Health and Human Services;~~

~~(h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services;~~

~~(i) The State Board of Examiners acting pursuant to chapter 217 of NRS;~~

~~(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer;~~

~~(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375;~~

~~(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260;~~

~~(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 445C.310;~~

~~(n) The Silver State Health Insurance Exchange;~~

~~(o) The Commissioner of Insurance in establishing or adjusting any standard or requirement relating to the Federal Act if, as determined by the Commissioner of Insurance, the establishment or adjustment of the standard or requirement must occur before a regulation could be adopted~~

~~in accordance with the provisions of this chapter. As used in this paragraph, "Federal Act" has the meaning ascribed to it in NRS 679A.092.~~

~~2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.~~

~~3. The special provisions of:~~

~~(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;~~

~~(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;~~

~~(c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and~~

~~(d) NRS 90.800 for the use of summary orders in contested cases;~~

~~and prevail over the general provisions of this chapter.~~

~~4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.~~

~~5. The provisions of this chapter do not apply to:~~

~~(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;~~

~~(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;~~

~~(c) A regulation adopted by the State Board of Education pursuant to NRS 388.255 or 394.1694; or~~

~~(d) The judicial review of decisions of the Public Utilities Commission of Nevada.~~

~~6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case. (Deleted by amendment.)~~

Sec. 163. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **and sections 8 and 92 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. 164. NRS 266.355 is hereby amended to read as follows:

266.355 1. Except as otherwise provided in subsections 3, 4 and 5, the city council may:

(a) Except as otherwise provided in NRS 268.0881 to 268.0888, inclusive, 598D.150 and 640C.100, regulate all businesses, trades and professions.

(b) Except as otherwise provided in NRS 576.128, fix, impose and collect a license tax for revenue upon all businesses, trades and professions.

2. The city council may establish any equitable standard to be used in fixing license taxes required to be collected pursuant to this section.

3. The city council may license insurance ~~agents, brokers,~~ analysts, adjusters and managing general agents **and producers of insurance** within the limitations and under the conditions prescribed in NRS 680B.020.

4. A city council shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

5. The city council shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. As used in this subsection, “professional” means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his or her profession for any type of compensation as an employee.

Sec. 165. NRS 269.170 is hereby amended to read as follows:

269.170 1. Except as otherwise provided in subsection 5 and NRS 576.128, 598D.150 and 640C.100, the town board or board of county commissioners may, in any unincorporated town:

(a) Fix and collect a license tax on, and regulate, having due regard to the amount of business done by each person so licensed, and all places of business and amusement so licensed, as follows:

(1) Artisans, artists, assayers, auctioneers, bakers, banks and bankers, barbers, boilermakers, cellars and places where soft drinks are kept or sold, clothes cleaners, foundries, laundries, lumberyards, manufacturers of soap, soda, borax or glue, markets, newspaper publishers, pawnbrokers, funeral directors and wood and coal dealers.

(2) Bootmakers, cobblers, dressmakers, milliners, shoemakers and tailors.

(3) Boardinghouses, hotels, lodging houses, restaurants and refreshment saloons.

(4) Barrooms, gaming, manufacturers of liquors and other beverages, and saloons.

(5) Billiard tables, bowling alleys, caravans, circuses, concerts and other exhibitions, dance houses, melodeons, menageries, shooting galleries, skating rinks and theaters.

(6) Corrals, hay yards, livery and sale stables and wagon yards.

(7) Electric light companies, illuminating gas companies, power companies, telegraph companies, telephone companies and water companies.

(8) Carts, drays, express companies, freight companies, job wagons, omnibuses and stages.

(9) Brokers, commission merchants, factors, general agents, mercantile agents, merchants, traders and stockbrokers.

(10) Drummers, hawkers, peddlers and solicitors.

(11) Insurance ~~agents, brokers,~~ analysts, adjusters and managing general agents **and producers of insurance** within the limitations and under the conditions prescribed in NRS 680B.020.

(b) Fix and collect a license tax upon all professions, trades or business within the town not specified in paragraph (a).

2. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

3. Any license tax levied for the purposes of NRS 244A.597 to 244A.655, inclusive, constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien must be enforced in the same manner as liens for ad valorem taxes on real and personal property. The town board or other governing body of the unincorporated town may delegate the power to enforce such liens to the county fair and recreation board.

4. The governing body or the county fair and recreation board may agree with the Department of Taxation for the continuing exchange of information concerning taxpayers.

5. The town board or board of county commissioners shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. As used in this subsection, "professional" means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his or her profession for any type of compensation as an employee.

Sec. 166. NRS 616A.330 is hereby amended to read as follows:

616A.330 "Tangible net worth" means the value of all the assets, minus the value of all the liabilities, of **a self-insured employer or** an association of self-insured private employers ~~for of a member of such an association~~ except:

1. Goodwill or excess cost over the fair market value of assets.

2. Any other items listed in the assets that are deemed unacceptable by the Commissioner because they cannot be justified or because they do not

directly support the ability of the *self-insured employer or* association ~~for the member~~ to pay a claim.

Sec. 166.5. 1. The provisions of NRS 689A.630, as amended by section 98 of this act, apply to any discontinuation of a product that occurs on or after the effective date of section 98 of this act.

2. The provisions of NRS 689B.560, as amended by section 110 of this act, apply to any discontinuation of a product offered to employers that occurs on or after the effective date of section 110 of this act.

3. The provisions of NRS 689C.310, as amended by section 112 of this act, apply to any discontinuation of a product offered to small employers that occurs on or after the effective date of section 112 of this act.

4. The provisions of NRS 689C.470, as amended by section 114 of this act, apply to any discontinuation of a product offered to a small employer or purchasers pursuant to NRS 689C.360 to 689C.600, inclusive, that occurs on or after the effective date of section 114 of this act.

Sec. 167. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 168. NRS 680A.290, 689A.390, 689A.400, 689A.690, 689B.027, 689B.028, 689C.270, 689C.280, 689C.330, 689C.440, 689C.450, 690B.370, 695B.172, 695B.174 and 695F.215 are hereby repealed.

Sec. 169. 1. Sections 98, 110, 112 and 114 of this act become effective upon passage and approval.

2. This section and sections 1 to 97, inclusive, 99 to 109, inclusive, 111, 113, 115 to 152, inclusive, 154, ~~and~~ 156, 157 and 159 to 168, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2017, for all other purposes.

~~12-1~~ **3. Sections 153, 155 and 158 of this act become effective:**

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative acts that are necessary to carry out the provisions of this act; and

(b) On January 1, 2018, for all other purposes.

LEADLINES OF REPEALED SECTIONS

680A.290 Loss prevention reports and programs.

689A.390 Summary of coverage: Contents of disclosure; approval by Commissioner.

689A.400 Summary of coverage: Copy to be provided before policy issued; policy may not be offered unless summary approved by Commissioner.

689A.690 Information required to be disclosed as part of solicitation and sales materials; information required to be maintained at place of business.

689B.027 Summary of coverage: Contents of disclosure; approval by Commissioner; copy to be made available to employer or producer acting on behalf of employer.

689B.028 Summary of coverage: Copy to be provided before policy issued; policy may not be offered unless summary approved by Commissioner.

689C.270 Regulations concerning disclosures by carrier to small employer; copy of disclosure to be made available to small employer.

689C.280 Carrier to provide required disclosures to small employer before issuing policy of insurance.

689C.330 When insurer is required to allow employee to continue coverage after employee is no longer covered by health benefit plan.

689C.440 Regulations regarding required disclosures by carrier.

689C.450 Carrier to provide disclosure before issuing contract.

690B.370 Annual report on loss prevention and control programs.

695B.172 Summary of coverage: Contents of disclosure; approval by Commissioner.

695B.174 Summary of coverage: Copy to be provided before policy issued; policy not to be offered unless summary approved by Commissioner.

695F.215 Required contract with insurance company for provision of insurance, indemnity or reimbursement against cost of health care services.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 392.

Bill read second time.

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

Amendment No. 613.

SUMMARY—Revises provisions concerning certain communications relating to elections. (BDR ~~(23-85)~~ **24-85**)

AN ACT relating to elections; ~~prohibiting a public officer or employee from using official stationery for certain purposes relating to elections;~~ requiring a disclosure on certain elections-related communications; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law ~~prohibits a public officer or employee from using governmental time, property, equipment or other facility to benefit a~~

~~significant personal or pecuniary interest of the public officer or employee, unless certain exceptions apply. (NRS 281A.400) Existing law also prohibits a public officer or employee from requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate. (NRS 281A.520) Section 1 of this bill expressly prohibits a public officer or employee from using official stationery from a state or local governmental entity to express support for or opposition to a candidate, committee for political action, political party, committee sponsored by a political party or ballot question or to solicit a contribution or a commitment to make a contribution for any political purpose. If a~~ **requires that certain elections-related communications contain disclosures to provide the public with information relating to the source or purpose of the elections-related communications. (NRS 294A.347-294A.349)**

~~Section 2 of this bill provides that if an elections-related communication ~~that~~ is published in support of or in opposition to a candidate **and the communication** includes the **official** name and address **or other official contact information** of a governmental entity ~~, section 2 of this bill requires that~~ **of the State of Nevada or any political subdivision,** the communication **must** disclose in a clear and conspicuous manner that the communication ~~was not published by the governmental entity.~~ **is not endorsed by and is not an official publication of the State of Nevada or the political subdivision, as appropriate.**~~

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

Section 1. ~~{Chapter 281A of NRS is hereby amended by adding thereto a new section to read as follows:~~

- ~~1. A public officer or employee shall not use official stationery to:~~
 - ~~(a) Express support for or opposition to a candidate or group of candidates, committee for political action, political party, committee sponsored by a political party or ballot question; or~~
 - ~~(b) Solicit a contribution or a commitment to make such a contribution for any political purpose.~~
- ~~2. As used in this section:~~
 - ~~(a) "Candidate" has the meaning ascribed to it in NRS 294A.005.~~
 - ~~(b) "Committee for political action" has the meaning ascribed to it in NRS 294A.0055.~~
 - ~~(c) "Committee sponsored by a political party" has the meaning ascribed to it in NRS 294A.0065.~~
 - ~~(d) "Contribution" has the meaning ascribed to it in NRS 294A.007.~~
 - ~~(e) "Official stationery" means stationery that contains any symbol, name, word or mark of a state or local governmental entity, including, without limitation, the Great Seal of the State of Nevada.} (Deleted by amendment.)~~

Sec. 2. Chapter 294A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a communication ~~that~~ is published in support of or in opposition to a candidate and the communication includes the official name and address or other official contact information of a governmental entity, the communication must disclose in a clear and conspicuous manner ~~that~~ the following information:

(a) If the communication ~~was not published by~~ includes the official name and address or other official contact information of a governmental entity ~~of the State of Nevada~~, the communication must disclose:

This communication is not endorsed by and is not an official publication of the State of Nevada.

(b) If the communication includes the official name and address or other official contact information of a governmental entity of any political subdivision of the State of Nevada, the communication must disclose:

This communication is not endorsed by and is not an official publication of (insert the official name of the political subdivision).

2. As used in this section:

(a) "Governmental entity" means ~~for~~ the State of Nevada, any political subdivision of the State of Nevada or any agency, institution, board, commission, bureau, council, department, division, office, authority or other unit of government of this State, including, without limitation, an agency of this State or of a the State of Nevada or any political subdivision ~~of the State of Nevada~~.

(b) "Official name and address or other official contact information of a governmental entity" means the legal or commonly recognized name of a governmental entity and:

(1) The street address of any building, office or other place where the governmental entity is open for the transaction of official business; or

(2) Any other official contact information for contacting the governmental entity for the transaction of official business, including, without limitation, a telephone number, facsimile number, electronic mail address or address of the Internet website of the governmental entity.

(c) "Publish" means the act of:

(1) Printing, posting, broadcasting, mailing or otherwise disseminating; or

(2) Causing to be printed, posted, broadcasted, mailed or otherwise disseminated.

Assemblywoman Diaz moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 5.

Bill read second time.

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

Amendment No. 618.

AN ACT relating to local improvements; providing for the creation of certain local improvement districts that include an energy efficiency improvement project or a renewable energy project; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the procedures for a governing body to acquire, improve, equip, operate or maintain local improvement districts that include various types of projects, including energy efficiency improvement projects and renewable energy projects. (NRS 271.265-271.630) This bill provides for the creation by a local government, without an election, of a local improvement district that includes an energy efficiency improvement project or a renewable energy project.

Section 1.1 of this bill authorizes a local government to create such a district on certain commercial or industrial real property. Section 1.2 of this bill establishes certain requirements for a local government to create a district, including obtaining signed consent from the owner of any tract on which an energy efficiency improvement project or renewable energy project will be located and from certain lenders who hold a mortgage or other lien on a property on which such a project will be located. Section 1.4 of this bill provides certain requirements for construction in such a district. Section 1.6 of this bill requires a local government to adopt a resolution establishing the procedures for the creation of a district.

Sections 2 and 3 of this bill revise the definitions of "energy efficiency improvement project" and "renewable energy project." Section 4 of this bill provides a procedure for an owner of a tract to object to the inclusion of the tract within a district. Section 5 of this bill establishes requirements for the proceeds of bonds used to pay certain costs related to an energy efficiency improvement project or a renewable energy project. Section 6 of this bill revises requirements for the interest rate of bonds sold to defray certain costs for local improvement districts.

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

Section 1. Chapter 271 of NRS is hereby amended by adding thereto ~~the new section to read as follows:~~ the provisions set forth as sections 1.1 to 1.6, inclusive, of this act.

Sec. 1.1. 1. The governing body of a municipality, on behalf of the municipality and in its name, without an election, may create a district to

finance one or more energy efficiency improvement projects or renewable energy projects ~~for~~ :

(a) On qualifying commercial or industrial real property, which may include any real property other than:

(1) A residential dwelling that contains fewer than five individual dwelling units; or

(2) Property financed by a government-guaranteed financing program that prohibits the subordination of the government's interest in the property or otherwise prohibits a contract under sections 1.1 to 1.6, inclusive, of this act.

(b) That meet one of the following requirements:

(1) For an energy improvement project, the project must be determined to be appropriate through an energy audit conducted by a qualified service company. A project may be determined to be appropriate if:

(I) The energy audit includes a summary of recommendations, which for each recommendation must include existing and expected consumption and expected energy savings expressed in British thermal units, kilowatt-hours, and kilowatts, the expected annual energy savings, the cost, the payback period in years, the expected life cycle in years and the percentage of savings, as applicable; and

(II) The expected energy savings from the project exceeds the investment costs of the project.

(2) For a renewable energy project, the project must be determined to be feasible through a written feasibility study conducted by a qualified service company.

2. A bond or interim warrant issued for a district created pursuant to this section must not be secured by a pledge of the general credit or taxing power of the municipality or by the surplus and deficiency fund established pursuant to NRS 271.428.

3. The improvements to or installations within a district created pursuant to this section must not be owned by a municipality but shall be deemed to be the property of the owner of the tract upon which the improvement or installation is located.

4. The provisions of:

(a) NRS 271.275 to 271.365, inclusive, do not apply to a district which is created pursuant to this section.

(b) NRS 271.495 and 271.500 do not apply to any bonds or interim warrants issued to finance an energy efficiency improvement project or renewable energy project within a district created pursuant to this section.

5. As used in this section:

(a) "Energy audit" means a formal evaluation of the energy consumption of a permanent building or any structural improvement to real property that is consistent with the requirements of ASTM International Standard E2797, "Standard Practice for Building Energy

Performance Assessment for a Building Involved in a Real Estate Transaction,” the ASHRAE Level 2 or 3 guidelines for energy audits or any comparable energy assessment guidelines.

(b) “Qualified service company” has the meaning ascribed to it in NRS 333A.060.

Sec. 1.2. ~~{The}~~

1. A governing body may create ~~{the}~~ a district pursuant to section 1.1 of this act only if:

(a) The governing body has, pursuant to ~~{subsection 8,}~~ section 1.6 of this act, adopted by resolution a procedure for the creation and administration of a district for the purpose of financing one or more energy efficiency improvement projects or renewable energy projects.

(b) Each owner of each tract on which an energy efficiency improvement project or renewable energy project will be located consents in writing to the location of the project on the tract and the levy of an assessment against the tract to pay all or a portion of the cost thereof in an amount up to the estimated maximum benefit to the tract from the installation or improvement. The estimated maximum benefit may not exceed the market value of the tract as determined by the governing body.

(c) Each consent provided pursuant to paragraph (b):

(1) Describes the tract to be assessed and the improvements to be financed;

(2) States the estimated maximum benefit that the owner agrees will be conferred on the tract by virtue of the installation or improvement; and

(3) Is accompanied by:

(I) A signed copy of each contract between an owner of the tract and each contractor described in ~~{subsection 5,}~~ section 1.4 of this act pursuant to which the contractor agrees to construct, acquire and install the installation or improvement identified in the consent at a total price which does not exceed the limitation set forth in ~~{subsection 5,}~~ section 1.4 of this act and which contains any terms ~~{required by the resolution adopted pursuant to subsection 8,}~~ , including, without limitation, application fees and costs, the total amount financed, annual percentage rate, total amount paid over the life of any assessment, any appraisal fees, bond-related costs, annual administrative fees, closing costs, credit reporting fees and recording fees, and such other terms not inconsistent with the provisions of ~~{this section,}~~ sections 1.1 to 1.6, inclusive, of this act or with the resolution ~~{,}~~ adopted pursuant to section 1.6 of this act, as may be agreed upon by the owner of the tract and the contractor and is acceptable to the governing body; and

(II) A deposit in an amount determined in the manner specified in the resolution adopted pursuant to ~~{subsection 8,}~~ section 1.6 of this act, which may be refunded if the project to which the consent relates is completed and is financed with assessments levied pursuant to this chapter within the period specified in the resolution.

(d) The outstanding amount owed on all recorded instruments which are liens against any tract included in the district does not exceed 90 percent of the estimated fair market value of the property assessed, as defined by the governing body, ~~without~~ taking into account the imposition of the liens for assessments pursuant to ~~this section~~ sections 1.1 to 1.6, inclusive, of this act and the additional value added to the tract by a project financed pursuant to ~~this section~~ sections 1.1 to 1.6, inclusive, of this act.

(e) Any lender who holds a senior lien on any tract on which an energy efficiency improvement project or renewable energy project will be located consents in writing to the levy of an assessment against the tract to pay all or a portion of the cost of the installation or improvement. A consent signed pursuant to this paragraph must be in a recordable form and is binding on the holder of a lien who signs the consent. A lender described in this paragraph is entitled, within 30 days after providing consent pursuant to this paragraph, to offer a loan to the owner of the tract as the primary lender on the new levy of an assessment.

2. Each consent provided pursuant to paragraph (b) of subsection 1 and each amendment thereto must be recorded in the office of the county recorder and, once recorded, is binding on the owner who signed the consent and any other person who holds any interest in the tract to which the consent relates and who signed the consent.

3. A district created pursuant to ~~subsection 1~~ section 1.1. of this act may be created at any time as designated by a governing body, but must only include tracts for which a consent has been recorded pursuant to subsection 2.

4. ~~[A resolution adopted pursuant to subsection 9 must contain or incorporate by reference an exhibit describing each tract to be assessed, the type of improvement or installation to be financed for each tract and the estimated maximum benefit as stated in the consent.]~~ As used in this section, "lender" means a mortgagee, the beneficiary of a deed of trust or other creditor who holds a mortgage, deed of trust or other instrument that encumbers a tract as security for the repayment of a loan used to purchase the tract.

Sec. 1.4. ~~{5}~~ Construction within a district created pursuant to ~~subsection 1~~ section 1.1. of this act must be completed through independent contracts with contractors licensed in Nevada who are approved by the governing body. The municipality is not responsible for the construction, or any defects or delays thereof. The laws of this State relating to public bidding, public works or public procurement are not applicable to contracts for construction executed pursuant to this subsection. The total contract price of any improvement or installation must not exceed 80 percent of the estimated maximum benefit for the tract as stated in the consent, as it may be amended from time to time, unless the owner of the property to be assessed:

~~{(a)}~~ 1. Agrees to pay and pays, or causes another party to pay, the difference between 80 percent of the estimated maximum benefit and the total contract price from a source other than financing provided pursuant to this chapter; and

~~{(b)}~~ 2. Agrees in writing that the improvement or installation will in fact benefit the tract by an amount at least equal to the sum of the estimated maximum benefit stated in the consent and the amount to be paid from a source other than financing provided pursuant to this chapter.

~~{ 6. The improvements to or installations within a district created pursuant to subsection 1 must not be owned by a municipality but shall be deemed to be the property of the owner of the tract upon which the improvement or installation is located.~~

~~7. A resolution adopted pursuant to subsection 3 may be adopted as if an emergency exists by a vote of not less than two thirds of all the voting members of the governing body.~~

Sec. 1.6. ~~{ 1.}~~ 1. Before creating a district pursuant to ~~{subsection 1,}~~ section 1.1. of this act, a governing body must adopt a resolution which specifies the procedures for the creation and administration of such a district. The resolution may provide for one or more of the following:

(a) Additional notices of the proposal to create the district, notices of the opportunity to apply for inclusion in the district or any other notices;

(b) A reserve of money for bonds issued for the district, the method of funding the reserve and the disposition of any interest earned upon or the principal of the reserve that is not needed to repay any bonds or interim warrants issued for the purposes of financing an energy efficiency improvement project or renewable energy project within the district;

(c) Any other security for those bonds or interim warrants, and the method of determining the term of the bonds in compliance with NRS 271.515;

(d) Any requirements for casualty insurance, liability insurance or other types of insurance for any project within the district;

(e) The method of determining the lien-to-value ratio of the property for the purpose of complying with the limitation prescribed by paragraph (d) of subsection 1 ~~{,}~~ of section 1.2 of this act;

(f) Any limitation on the lien-to-value ratio that would result in a lower lien-to-value ratio than that prescribed by paragraph (d) of subsection 1 ~~{,}~~ of section 1.2 of this act;

(g) Any limitation on the amount of the contract price, as a percentage of the estimated maximum benefit, that is lower than the limitation prescribed by ~~{subsection 5,}~~ section 1.4 of this act;

(h) Any sources, other than the proceeds of assessments, that will be used to pay:

(1) The cost of construction and installation of improvements financed pursuant to ~~{this section,}~~ sections 1.1 to 1.6, inclusive, of this act;

(2) The cost of any reserve of money or other security for financing an energy efficiency improvement project or renewable energy project pursuant to ~~this section,~~ sections 1.1 to 1.6, inclusive, of this act; or

(3) The cost of engineering work, the cost to issue any bonds or provide other financing, or the cost of other incidentals pursuant to ~~this section,~~ sections 1.1 to 1.6, inclusive, of this act;

(i) Any other security features, covenants required of property owners, covenants required of other parties or any other covenants, guarantees, insurance or other matters which the governing body finds are necessary or desirable for the financing of an energy efficiency improvement project or renewable energy project pursuant to ~~this section,~~ sections 1.1 to 1.6, inclusive, of this act; and

(j) Any other matters, procedures or financing terms which the governing body, in its sole discretion, determines are necessary or desirable to carry out the purposes of ~~this section.~~

~~9. A bond or interim warrant issued for a district created pursuant to subsection 1 must not be secured by a pledge of the general credit or taxing power of the municipality or by the surplus and deficiency fund established pursuant to NRS 271.428.~~

~~10. The provisions of:~~

~~(a) NRS 271.275 to 271.365, inclusive, do not apply to a district which is created pursuant to subsection 1.~~

~~(b) NRS 271.495 and 271.500 do not apply to any bonds or interim warrants issued to finance an energy efficiency improvement project or renewable energy project within a district created pursuant to subsection 1.~~ sections 1.1 to 1.6, inclusive, of this act.

2. A resolution adopted pursuant to this section:

(a) Must contain or incorporate by reference an exhibit describing each tract to be assessed, the type of improvement or installation to be financed for each tract and the estimated maximum benefit as stated in the consent provided pursuant to paragraph (b) of subsection 1 of section 1.2 of this act.

(b) May be adopted as if an emergency exists by a vote of not less than two-thirds of all the voting members of the governing body.

Sec. 2. NRS 271.099 is hereby amended to read as follows:

271.099 “Energy efficiency improvement project” means the *installation* or modification of ~~real property or the facilities or equipment on the real property that is designed to reduce the energy consumption of the real property.~~ *one or more energy efficiency improvements and incidentals which are necessary, useful or desirable for any such improvements and which installation or modification has a useful life, as estimated by a governing body, of not less than 10 years.*

Sec. 3. NRS 271.199 is hereby amended to read as follows:

271.199 “Renewable energy project” means *any improvement to* real property, *and* facilities and equipment used to generate electricity from

renewable energy to offset customer load in whole or in part on the ~~[premises,] real property, for which the renewable energy project is located,~~ and all appurtenances and incidentals necessary, useful or desirable for any such ~~[real property,] improvements,~~ facilities and equipment ~~[,]~~, **and which improvement has a useful life, as estimated by a governing body, of not less than 10 years.**

Sec. 4. NRS 271.385 is hereby amended to read as follows:

271.385 1. At the time and place designated pursuant to NRS 271.380, the governing body shall hear and determine any written complaint, protest or objection filed as provided in that section and any verbal views expressed in respect to the proposed assessments, assessment roll or assessment procedure. The governing body may adjourn the hearing from time to time.

2. The governing body, by resolution, may revise, correct, confirm or set aside any assessment and order that the assessment be made de novo.

3. Any complaint, protest or objection to:

- (a) The assessment roll;
- (b) The regularity, validity and correctness of each assessment;
- (c) The amount of each assessment; or
- (d) The regularity, validity and correctness of any other proceedings occurring after the date of the hearing described in NRS 271.310 and before the date of the hearing governed by this section,

↪ shall be deemed waived unless filed in writing within the time and in the manner provided by NRS 271.380.

4. If any owner of a tract which is assessed for the purpose of creating a district pursuant to ~~subsection 1 of~~ section ~~11~~ 1.1 of this act objects in writing within the time and in the manner provided by NRS 271.380, the tract must be removed from the assessment roll, and the municipality shall not finance the project located on the tract unless the objecting owner withdraws his or her objection in writing within the time specified by the governing body.

Sec. 5. NRS 271.475 is hereby amended to read as follows:

271.475 1. The governing body shall likewise have power to issue negotiable bonds in an amount not exceeding the total unpaid assessments levied to pay the cost of any project, howsoever acquired, as hereinafter provided.

2. Any ordinance pertaining to the sale, issuance or payment of bonds or other securities of the municipality, or any combination thereof, may:

(a) Be adopted as if an emergency existed. The declaration of the governing body, if any, is conclusive in the absence of fraud or gross abuse of discretion.

(b) Become effective at any time when an emergency ordinance of the municipality may go into effect.

(c) Be adopted by not less than two-thirds of all of the voting members of the governing body, excluding from any such computation any vacancy on

the governing body and any member thereon who may vote only to break a tie vote.

3. The proceeds of bonds which are to be used to pay the costs of construction, acquisition or installation of an energy efficiency improvement project or renewable energy project within a district created pursuant to subsection 1 of section ~~44~~ 1.1 of this act must be paid to the contractor as directed in writing by the owner of the tract on which the project is located or, if the owner has paid the contractor, must be paid to reimburse the owner, but in either case, only upon receipt of:

(a) Written evidence that the installation or improvement is complete, or verification through an inspection if so authorized in the resolution adopted pursuant to ~~subsection 8 of~~ section ~~44~~ 1.6 of this act or if the municipality otherwise determines to make an inspection;

(b) A waiver of any mechanic's or materialman's lien if so authorized in the resolution adopted pursuant to ~~subsection 8 of~~ section ~~44~~ 1.6 of this act; and

(c) Written evidence that the total contract price has been paid, unless the price is to be paid by the municipality to or at the direction of the contractor.

↪ No such inspection or review or receipt of a waiver imposes any liability on the municipality for any constructed, acquired or installed energy efficiency improvement project or renewable energy project or any unconstructed, unacquired or uninstalled item, any defect in any such item, any failure of any party to pay for any item, or any lien, including, without limitation, any mechanic's or materialman's lien.

Sec. 6. NRS 271.485 is hereby amended to read as follows:

271.485 1. Any bonds issued pursuant to this chapter may be sold in such a manner as may be approved by the governing body to defray the cost of the project, including all proper incidental expenses. The governing body may issue a single issue of bonds to defray the costs of projects in two or more improvement districts if the principal amount of those bonds does not exceed the total uncollected assessments levied in each improvement district.

2. Bonds must be sold in the manner prescribed in NRS 350.105 to 350.195, inclusive:

(a) For not less than the principal amount thereof and accrued interest thereon; or

(b) At the option of the governing body, below par at a discount not exceeding 9 percent of the principal amount and except as otherwise provided in **this paragraph and in** NRS 99.067, 271.487 and 271.730, at a price which will not result in an effective interest rate which exceeds by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted if the maximum or any lesser amount of discount permitted by the governing body has been capitalized as a cost of the project. **If the bonds bear an amount of interest that is included in gross income for the purposes of calculating**

federal income tax pursuant to the provisions of Title 26 of the United States Code, the net effective interest rate must not exceed twice the maximum interest rate as provided in this paragraph.

3. Except as otherwise provided in subsection 4 and NRS 271.487 and 271.730, the rate of interest of the bonds must not at any time exceed the rate of interest, or lower or lowest rate if more than one, borne by the special assessments, but any rate of interest of the bonds may be the same as or less than any rate of interest of the assessment, subject to the limitation provided in subsection 2, as the governing body may determine.

4. Except as otherwise provided in NRS 271.730, if a governing body creates a district pursuant to the provisions of NRS 271.710, the governing body or chief financial officer of the municipality shall, in consultation with a financial advisor or the underwriter of the bonds, fix the rate of interest of the bonds at a rate of interest such that the principal and interest due on the bonds in each year, net of any interest capitalized from the proceeds of the bonds, will not exceed the amount of principal and interest to be collected on the special assessments during that year.

5. The governing body may employ legal, fiscal, engineering and other expert services in connection with any project authorized by this chapter and the authorization, issuance and sale of bonds.

6. Any accrued interest must be applied to the payment of the interest on or the principal of the bonds, or both interest and principal.

7. Any unexpended balance of the proceeds of the bond remaining after the completion of the project for which the bonds were issued must be paid immediately into the fund created for the payment of the principal of the bonds and must be used therefor, subject to the provisions as to the times and methods for their payment as stated in the bonds and the proceedings authorizing their issuance.

8. The validity of the bonds must not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition or improvement of the project for which the bonds are issued.

9. A purchaser of the bonds is not responsible for the application of the proceeds of the bonds by the municipality or any of its officers, agents and employees.

10. The governing body may enter into a contract to sell special assessment bonds at any time but, if the governing body so contracts before it awards a construction contract or otherwise contracts for acquiring or improving the project, the governing body may terminate the contract to sell the bonds, if:

(a) Before awarding the construction contract or otherwise contracting for the acquisition or improvement of the project, it determines not to acquire or improve the project; and

(b) It has not elected to proceed pursuant to subsection 2 or 3 of NRS 271.330, but has elected to proceed pursuant to subsection 1 of that section.

11. If the governing body ceases to have jurisdiction to proceed, because the requisite proportion of owners of the frontage to be assessed, or of the area, zone or other basis of assessment, file written complaints, protests and objections to the project, as provided in NRS 271.306, or for any other reason, any contract to sell special assessment bonds is terminated and becomes inoperative.

Sec. 7. This act becomes effective on July 1, 2017.

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 7.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 306.

AN ACT relating to education; revising certain references and terms in conformance with revisions to federal law; revising requirements for a plan to improve the achievement of pupils enrolled in a public school; repealing provisions requiring certain schools to carry out a process for peer review of a plan to improve the achievement of pupils enrolled in a school in accordance with federal law; requiring the State Board of Education to establish criteria for assessments that may be used to determine pupil achievement; ~~providing for the selection by the State Board of more than one college and career readiness assessment;~~ **revising provisions governing the count of pupils for purposes of calculating basic support; requiring the State Board to adopt regulations regarding end-of-course finals; revising the requirements for receipt of a standard high school diploma; providing for the creation of a pathway high school diploma; requiring a public awareness campaign concerning high school diplomas and endorsements to be conducted to the extent that money is available;** revising provisions governing the annual reports of accountability prepared by the State Board and each school district; revising provisions governing evaluations of the overall performance of teachers and paraprofessionals; ~~requiring probationary teachers and administrators to receive certain notice regarding observations;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

In 2015, Congress passed the Every Student Succeeds Act of 2015, which replaced the No Child Left Behind Act of 2001 and was a significant reauthorization of the Elementary and Secondary Education Act of 1965. (20 U.S.C. §§ 6301 et seq.) **Sections 6, 7, 56, 58, 75 and 76** of this bill replace references to the No Child Left Behind Act of 2001 with references to the Every Student Succeeds Act of 2015. **Sections 2, 32, 38, 43, 71 and 72** revise references to federal law to conform to changes made in the Every Student Succeeds Act of 2015. **Sections 1, 2, 4, 5, 11, 15, 16, 19-21, 23, 24,**

26-29, 31, 33, 35, 39, 55, 56, 71, 73, 74 and 77-82 of this bill revise terminology to conform with the revisions to the federal law.

Existing law requires the principal of each school, in consultation with the employees of the school, to prepare a plan to improve the achievement of pupils enrolled in the school and prescribes the requirements for such a plan. (NRS 385A.650) **Section 19** of this bill removes the statutory requirements concerning the contents of the plan and instead requires the State Board of Education to prescribe the contents of the plan by regulation. **Section 83** of this bill repeals a provision requiring certain schools to carry out a process for peer review of a plan to improve the achievement of pupils enrolled in the school in accordance with federal law.

Existing law requires the State Board to adopt regulations for counting enrollment of pupils for apportionment purposes. (NRS 387.123) Section 23.5 of this bill prohibits such regulations from counting a pupil enrolled in grade 12 who is not prepared for college and career success as a full-time pupil for apportionment purposes unless the pupil is enrolled in a certain number of courses or periods per day.

Section 41.3 of this bill requires the State Board to adopt regulations regarding end-of-course finals and the courses for which such finals may be administered.

Existing law requires the State Board to adopt regulations that prescribe the criteria for receipt of a standard high school diploma. (NRS 390.600) Section 52 of this bill removes the requirement that the regulations require a pupil to pass certain end-of-course examinations to receive a standard high school diploma. Section 41.5 of this bill requires the State Board to adopt regulations that prescribe the criteria for a pupil to receive a pathway high school diploma, which must include requirements that the pupil: (1) satisfy the criteria for receipt of a standard high school diploma; and (2) obtain a college-ready endorsement or a career-ready endorsement. Section 41.5 also requires the State Board to: (1) adopt regulations prescribing the criteria for a pupil to obtain each endorsement; (2) annually review and, if necessary, revise the regulations adopted relating to the pathway high school diploma; and (3) provide incentive grants and certain reimbursements relating to the pathway high school diploma, to the extent that money is available for this purpose. Finally, section 41.5 provides that a pathway high school diploma confers all the same rights, privileges and benefits as a standard high school diploma.

Section 41.7 of this bill requires the Department of Education, to the extent that money is available, to conduct a public awareness campaign to inform certain persons of the types of diplomas and endorsements on a diploma a pupil may receive upon graduation from high school and the criteria for obtaining such diplomas or endorsements.

Existing law requires the statewide performance evaluation system used to evaluate a public school employee's overall performance to

include a process for peer evaluations of teachers by qualified educational personnel. (NRS 391.465) Section 66 of this bill requires the statewide performance evaluation system to include a process for peer observations, instead of peer evaluations. Sections 65.5 and 66.5 of this bill make conforming changes.

Existing law requires the State Board to designate the assessments that may be used by a school district to determine pupil achievement. (NRS 391.465) **Section 66** of this bill instead requires: (1) the State Board to establish the criteria for the assessments that may be used by a school district; and (2) the board of trustees of a school district to select assessments that meet the criteria established by the State Board to determine pupil achievement. Existing law requires the State Board to select a college and career readiness assessment for administration to pupils enrolled in grade 11 in public schools. (NRS 390.610) **Section 53** of this bill ~~provides for the selection of one or more such assessments. Sections 2, 8, 10, 12, 14, 15, 17, 19, 22, 25, 30, 34, 40, 42, 44, 54, 57, 65 and 70 of this bill make conforming changes.~~ **provides that the results of a pupil on this assessment may be used in determining whether the pupil satisfies the requirements for receipt of a pathway high school diploma. Section 53 also requires the State Board to adopt regulations prescribing the manner in which a school district or charter school that enrolls pupils at a high school grade level is required to use the results of this assessment to inform the instruction provided to pupils enrolled in grade 12.**

Existing law requires ~~probationary~~ teachers and administrators to receive ~~one evaluation each school year that is~~ **certain evaluations that are** based in part upon a certain number of observations of the teacher or administrator. (NRS 391.685, ~~391.705~~) ~~Sections 67 and 68 of this bill provide that, following each observation, a probationary teacher or administrator must receive notice that he or she may request that a subsequent observation be conducted by another administrator.~~ **391.690, 391.705, 391.710) Sections 67-68.5 of this bill require such evaluations to be based on a certain number of observation cycles of each teacher and administrator. Section 69 of this bill makes a technical correction to provisions relating to the written evaluation of a probationary teacher or administrator. Sections 36, 37 and 59-64 of this bill revise additional provisions governing the qualifications of certain teachers and paraprofessionals and** evaluations of the performance of teachers and paraprofessionals.

Existing law requires the board of trustees of each school district to prepare an annual report of accountability concerning the educational goals and objectives of the school district. (385A.070) Existing law also requires the State Board to prepare a single annual report of accountability for all public schools in the State that includes certain information. (NRS 385A.400) **Sections 9 and 13 of this bill revise the contents of such annual reports of accountability and** require ~~such annual~~ **the** reports ~~for~~

~~accountability]~~ to include certain information concerning educational personnel.

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

Section 1. NRS 385.007 is hereby amended to read as follows:

385.007 As used in this title, unless the context otherwise requires:

1. “Achievement charter school” means a public school operated by a charter management organization, as defined in NRS 388B.020, an educational management organization, as defined in NRS 388B.030, or other person pursuant to a contract with the Achievement School District pursuant to NRS 388B.210 and subject to the provisions of chapter 388B of NRS.

2. “Department” means the Department of Education.

3. *“English learner” has the meaning ascribed to it in 20 U.S.C. § 7801(20).*

4. “Homeschooled child” means a child who receives instruction at home and who is exempt from compulsory attendance pursuant to NRS 392.070, but does not include an opt-in child.

~~4. “Limited English proficient” has the meaning ascribed to it in 20 U.S.C. § 7801(25).]~~

5. “Opt-in child” means a child for whom an education savings account has been established pursuant to NRS 353B.850, who is not enrolled full-time in a public or private school and who receives all or a portion of his or her instruction from a participating entity, as defined in NRS 353B.750.

6. “Public schools” means all kindergartens and elementary schools, junior high schools and middle schools, high schools, charter schools and any other schools, classes and educational programs which receive their support through public taxation and, except for charter schools, whose textbooks and courses of study are under the control of the State Board.

7. “State Board” means the State Board of Education.

8. “University school for profoundly gifted pupils” has the meaning ascribed to it in NRS 388C.040.

Sec. 2. NRS 385.112 is hereby amended to read as follows:

385.112 A plan to improve the achievement of pupils enrolled in public schools in this State prepared pursuant to NRS 385.111 must include:

1. A review and analysis of the data upon which the report required pursuant to NRS 385A.400 is based and a review and analysis of any data that is more recent than the data upon which the report is based.

2. The identification of any problems or factors common among the school districts or charter schools in this State, as revealed by the review and analysis.

3. Strategies based upon ~~scientifically-based]~~ **evidence-based** research, as defined in 20 U.S.C. § ~~7801(37),]~~ **7801(21)**, that will strengthen the core academic subjects, as set forth in NRS 389.018.

4. Strategies to improve the academic achievement of pupils enrolled in public schools in this State, including, without limitation, strategies to:

(a) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(1) The curriculum appropriate to improve achievement;

(2) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 390.105 ~~and 390.600~~ and the college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610, including, without limitation, the manner in which remediation will be provided to pupils who require remediation based on the results of an examination administered pursuant to NRS ~~390.600 and~~ 390.610; and

(3) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each group identified in the statewide system of accountability for public schools;

(b) Improve the literacy skills of pupils;

(c) Improve the development of English language skills and academic achievement of pupils who are ~~limited~~ English ~~proficient~~ **learners**;

(d) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(e) Integrate technology into the instructional and administrative programs of the school districts;

(f) Manage effectively the discipline of pupils; and

(g) Enhance the professional development offered for the teachers and administrators employed at public schools in this State to include the activities set forth in 20 U.S.C. § ~~7801(34)~~ **7801(42)** and to address the specific needs of the pupils enrolled in public schools in this State, as deemed appropriate by the State Board.

5. Strategies designed to provide to the pupils enrolled in middle school, junior high school and high school, the teachers and counselors who provide instruction to those pupils, and the parents and guardians of those pupils information concerning:

(a) The requirements for admission to an institution of higher education and the opportunities for financial aid;

(b) The availability of Governor Guinn Millennium Scholarships pursuant to NRS 396.911 to 396.945, inclusive; and

(c) The need for a pupil to make informed decisions about his or her curriculum in middle school, junior high school and high school in preparation for success after graduation.

6. An identification, by category, of the employees of the Department who are responsible for ensuring that each provision of the plan is carried out effectively.

7. A timeline for carrying out the plan, including, without limitation:

(a) The rate of improvement and progress which must be attained annually in meeting the goals and benchmarks established by the State Board pursuant to NRS 385.113; and

(b) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

8. For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

9. Strategies to improve the allocation of resources from this State, by program and by school district, in a manner that will improve the academic achievement of pupils. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this subsection. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this subsection.

10. Based upon the reallocation of resources set forth in subsection 9, the resources available to the State Board and the Department to carry out the plan, including, without limitation, a budget for the overall cost of carrying out the plan.

11. A summary of the effectiveness of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

12. A 5-year strategic plan which identifies the recurring issues in improving the achievement and proficiency of pupils in this State and which establishes strategic goals to address those issues. The 5-year strategic plan must be:

(a) Based upon the data from previous years which is collected by the Department for the plan developed pursuant to NRS 385.111; and

(b) Designed to track the progress made in achieving the strategic goals established by the Department.

13. Any additional plans addressing the achievement and proficiency of pupils adopted by the Department.

Sec. 3. NRS 385.113 is hereby amended to read as follows:

385.113 The State Board shall:

1. In developing the plan to improve the achievement of pupils enrolled in public schools pursuant to NRS 385.111, establish clearly defined goals and benchmarks for improving the achievement of pupils, including, without limitation, goals for:

(a) Improving proficiency results in core academic subjects;

(b) Increasing the number of pupils enrolled in public middle schools and junior high schools, including, without limitation, charter schools, who enter public high schools with the skills necessary to succeed in high school;

(c) Improving the percentage of pupils who enroll in grade 9 and who graduate from a public high school, including, without limitation, a charter school, with a standard or higher diploma upon completion;

(d) Improving the performance of pupils on standardized college entrance examinations;

(e) Increasing the percentage of pupils enrolled in high schools who enter postsecondary educational institutions or who are career and workforce ready; and

(f) Reengaging disengaged youth who have dropped out of high school or who are at risk of dropping out of high school, including, without limitation, a mechanism for tracking and maintaining communication with those youth who have dropped out of school or who are at risk of doing so;

2. Review the plan annually to evaluate the effectiveness of the plan;

3. Examine the timeline for implementing the plan and each provision of the plan to determine whether the annual goals and benchmarks have been attained;

4. Based upon the evaluation of the plan, make revisions, as necessary, to ensure that:

(a) The goals and benchmarks set forth in the plan are being attained in a timely manner; and

(b) The plan is designed to improve the academic achievement of pupils enrolled in public schools in this State; and

5. Review the plans submitted pursuant to subsection ~~4~~ 4 of NRS 385A.650 to:

(a) Determine common problems identified by the principal of each school; ~~pursuant to paragraph (b) of subsection 2 of NRS 385A.650;~~ and

(b) Make recommendations to the Department concerning how the Department can best support the needs of schools.

Sec. 4. NRS 385.230 is hereby amended to read as follows:

385.230 1. The Department shall, in conjunction with the State Board, prepare an annual report of the state of public education in this State. The report must include, without limitation:

(a) An analysis of each annual report of accountability prepared by the State Board pursuant to NRS 385A.400;

(b) An update on the status of K-12 public education in this State;

(c) A description of the most recent vision and mission statements of the State Board and the Department, including, without limitation, the progress made by the State Board and Department in achieving those visions and missions;

(d) A description of the goals and benchmarks for improving the academic achievement of pupils which are included in the plan to improve the achievement of pupils required by NRS 385.111;

(e) A description of any significant changes made to the collection, maintenance or transfer of data concerning pupils by the Department, a

school district, a sponsor of a charter school or a university school for profoundly gifted pupils;

(f) Any new data elements, including, without limitation, data about individual pupils and aggregated data about pupils within a defined group, proposed for inclusion in the automated system of accountability information for Nevada established pursuant to NRS 385A.800;

(g) An analysis of the progress the public schools have made in the previous year toward achieving the goals and benchmarks for improving the academic achievement of pupils;

(h) An analysis of whether the standards and examinations adopted by the State Board adequately prepare pupils for success in postsecondary educational institutions and in career and workforce readiness;

(i) An analysis of the extent to which school districts and charter schools recruit and retain effective teachers and principals;

(j) An analysis of the ability of the automated system of accountability information for Nevada established pursuant to NRS 385A.800 to link the achievement of pupils to the performance of the individual teachers assigned to those pupils and to the principals of the schools in which the pupils are enrolled;

(k) An analysis of the extent to which the lowest performing public schools have improved the academic achievement of pupils enrolled in those schools;

(l) A summary of the innovative educational programs implemented by public schools which have demonstrated the ability to improve the academic achievement of pupils, including, without limitation:

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

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

(3) Pupils with disabilities;

(4) Pupils who are ~~limited~~ English ~~proficient~~ **learners**; and

(5) Pupils who are migratory children, as defined by the State Board; and

(m) A description of any plan of corrective action requested by the Superintendent of Public Instruction from the board of trustees of a school district or the governing body of a charter school and the status of that plan.

2. In odd-numbered years, the Superintendent of Public Instruction shall present the report prepared pursuant to subsection 1 in person to the Governor and each standing committee of the Legislature with primary jurisdiction over matters relating to K-12 public education at the beginning of each regular session of the Legislature.

3. In even-numbered years, the Superintendent of Public Instruction shall, on or before January 31, submit a written copy of the report prepared pursuant to subsection 1 to the Governor and to the Legislative Committee on Education.

Sec. 5. NRS 385.620 is hereby amended to read as follows:

385.620 The Advisory Council shall:

1. Review the policy of parental involvement adopted by the State Board and the policy of parental involvement and family engagement adopted by the board of trustees of each school district pursuant to NRS 392.457;
2. Review the information relating to communication with and participation, involvement and engagement of parents and families that is included in the annual report of accountability for each school district pursuant to NRS 385A.320 and similar information in the annual report of accountability prepared by the State Public Charter School Authority, the Achievement School District and a college or university within the Nevada System of Higher Education that sponsors a charter school pursuant to subsection 3 of NRS 385A.070;
3. Review any effective practices carried out in individual school districts to increase parental involvement and family engagement and determine the feasibility of carrying out those practices on a statewide basis;
4. Review any effective practices carried out in other states to increase parental involvement and family engagement and determine the feasibility of carrying out those practices in this State;
5. Identify methods to communicate effectively and provide outreach to parents, legal guardians and families of pupils who have limited time to become involved in the education of their children for various reasons, including, without limitation, work schedules, single-parent homes and other family obligations;
6. Identify the manner in which the level of parental involvement and family engagement affects the performance, attendance and discipline of pupils;
7. Identify methods to communicate effectively with and provide outreach to parents, legal guardians and families of pupils who are ~~limited~~ English ~~proficient~~ **learners**;
8. Determine the necessity for the appointment of a statewide parental involvement and family engagement coordinator or a parental involvement and family engagement coordinator in each school district, or both;
9. Work in collaboration with the Office of Parental Involvement and Family Engagement created by NRS 385.630 to carry out the duties prescribed in NRS 385.635;
10. On or before July 1 of each year, submit a report to the Legislative Committee on Education describing the activities of the Advisory Council and any recommendations for legislation; and
11. On or before February 1 of each odd-numbered year, submit a report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature describing the activities of the Advisory Council and any recommendations for legislation.

Sec. 6. NRS 385A.040 is hereby amended to read as follows:

385A.040 “Title I school” means a public school that receives money pursuant to the ~~[No Child Left Behind Act of 2001,]~~ **Every Student Succeeds Act of 2015**, 20 U.S.C. §§ 6301 et seq., and is obligated to comply with the provisions of that federal law.

Sec. 7. NRS 385A.050 is hereby amended to read as follows:

385A.050 “Title I school district” means a school district that receives money pursuant to the ~~[No Child Left Behind Act of 2001,]~~ **Every Student Succeeds Act of 2015**, 20 U.S.C. §§ 6301 et seq., and is obligated to comply with the provisions of that federal law.

Sec. 8. NRS 385A.200 is hereby amended to read as follows:

385A.200 The annual report of accountability prepared pursuant to NRS 385A.070 must include information on pupil achievement and school performance, including, without limitation, pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 390.105 ~~and 390.600~~ and the college and career readiness ~~assessment~~ ~~assessments~~ administered pursuant to NRS 390.610 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school sponsored by the district, and each grade in which the examinations and assessments were administered:

1. The number of pupils who took the examinations and a record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school.

2. Except as otherwise provided in subsection 2 of NRS 385A.070, pupil achievement, reported separately by gender and reported separately for the groups of pupils identified in the statewide system of accountability for public schools.

3. A comparison of the achievement of pupils in each group identified in the statewide system of accountability for public schools with the performance targets established for that group.

4. The percentage of pupils who were not tested.

5. Except as otherwise provided in subsection 2 of NRS 385A.070, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in the statewide system of accountability for public schools.

6. The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 390.105 ~~and 390.600~~ and the college and career readiness ~~assessment~~ ~~assessments~~ administered pursuant to NRS 390.610, which may include information regarding the trend

in the achievement of pupils for more than 3 years, if such information is available.

7. The rating of each public school in the district, including, without limitation, each charter school sponsored by the district, pursuant to the statewide system of accountability for public schools.

8. Information on whether each school in the district, including, without limitation, each charter school sponsored by the district, has made progress based upon the model adopted by the Department pursuant to NRS 390.125.

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

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

Sec. 9. NRS 385A.230 is hereby amended to read as follows:

385A.230 1. The annual report of accountability prepared pursuant to NRS 385A.070 must include information on teachers , other licensed educational personnel and paraprofessionals, including, without limitation:

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

(1) The total number of:

(I) Teachers and other licensed educational personnel employed at ~~the~~ each school;

(II) Vacancies at each school which are not filled by a teacher who has a contract to teach at the school on a full-time basis, as determined by the Commission on Professional Standards in Education;

(III) Teachers and other licensed educational personnel employed at each school who provide instruction in a grade level or subject area for which they do not meet the requirements for licensure or do not hold a required endorsement;

(IV) Teachers and other licensed educational personnel employed at each school who are inexperienced, as defined by the Commission on Professional Standards in Education; and

(V) Employees at each school whose overall performance was determined to be highly effective, effective, minimally effective or ineffective under the statewide performance evaluation system.

(2) The percentage of ~~teachers~~ teachers :

(I) Teachers and other licensed educational personnel employed by the school district who are ~~the~~

~~(I) Providing instruction pursuant to NRS 391.125; ~~1~~~~ employed at each school;

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

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

~~(2) (3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;~~

~~(3) teachers whose overall performance has been determined to be effective or highly effective;~~

~~(4) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, ~~teachers whose overall performance has been determined to be effective or highly effective,~~ in the aggregate and disaggregated by high poverty compared to low poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;~~

~~(4) according to the percentage of pupils enrolled in the school district who:~~

~~(I) Are economically disadvantaged, as defined by the State Board;~~

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

~~(III) Have a disability;~~

~~(IV) Are English learners; and~~

~~(V) Are migratory children, as defined by the State Board;~~

~~(5) Vacancies at each school which are not filled by a teacher who has a contract to teach at the school on a full-time basis, as determined by the Commission on Professional Standards in Education;~~

(III) Teachers and other licensed educational personnel employed at each school who provide instruction in a grade level or subject area for which they do not meet the requirements for licensure or do not hold a required endorsement;

(IV) Teachers and other licensed educational personnel employed at each school who are inexperienced, as defined by the Commission on Professional Standards in Education; and

(V) Employees at each school whose overall performance was determined to be highly effective, effective, minimally effective or ineffective under the statewide performance evaluation system.

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

(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term

substitute teachers were employed at each school, identified by grade level and subject area; and

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

~~(5)-(6)~~ **(4)** For each elementary school:

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

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

(b) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The records of attendance maintained by a school for purposes of this paragraph must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which the teacher is employed for one of the following reasons:

(1) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(2) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

(c) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school sponsored by the district. The information must include:

(1) The number of paraprofessionals employed at the school; ~~and~~

(2) The number and percentage of all of paraprofessionals employed at the school who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money. **requirements prescribed by the Department to comply with 20 U.S.C. § 6311(q)(2)(M);**

(3) The percentage of paraprofessionals employed by the school district who do not satisfy the requirements prescribed by the Department to comply with 20 U.S.C. § 6311(q)(2)(M) who are employed at the school; and

(4) Any other information required by regulation of the State Board.

2. As used in this section ~~is~~

~~(a) “Highly qualified” has the meaning ascribed to it in 20 U.S.C. § 7801(23). “Disaggregated” means the reporting of information relating to schools in the top quartile of each of the categories listed in sub-paragraphs (I) to (V), inclusive, of subparagraph (4) of paragraph (a) of subsection 1 and the bottom quartile of each of the categories listed in sub-paragraphs (I) to (V), inclusive, of subparagraph (4) of paragraph (a) of subsection 1 in this State.~~

~~(b) “Paraprofessional”~~, **“paraprofessional”** has the meaning ascribed to it in NRS 391.008.

Sec. 10. NRS 385A.270 is hereby amended to read as follows:

385A.270 1. The annual report of accountability prepared pursuant to NRS 385A.070 must include, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district, information concerning pupils who are eligible for free or reduced-price breakfasts pursuant to 42 U.S.C. §§ 1771 et seq. and pupils who are eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq., including, without limitation:

(a) The number and percentage of pupils who are eligible for free or reduced-price breakfasts;

(b) The percentage of pupils who receive free and reduced-price breakfasts;

(c) The number and percentage of pupils who are eligible for free or reduced-price lunches;

(d) The percentage of pupils who receive free and reduced-price lunches;

(e) A comparison of the achievement and proficiency of pupils, reported separately by race and ethnicity, who are eligible for free or reduced-price breakfasts, pupils who receive free and reduced-price breakfasts, pupils who are eligible for free or reduced-price lunches, pupils who receive free and reduced-price lunches and pupils who are not eligible for free or reduced-price breakfasts or lunches;

(f) A comparison of pupils, reported separately by race and ethnicity, who are eligible for free or reduced-price breakfasts, pupils who receive free and reduced-price breakfasts, pupils who are eligible for free or reduced-price lunches and pupils who receive free and reduced-price lunches for which data is required to be collected in the following areas:

(1) Retention rates;

(2) Graduation rates;

(3) Dropout rates;

(4) Grade point averages; and

(5) Scores on the examinations administered pursuant to NRS 390.105 ~~and 390.600~~ and the college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610.

2. The State Board may adopt any regulations necessary to carry out the provisions of this section.

Sec. 11. NRS 385A.280 is hereby amended to read as follows:

385A.280 The annual report of accountability prepared pursuant to NRS 385A.070 must include, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district, information regarding the progression of pupils who are ~~limited~~ English ~~proficient~~ **learners** in attaining proficiency in the English language, including, without limitation:

1. The number and percentage of pupils who were identified as ~~limited~~ English ~~proficient~~ **learners** at the beginning of the school year, were continually enrolled throughout the school year and were identified as proficient in English by the completion of the school year;

2. The achievement and proficiency of pupils who are ~~limited~~ English ~~proficient~~ **learners** in comparison to the pupils who are proficient in English;

3. A comparison of pupils who are ~~limited~~ English ~~proficient~~ **learners** and pupils who are proficient in the English language in the following areas:

- (a) Retention rates;
- (b) Graduation rates;
- (c) Dropout rates;
- (d) Grade point averages; and

(e) Scores on the examinations administered pursuant to NRS 390.105 ~~and 390.600~~ and the college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610; and

4. Results of the assessments and reassessments of pupils who are ~~limited~~ English ~~proficient~~ **learners**, reported separately by the primary language of the pupils, pursuant to the policy developed by the board of trustees of the school district pursuant to NRS 388.407.

Sec. 12. NRS 385A.410 is hereby amended to read as follows:

385A.410 The annual report of accountability prepared by the State Board pursuant to NRS 385A.400 must include information on pupil achievement and school performance, including, without limitation:

1. Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 390.105 ~~and 390.600~~ and the college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

2. Except as otherwise provided in subsection 2 of NRS 385A.400, pupil achievement, reported separately by gender and reported separately for the groups of pupils identified in the statewide system of accountability for public schools.

3. A comparison of the achievement of pupils in each group identified in the statewide system of accountability for public schools with the performance targets established for that group.

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

5. Except as otherwise provided in subsection 2 of NRS 385A.400, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in the statewide system of accountability for public schools.

6. The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 390.105 ~~and 390.600~~ and the college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

7. The rating of each public school, including, without limitation, each charter school, pursuant to the statewide system of accountability for public schools.

8. Information on whether each public school, including, without limitation, each charter school, has made progress based upon the model adopted by the Department pursuant to NRS 390.125, if applicable for the grade level of pupils enrolled at the school.

9. Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 390.830.

Sec. 13. NRS 385A.440 is hereby amended to read as follows:

385A.440 1. The annual report of accountability prepared by the State Board pursuant to NRS 385A.400 must include information on teachers ~~and~~ other licensed personnel and paraprofessionals, including, without limitation:

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

(1) The total number of :

(I) Teachers and other licensed educational personnel employed ~~by~~ reported for by each school district, including, without limitation, each charter school in the district, and for this State as a whole;

(II) Vacancies at each school district, including, without limitation, each charter school in the district, which are not filled by a teacher who has a contract to teach on a full-time basis, as determined by the Commission on Professional Standards in Education and for this State as a whole;

(III) Teachers and other licensed educational personnel employed by each school district, including, without limitation, each charter school

in the district, who provide instruction in a grade level or subject area for which they do not meet the requirements for licensure or do not hold a required endorsement, and for this State as a whole;

(IV) Teachers or other licensed educational personnel who are inexperienced, as defined by the Commission on Professional Standards in Education, employed by each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(V) Employees at each school district, including, without limitation, each charter school in the district, whose overall performance was determined to be highly effective, effective, minimally effective or ineffective under the statewide performance evaluation system, and for this State as a whole.

(2) The percentage of ~~teachers~~ :

(I) Teachers and other licensed educational personnel employed in this State who are ~~+~~

~~(I) Providing instruction pursuant to NRS 391.125,} employed by each school district, including, without limitation, each charter school in the district, and for this State as a whole;~~

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

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

~~(2) (3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers;~~

~~(3) teachers whose overall performance has been determined to be effective or highly effective;~~

~~(4) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers, teachers whose overall performance has been determined to be effective or highly effective, in the aggregate and disaggregated by high poverty compared to low poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;~~

~~(4) according to the percentage of pupils in each school district who:~~

~~(I) Are economically disadvantaged, as defined by the State Board;~~

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

~~(III) Have a disability;~~

~~(IV) Are English learners; and~~

~~(V) Are migratory children, as defined by the State Board;~~

(5) Vacancies at each school district including, without limitation, each charter school in the district, which are not filled by a teacher who has a contract to teach on a full-time basis, as determined by the

Commission on Professional Standards in Education, and for this State as a whole;

(III) Teachers and other licensed educational personnel employed by each school district, including, without limitation, each charter school in the district, who provide instruction in a grade level or subject area in which they do not meet the requirements for licensure or do not hold a required endorsement, and for this State as a whole;

(IV) Teachers and other licensed educational personnel employed by each school district, including, without limitation, each charter school in the district, who are inexperienced, as defined by the Commission on Professional Standards in Education, and for this State as a whole; and

(V) Employees at each school district, including, without limitation, each charter school in the district, whose overall performance was determined to be highly effective, effective minimally effective or ineffective under the statewide performance evaluation system, and for this State as a whole.

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

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

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

~~{(5)-(6)}~~ (4) For each elementary school:

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

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

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

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

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

(2) ~~{For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.}~~ **The number of paraprofessional employed by each school district, including, without limitation, each charter school in the district, who do not satisfy the requirements prescribed by the Department to comply with 20 U.S.C. § 6311(q)(2)(M), and for this State as a whole;**

(3) The percentage of paraprofessionals employed by each school district, including, without limitation, each charter school in the district, who do not satisfy the requirements prescribed by the Department to comply with 20 U.S.C. § 6311(q)(2)(M), and for this State as a whole; and

(4) Any other information required by regulation of the State Board.

2. As used in this section:

~~(a) “Highly qualified” has the meaning ascribed to it in 20 U.S.C. § 7801(23). “Disaggregated” means the reporting of information relating to schools in the top quartile of each of the categories listed in subparagraphs (I) to (V), inclusive, of subparagraph (4) of paragraph (a) of subsection 1 and the bottom quartile of each of the categories listed in subparagraphs (I) to (V), inclusive, of subparagraph (4) of paragraph (a) of subsection 1 in this State.~~

~~(b) “Paraprofessional” , “paraprofessional” has the meaning ascribed to it in NRS 391.008.~~

Sec. 14. NRS 385A.480 is hereby amended to read as follows:

385A.480 The annual report of accountability prepared by the State Board pursuant to NRS 385A.400 must include for each school district, including, without limitation, each charter school in the district, and for this State as a whole, information concerning pupils who are eligible for free or reduced-price breakfasts pursuant to 42 U.S.C. §§ 1771 et seq. and pupils who are eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq., including, without limitation:

1. The number and percentage of pupils who are eligible for free or reduced-price breakfasts;

2. The number and percentage of pupils who receive free and reduced-price breakfasts;

3. The number and percentage of pupils who are eligible for free or reduced-price lunches;

4. The number and percentage of pupils who receive free and reduced-price lunches;

5. A comparison of the achievement and proficiency of pupils, reported separately by race and ethnicity, who are eligible for free or reduced-price breakfasts, pupils who receive free and reduced-price breakfasts, pupils who

are eligible for free or reduced-price lunches, pupils who receive free and reduced-price lunches and pupils who are not eligible for free or reduced-price breakfasts or lunches;

6. A comparison of pupils, reported separately by race and ethnicity, who are eligible for free or reduced-price breakfasts, pupils who receive free and reduced-price breakfasts, pupils who are eligible for free or reduced-price lunches and pupils who receive free and reduced-price lunches for which data is required to be collected in the following areas:

- (a) Retention rates;
- (b) Graduation rates;
- (c) Dropout rates;
- (d) Grade point averages; and
- (e) Scores on the examinations administered pursuant to NRS 390.105 ~~and 390.600~~ and the college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610.

Sec. 15. NRS 385A.490 is hereby amended to read as follows:

385A.490 The annual report of accountability prepared by the State Board pursuant to NRS 385A.400 must include for each school district, including, without limitation, each charter school in the district, and for this State as a whole, information regarding the progression of pupils who are ~~limited~~ English ~~proficient~~ **learners** in attaining proficiency in the English language, including, without limitation:

1. The number and percentage of pupils who were identified as ~~limited~~ English ~~proficient~~ **learners** at the beginning of the school year, were continually enrolled throughout the school year and were identified as proficient in English by the completion of the school year;

2. The achievement and proficiency of pupils who are ~~limited~~ English ~~proficient~~ **learners** in comparison to the pupils who are proficient in English;

3. A comparison of pupils who are ~~limited~~ English ~~proficient~~ **learners** and pupils who are proficient in the English language in the following areas:

- (a) Retention rates;
- (b) Graduation rates;
- (c) Dropout rates;
- (d) Grade point averages; and
- (e) Scores on the examinations administered pursuant to NRS 390.105 ~~and 390.600~~ and the college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610; and

4. Results of the assessments and reassessments of pupils who are ~~limited~~ English ~~proficient~~ **learners**, reported separately by the primary language of the pupils, pursuant to the policies developed by the boards of trustees of school districts pursuant to NRS 388.407.

Sec. 16. NRS 385A.600 is hereby amended to read as follows:

385A.600 1. The Department shall make every effort to obtain the approval necessary from the United States Department of Education to

ensure that the statewide system of accountability for public schools complies with all requirements for the receipt of federal money under the Elementary and Secondary Education Act of 1965, 20 U.S.C. §§ 6301 et seq., as amended.

2. The statewide system of accountability applies to all public schools, regardless of Title I status, and must:

(a) Include a method to, on an annual basis, rate each public school based upon the performance of the school and based upon whether each public school meets the ~~{annual-measurable-objectives}~~ **school achievement targets** and performance targets established pursuant to the statewide system of accountability;

(b) Include a method to implement consequences, rewards and supports for public schools based upon the ratings;

(c) Include a method to provide grants and other financial support, to the extent that money is available from legislative appropriation, to public schools receiving one of the two lowest ratings of performance pursuant to the statewide system of accountability for public schools; and

(d) Establish ~~{annual-measurable-objectives}~~ **school achievement targets** and performance targets for public schools and performance targets for specific groups of pupils, including, without limitation, pupils who are economically disadvantaged, pupils from major racial and ethnic groups, pupils with disabilities and pupils who are ~~{limited}~~ English ~~{proficient}~~ **learners**. The ~~{annual-measurable-objectives}~~ **school achievement targets** and performance targets must:

(1) Be based primarily upon the measurement of the progress and proficiency of pupils on the examinations administered pursuant to NRS 390.105 ~~;~~ ~~{for 390.600, as applicable;}~~ and

(2) For high schools, include the rate of graduation and the rate of attendance.

3. The statewide system of accountability for public schools may include a method to:

(a) On an annual basis, rate school districts based upon the performance of the public schools within the school district and whether those public schools meet the ~~{annual-measurable-objectives}~~ **school achievement targets** and performance targets established pursuant to the statewide system of accountability; and

(b) Implement consequences, rewards and supports for school districts based upon the ratings.

Sec. 17. NRS 385A.610 is hereby amended to read as follows:

385A.610 1. The Department shall establish a monitoring system for the statewide system of accountability. The monitoring system must identify significant levels of achievement of pupils on the examinations that are administered pursuant to NRS 390.105 ~~{and 390.600}~~ and the college and career readiness assessment ~~{assessments}~~ administered pursuant to NRS 390.610, identified by school and by school district.

2. On or before October 1 of each year, the Department shall prepare a written summary of the findings made pursuant to subsection 1. The written summary must be provided to:

(a) The Committee; and

(b) If the findings show inconsistencies applicable to a particular school district or school within a school district, the board of trustees of that school district.

3. The Committee shall review the report submitted pursuant to subsection 2 and take such action as it deems appropriate.

Sec. 18. NRS 385A.620 is hereby amended to read as follows:

385A.620 1. The State Board shall adopt regulations that prescribe, consistent with 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, the manner in which pupils enrolled in:

(a) A program of distance education pursuant to NRS 388.820 to 388.874, inclusive;

(b) An alternative program for the education of pupils at risk of dropping out of school pursuant to NRS 388.537; or

(c) A program of education that:

(1) Primarily serves pupils with disabilities; or

(2) Is operated within a:

(I) Local, regional or state facility for the detention of children;

(II) Juvenile forestry camp;

(III) Child welfare agency; or

(IV) Correctional institution,

↪ will be included within the statewide system of accountability set forth in this chapter.

2. The regulations adopted pursuant to subsection 1 must also set forth the manner in which:

(a) The progress of pupils enrolled in a program of distance education, an alternative program or a program of education described in subsection 1 will be accounted for within the statewide system of accountability; and

(b) The results of pupils enrolled in a program of distance education, an alternative program or a program of education described in subsection 1 on the examinations administered pursuant to NRS 390.105 and, if applicable for the grade levels of the pupils enrolled, the ~~examinations administered pursuant to NRS 390.600 and the~~ college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610 will be reported.

Sec. 19. NRS 385A.650 is hereby amended to read as follows:

385A.650 1. The principal of each school, including, without limitation, each charter school, shall, in consultation with the employees of the school, prepare a plan to improve the achievement of the pupils enrolled in the school.

2. The plan developed pursuant to subsection 1 must ~~include:~~

~~—(a) A review and analysis of the data pertaining to the school upon which the report required pursuant to subsection 2 or 3 of NRS 385A.070, as~~

applicable, is based on a review and analysis of any data that is more recent than the data upon which the report is based.

~~—(b) The identification of any problems or factors at the school that are revealed by the review and analysis.~~

~~—(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as defined in NRS 389.018.~~

~~—(d) Policies and practices concerning the core academic subjects which have the greatest likelihood of ensuring that each group of pupils enrolled in the school and identified in the statewide system of accountability for public schools will meet the performance targets established for that group.~~

~~—(e) Annual measurable objectives and performance targets, consistent with the annual measurable objectives and performance targets established pursuant to the statewide system of accountability for public schools, for the continuous and substantial progress by each group of pupils identified in the statewide system of accountability for public schools who are enrolled in the school to ensure that each group will meet the performance targets established for that group.~~

~~—(f) Strategies and practices which:~~

~~——(1) Are consistent with the policy adopted pursuant to NRS 392.457 by the board of trustees of the school district in which the school is located, to promote effective involvement by parents and families of pupils enrolled in the school in the education of their children; and~~

~~——(2) Are designed to improve and promote effective involvement and engagement by parents and families of pupils enrolled in the school which are consistent with the policies and recommendations of the Office of Parental Involvement and Family Engagement made pursuant to NRS 385.635.~~

~~—(g) As appropriate, programs of remedial education or tutoring to be offered before and after school, during the summer, or between sessions if the school operates on a year round calendar for pupils enrolled in the school who need additional instructional time to pass or to reach a level considered proficient.~~

~~—(h) Strategies to improve the academic achievement of pupils enrolled in the school, including, without limitation, strategies to:~~

~~——(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:~~

~~———(I) The curriculum appropriate to improve achievement;~~

~~———(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 390.105 and 390.600 and the college and career readiness assessment administered pursuant to NRS 390.610; and~~

~~———(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in~~

~~each group identified in the statewide system of accountability for public schools;~~

~~—(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;~~

~~—(3) Integrate technology into the instructional and administrative programs of the school;~~

~~—(4) Manage effectively the discipline of pupils; and~~

~~—(5) Enhance the professional development offered for the teachers and administrators employed at the school to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of pupils enrolled in the school, as deemed appropriate by the principal.~~

~~—(i) An identification, by category, of the employees of the school who are responsible for ensuring that the plan is carried out effectively.~~

~~—(j) In consultation with the school district or governing body, as applicable, an identification, by category, of the employees of the school district or governing body, if any, who are responsible for ensuring that the plan is carried out effectively or for overseeing and monitoring whether the plan is carried out effectively.~~

~~—(k) In consultation with the Department, an identification, by category, of the employees of the Department, if any, who are responsible for overseeing and monitoring whether the plan is carried out effectively.~~

~~—(l) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.~~

~~—(m) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.~~

~~—(n) The resources available to the school to carry out the plan. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school shall use the financial analysis program used by the school district in which the school is located in complying with this paragraph.~~

~~—(o) A summary of the effectiveness of appropriations made by the Legislature that are available to the school to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.~~

~~—(p) A budget of the overall cost for carrying out the plan.} :~~

~~(a) Include any information prescribed by regulation of the State Board; and~~

~~(b) Comply with the provisions of 20 U.S.C. § 6311(d).~~

3. The principal of each school shall, in consultation with the employees of the school:

(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; and

(b) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that the plan is designed to improve the academic achievement of pupils enrolled in the school.

4. ~~{On or before December 15 of each year, the principal of each school shall submit the plan or the revised plan, as applicable, to:~~

~~—(a) If the school is a public school of the school district, the superintendent of schools of the school district.~~

~~—(b) If the school is a charter school, the governing body of the charter school.~~

~~—5.} On or before {January 31 of each year,} **the date prescribed by the Department,** the principal of each school shall submit the {final} plan or the {final} revised plan, as applicable, to the:~~

(a) Department;

(b) Committee;

(c) Bureau; and

(d) Board of trustees of the school district in which the school is located or, if the school is a charter school, the sponsor of the charter school and the governing body of the charter school.

~~{6.} A plan for the improvement of a school must be carried out expeditiously, but not later than February 15 after approval of the plan pursuant to subsection 1 or 2 of NRS 385A.660, as applicable.}~~

Sec. 20. NRS 385A.670 is hereby amended to read as follows:

385A.670 1. On or before July 31 of each year, the Department shall determine whether each public school is meeting the ~~{annual measurable objectives}~~ **school achievement targets** and performance targets established pursuant to the statewide system of accountability for public schools.

2. The determination pursuant to subsection 1 for a public school, including, without limitation, a charter school sponsored by the board of trustees of the school district, must be made in consultation with the board of trustees of the school district in which the public school is located. If a charter school is sponsored by the State Public Charter School Authority, the Achievement School District or a college or university within the Nevada System of Higher Education, the Department shall make a determination for the charter school in consultation with the State Public Charter School Authority, the Achievement School District or the institution within the Nevada System of Higher Education that sponsors the charter school, as applicable. The determination made for each school must be based only upon the information and data for those pupils who are enrolled in the school for a full academic year. On or before July 31 of each year, the Department shall transmit:

(a) Except as otherwise provided in paragraph (b), (c) or (d), the determination made for each public school to the board of trustees of the school district in which the public school is located.

(b) To the State Public Charter School Authority the determination made for each charter school that is sponsored by the State Public Charter School Authority.

(c) The determination made for the charter school to the Achievement School District if the charter school is sponsored by the Achievement School District.

(d) The determination made for the charter school to the institution that sponsors the charter school if a charter school is sponsored by a college or university within the Nevada System of Higher Education.

3. If the number of pupils in a particular group who are enrolled in a public school is insufficient to yield statistically reliable information:

(a) The Department shall not determine that the school has failed to meet the performance targets established pursuant to the statewide system of accountability for public schools based solely upon that particular group.

(b) The pupils in such a group must be included in the overall count of pupils enrolled in the school who took the examinations.

➡ The Department shall use the mechanism approved by the United States Department of Education for the statewide system of accountability for public schools for determining the number of pupils that must be in a group for that group to yield statistically reliable information.

4. If an irregularity in testing administration or an irregularity in testing security occurs at a school and the irregularity invalidates the test scores of pupils, those test scores must be included in the scores of pupils reported for the school, the attendance of those pupils must be counted towards the total number of pupils who took the examinations and the pupils must be included in the total number of pupils who were required to take the examinations.

5. As used in this section:

(a) “Irregularity in testing administration” has the meaning ascribed to it in NRS 390.255.

(b) “Irregularity in testing security” has the meaning ascribed to it in NRS 390.260.

Sec. 21. NRS 385A.680 is hereby amended to read as follows:

385A.680 If the Department determines that a public school has failed to meet the ~~annual measurable objectives~~ **school achievement targets** and performance targets established pursuant to the statewide system of accountability for public schools, the Department or its designee shall, to the extent money is available, monitor at the school the administration of the examinations that are required pursuant to NRS 390.105 and ensure that all eligible pupils who are in attendance on the day of the administration of the examinations are given an opportunity to take the examinations.

Sec. 22. NRS 385A.730 is hereby amended to read as follows:

385A.730 1. The State Board shall adopt regulations that prescribe an alternative performance framework to evaluate public schools that are approved pursuant to NRS 385A.740. Such regulations must include, without limitation, an alternative manner in which to evaluate such a school and the

manner in which the school will be included within the statewide system of accountability set forth in this chapter.

2. The regulations adopted pursuant to subsection 1 must also set forth the manner in which:

(a) The progress of pupils enrolled in a public school for which an alternative performance framework has been approved pursuant to NRS 385A.740 will be accounted for within the statewide system of accountability; and

(b) To report the results of pupils enrolled in such a public school on the examinations administered pursuant to NRS 390.105 and, if applicable for the grade levels of the pupils enrolled, the ~~examinations administered pursuant to NRS 390.600 and the~~ college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610.

Sec. 23. NRS 387.121 is hereby amended to read as follows:

387.121 1. The Legislature declares that the proper objective of state financial aid to public education is to ensure each Nevada child a reasonably equal educational opportunity. Recognizing wide local variations in wealth and costs per pupil, this State should supplement local financial ability to whatever extent necessary in each school district to provide programs of instruction in both compulsory and elective subjects that offer full opportunity for every Nevada child to receive the benefit of the purposes for which public schools are maintained. Therefore, the quintessence of the State's financial obligation for such programs can be expressed in a formula partially on a per pupil basis and partially on a per program basis as: State financial aid to school districts equals the difference between school district basic support guarantee and local available funds produced by mandatory taxes minus all the local funds attributable to pupils who reside in the county but attend a charter school or a university school for profoundly gifted pupils. This formula is designated the Nevada Plan.

2. It is the intent of the Legislature, commencing with Fiscal Year 2016-2017, to provide additional resources to the Nevada Plan expressed as a multiplier of the basic support guarantee to meet the unique needs of certain categories of pupils, including, without limitation, pupils with disabilities, pupils who are ~~limited~~ English ~~proficient~~, **learners**, pupils who are at risk and gifted and talented pupils. As used in this subsection, "pupils who are at risk" means pupils who are eligible for free or reduced-price lunch pursuant to 42 U.S.C. §§ 1751 et seq., or an alternative measure prescribed by the State Board of Education.

Sec. 23.5. NRS 387.123 is hereby amended to read as follows:

387.123 1. The count of pupils for apportionment purposes includes all pupils who are enrolled in programs of instruction of the school district, including, without limitation, a program of distance education provided by the school district, pupils who reside in the county in which the school district is located and are enrolled in any charter school, including, without limitation, a program of distance education provided by a charter school, and

pupils who are enrolled in a university school for profoundly gifted pupils located in the county, for:

- (a) Pupils in the kindergarten department.
- (b) Pupils in grades 1 to 12, inclusive.
- (c) Pupils not included under paragraph (a) or (b) who are receiving special education pursuant to the provisions of NRS 388.417 to 388.469, inclusive, and 388.5251 to 388.5267, inclusive.
- (d) Pupils who reside in the county and are enrolled part-time in a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.
- (e) Children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570.
- (f) Pupils who are enrolled in classes pursuant to subsection 1 of NRS 388A.471, pupils who are enrolled in classes pursuant to subsection 1 of NRS 388A.474 and pupils who are enrolled in classes pursuant to subsection 1 of NRS 388B.280 or any regulations adopted pursuant to NRS 388B.060 that authorize a child who is enrolled at a public school of a school district or a private school or a homeschooled child to participate in a class at an achievement charter school.
- (g) Pupils who are enrolled in classes pursuant to subsection 1 of NRS 392.074.
- (h) Pupils who are enrolled in classes and taking courses necessary to receive a high school diploma, excluding those pupils who are included in paragraphs (d), (f) and (g).

2. The State Board shall establish uniform regulations for counting enrollment and calculating the average daily attendance of pupils. ~~Not~~ **Except as otherwise provided in this subsection, in** establishing such regulations for the public schools, the State Board:

(a) Shall divide the school year into 10 school months, each containing 20 or fewer school days, or its equivalent for those public schools operating under an alternative schedule authorized pursuant to NRS 388.090.

(b) May divide the pupils in grades 1 to 12, inclusive, into categories composed respectively of those enrolled in elementary schools and those enrolled in secondary schools.

(c) Shall prohibit the counting of any pupil specified in subsection 1 more than once.

(d) Except as otherwise provided in this paragraph, shall prohibit the counting of a pupil enrolled in grade 12 as a full-time pupil if the pupil is not prepared for college and career success, as defined by the Department. Such a pupil may be counted as a full-time pupil if he or she is enrolled in a minimum of six courses or the equivalent of six periods per day or the superintendent of the school district has approved enrollment in fewer courses for good cause.

Sec. 24. NRS 388.157 is hereby amended to read as follows:

388.157 1. The board of trustees of each school district and the governing body of each charter school shall prepare a plan to improve the literacy of pupils enrolled in kindergarten and grades 1, 2 and 3. Such a plan must include, without limitation:

(a) A program to provide intensive instruction to pupils who have been identified as deficient in the subject area of reading to ensure that those pupils achieve adequate proficiency in that subject area. Such a program must include, without limitation, regularly scheduled reading sessions in small groups and specific instruction on phonological and phonemic awareness, decoding skills and reading fluency;

(b) Procedures for assessing a pupil's proficiency in the subject area of reading using valid and reliable assessments that have been approved by the State Board by regulation:

(1) Within the first 30 days of school after the pupil enters kindergarten or upon enrollment in kindergarten if the pupil enrolls after that period; and

(2) During grades 1, 2 and 3;

(c) A program to improve the proficiency in reading of pupils who are ~~limited English proficient~~ **learners**; and

(d) Procedures for facilitating collaboration between learning strategists and classroom teachers.

2. The board of trustees of each school district or the governing body of a charter school, as applicable, shall:

(a) Submit its plan to the Department for approval on or before the date prescribed by the Department on a form prescribed by the Department; and

(b) Make such revisions to the plan as the Department determines are necessary.

Sec. 25. NRS 388.283 is hereby amended to read as follows:

388.283 1. "School service" means an Internet website, online service or mobile application that:

(a) Collects or maintains personally identifiable information concerning a pupil;

(b) Is used primarily for educational purposes; 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:

(a) 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;

(b) An internal database, system or program maintained or operated by a school district, charter school or university school for profoundly gifted pupils;

(c) A school service for which a school service provider has:

(1) Been designated by a school district, the sponsor of a charter school, the governing body of a university school for profoundly gifted pupils or the

Department as a school official pursuant to the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g;

(2) Entered into a contract with the school district, the sponsor of a charter school, the governing body of a university school for profoundly gifted pupils or the Department; and

(3) Agreed to comply with and be subject to the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, relating to personally identifiable information;

(d) Any examinations administered pursuant to NRS 390.105 ~~and 390.600~~ or the ~~for~~ college and career readiness assessment administered pursuant to NRS 390.610; or

(e) Any instructional programs purchased by a school district, a charter school, the governing body of a university school for profoundly gifted pupils or the Department.

Sec. 26. NRS 388.405 is hereby amended to read as follows:

388.405 1. The Legislature finds and declares that:

(a) It is the public policy of this State to provide every child enrolled in a public school with high-quality instruction.

(b) Children who are ~~limited~~ English ~~proficient~~ **learners** benefit from instruction that is designed to address the academic and linguistic needs of those children.

(c) It is the intent of the Legislature that children who are ~~limited~~ English ~~proficient~~ **learners** be provided with services and instruction which is designed to address the academic needs of such children so that those children attain proficiency in the English language and improve their overall academic and linguistic achievement and proficiency.

2. The State Board shall:

(a) Adopt regulations prescribing criteria for a policy for the instruction to teach English to pupils who are ~~limited~~ English ~~proficient~~ **learners** which is developed by the board of trustees of each school district pursuant to NRS 388.407. The Superintendent of Public Instruction shall monitor each school district's compliance with the criteria prescribed by the State Board pursuant to this paragraph.

(b) Submit all evaluations required pursuant to 20 U.S.C. §§ 6801 et seq. and the regulations adopted pursuant thereto regarding the programs for pupils who are ~~limited~~ English ~~proficient~~ **learners** carried out pursuant to that provision of federal law to the:

(1) Governor;

(2) Legislative Committee on Education;

(3) Director of the Legislative Counsel Bureau for transmittal to the Senate and Assembly Standing Committees on Education; and

(4) Board of trustees of each school district.

Sec. 27. NRS 388.407 is hereby amended to read as follows:

388.407 1. The board of trustees of each school district shall develop a policy for the instruction to teach English to pupils who are ~~limited~~ English

~~proficient~~ **learners**. The policy must be designed to provide pupils enrolled in each public school located in the school district who are ~~limited~~ English ~~proficient~~ **learners** with instruction that enables those pupils to attain proficiency in the English language and improve their overall academic achievement and proficiency.

2. The policy developed pursuant to subsection 1 must:

(a) Provide for the identification of pupils who are ~~limited~~ English ~~proficient~~ **learners** through the use of an appropriate assessment;

(b) Provide for the periodic reassessment of each pupil who is classified as ~~limited~~ **an** English ~~proficient~~ **learner**;

(c) Be designed to eliminate any gaps in achievement, including, without limitation, in the core academic subjects and in high school graduation rates, between those pupils who are ~~limited~~ English ~~proficient~~ **learners** and pupils who are proficient in English;

(d) Provide opportunities for the parents or legal guardians of pupils who are ~~limited~~ English ~~proficient~~ **learners** to participate in the program; and

(e) Provide the parents and legal guardians of pupils who are ~~limited~~ English ~~proficient~~ **learners** with information regarding other programs that are designed to improve the language acquisition and academic achievement and proficiency of pupils who are ~~limited~~ English ~~proficient~~ **learners** and assist those parents and legal guardians in enrolling those pupils in such programs.

Sec. 28. NRS 388.409 is hereby amended to read as follows:

388.409 1. The English Mastery Council is hereby created. The English Mastery Council consists of the following 16 members:

(a) The Superintendent of Public Instruction, or his or her designee, who serves as an ex officio member of the English Mastery Council.

(b) Two members who have knowledge and expertise in language acquisition and who represent the Nevada System of Higher Education, appointed by the Chancellor of the Nevada System of Higher Education.

(c) Two members who are teachers at public schools in this State, hold a master's degree to teach English as a second language and have knowledge and expertise in providing instruction to pupils who are ~~limited~~ English ~~proficient~~ **learners**, appointed by the Governor from a list of nominees submitted by the Nevada State Education Association, or its successor organization. The Governor shall ensure that the members appointed pursuant to this paragraph represent the geographic and ethnic diversity of this State.

(d) Two members who are parents or legal guardians of pupils who are ~~limited~~ English ~~proficient~~ **learners**, one of whom is appointed by the Governor from a list of nominees submitted by the Speaker of the Assembly and one of whom is appointed by the Governor from a list of nominees submitted by the Majority Leader of the Senate. The Governor shall ensure that the members appointed pursuant to this paragraph represent the geographic and ethnic diversity of this State. The Nevada Parent Teacher

Association shall submit a list of names of persons that the Association would recommend for inclusion on the list of nominees submitted by the Speaker of the Assembly and the Majority Leader of the Senate.

(e) Two members who are school-level administrators, one of whom is employed by a school district in a county whose population is 100,000 or more and one of whom is employed by a school district in a county whose population is less than 100,000, appointed by the Governor from a list of nominees submitted by the Nevada Association of School Administrators.

(f) Two members who are school-district-level administrators, one of whom is employed by a school district in a county whose population is 100,000 or more and one of whom is employed by a school district in a county whose population is less than 100,000, appointed by the Governor from a list of nominees submitted by the Nevada Association of School Administrators.

(g) One member who is a member of a board of trustees of a school district, appointed by the Governor from a list of nominees submitted by the Nevada Association of School Boards.

(h) Two members who are representatives of the general public, private business and industry in this State or nonprofit organizations and who have been leaders in education reform related to pupils who are ~~limited~~ English ~~proficient,~~ **learners**, appointed by the Governor.

(i) Two members with expertise in the development of public policy relating to the education of pupils who are ~~limited~~ English ~~proficient,~~ **learners**, appointed by the Superintendent of Public Instruction upon the advice and recommendation of persons who have knowledge and expertise in providing instruction to pupils who are ~~limited~~ English ~~proficient,~~ **learners**.

2. Each appointed member of the English Mastery Council serves a term of 2 years and may be reappointed to additional terms.

3. A vacancy on the English Mastery Council must be filled in the same manner as the original appointment.

4. The English Mastery Council shall, at its first meeting and annually thereafter, elect a Chair from among its members.

5. The English Mastery Council shall meet at least quarterly and may meet at other times upon the call of the Chair.

6. Members of the English Mastery Council serve without compensation, except that for each day or portion of a day during which a member of the Council attends a meeting of the Council or is otherwise engaged in the business of the Council, the member is entitled to receive the per diem allowances and travel expenses provided for state officers and employees generally.

7. A member of the English Mastery Council who is a public employee must be granted administrative leave from the member's duties to engage in the business of the Council without loss of his or her regular compensation. Such leave does not reduce the amount of the member's other accrued leave.

8. The English Mastery Council may apply for and accept gifts, grants, donations and contributions from any source for the purpose of carrying out its duties pursuant to NRS 388.411.

9. The Department shall provide administrative support to the English Mastery Council.

Sec. 29. NRS 388.411 is hereby amended to read as follows:

388.411 The English Mastery Council created by NRS 388.409 shall:

1. Make recommendations to the State Board for the adoption of regulations concerning criteria for the policies to teach English to pupils who are ~~limited~~ English ~~proficient~~ **learners** that are developed by the board of trustees of each school district pursuant to NRS 388.407.

2. Review annually each policy to teach English to pupils who are ~~limited~~ English ~~proficient~~ **learners** that is developed by the board of trustees of each school district pursuant to NRS 388.407 and make recommendations for improvement to the State Board and the applicable board of trustees.

3. Make recommendations to the Superintendent of Public Instruction, the Commission on Professional Standards in Education and the State Board for:

(a) The adoption of regulations pursuant to NRS 391.019 concerning the requirements for an endorsement to teach English as a second language, including, without limitation, the teachers who should be required to obtain the endorsement; and

(b) After the adoption of the regulations pursuant to paragraph (a), any revisions to those regulations as deemed necessary by the Council.

4. Develop standards and criteria for a curriculum for pupils who are ~~limited~~ English ~~proficient~~ **learners** and submit those standards and criteria to the State Board for consideration.

5. Review any course of study offered by the Nevada System of Higher Education for training to teach English as a second language to determine if the course of study, including, without limitation, student teaching, is sufficiently rigorous to provide teachers with the tools necessary to improve the English proficiency and academic achievement and proficiency of pupils who are ~~limited~~ English ~~proficient~~ **learners**.

6. Make recommendations to the Board of Regents of the University of Nevada for the improvement of any course of study described in subsection 5 and submit a copy of those recommendations to the Governor and the State Board.

Sec. 29.5. NRS 388.593 is hereby amended to read as follows:

388.593 A school district, charter school and university school for profoundly gifted pupils that participates in the State Seal of Biliteracy Program established pursuant to NRS 388.591 must award a pupil, upon graduation from high school, a high school diploma with a State Seal of Biliteracy if the pupil:

1. Successfully completes all courses of study in English language arts that are required for graduation with at least a 2.0 grade point average, on a 4.0 grading scale;

2. ~~Passes the end-of-course examinations in English language arts required pursuant to NRS 390.600;~~

~~3.~~ 3. Demonstrates proficiency in one or more languages other than English:

(a) By passing an advanced placement examination in a world language with a score of 3 or higher or passing an international baccalaureate examination in a world language with a score of 4 or higher; or

(b) By passing an examination in a world language, if the examination is approved by the board of trustees of a school district or the governing body of a charter school or university school for profoundly gifted pupils, as applicable; and

~~4.~~ 3. If the primary language of the pupil is not English, demonstrates proficiency in English on an assessment designated by the Department.

Sec. 30. NRS 388.874 is hereby amended to read as follows:

388.874 1. The State Board shall adopt regulations that prescribe:

(a) The process for submission of an application by a person or entity for inclusion of a course of distance education on the list prepared by the Department pursuant to NRS 388.834 and the contents of the application;

(b) The process for submission of an application by the board of trustees of a school district, the governing body of a charter school or a committee to form a charter school to provide a program of distance education and the contents of the application;

(c) The qualifications and conditions for enrollment that a pupil must satisfy to enroll in a program of distance education, consistent with NRS 388.850 and any other applicable statute;

(d) A method for reporting to the Department the number of pupils who are enrolled in a program of distance education and the attendance of those pupils;

(e) The requirements for assessing the achievement of pupils who are enrolled in a program of distance education, which must include, without limitation, the administration of the examinations required pursuant to NRS 390.105 and, if applicable for the grade levels of the pupils enrolled, the ~~administration of the examinations pursuant to NRS 390.600 and the~~ college and career readiness assessment ~~assessments~~ pursuant to NRS 390.610; and

(f) A written description of the process pursuant to which the State Board may revoke its approval for the operation of a program of distance education.

2. The State Board may adopt regulations as it determines are necessary to carry out the provisions of NRS 388.820 to 388.874, inclusive.

Sec. 31. NRS 388A.045 is hereby amended to read as follows:

388A.045 A pupil is “at risk” if the pupil has an economic or academic disadvantage such that he or she requires special services and assistance to

enable him or her to succeed in educational programs. The term includes, without limitation, pupils who are members of economically disadvantaged families, pupils who are ~~limited~~ English ~~proficient,~~ **learners**, pupils who are at risk of dropping out of high school and pupils who do not meet minimum standards of academic proficiency. The term does not include a pupil with a disability.

Sec. 32. NRS 388A.159 is hereby amended to read as follows:

388A.159 1. The State Public Charter School Authority is hereby deemed a local educational agency for the purpose of directing the proportionate share of any money available from federal and state categorical grant programs to charter schools which are sponsored by the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that are eligible to receive such money. A college or university within the Nevada System of Higher Education that sponsors a charter school shall enter into an agreement with the State Public Charter School Authority for the provision of any necessary functions of a local educational authority. A charter school that receives money pursuant to such a grant program shall comply with any applicable reporting requirements to receive the grant.

2. As used in this section, “local educational agency” has the meaning ascribed to it in 20 U.S.C. § ~~7801(26)(A).~~ **7801(30)(A).**

Sec. 33. NRS 388A.168 is hereby amended to read as follows:

388A.168 The State Public Charter School Authority shall adopt regulations that prescribe:

1. The process for submission to the State Public Charter School Authority of an application to form a charter school, and the contents of such an application;

2. The process for submission to the State Public Charter School Authority of an application to renew a charter contract, and the contents of such an application;

3. The process for submission to the State Public Charter School Authority of an amendment to a written charter or charter contract pursuant to NRS 388A.276 and the contents of the application; ~~and~~

4. The procedure for the investigation that the State Public Charter School Authority will conduct of an application to form a charter school, an application to renew a charter contract or an application to request an amendment of a written charter or charter contract, and the criteria that the State Public Charter School Authority will use to evaluate such applications ~~to~~;

5. *The process for evaluating the overall performance of a teacher, which must include, without limitation, the criteria for determining whether the overall performance of a teacher is ineffective, minimally effective, effective or highly effective; and*

6. *The qualifications for employment as a paraprofessional by a charter school.*

Sec. 34. NRS 388A.366 is hereby amended to read as follows:

388A.366 1. A charter school shall:

(a) Comply with all laws and regulations relating to discrimination and civil rights.

(b) Remain nonsectarian, including, without limitation, in its educational programs, policies for admission and employment practices.

(c) Refrain from charging tuition or fees, except for tuition or fees that the board of trustees of a school district is authorized to charge, levying taxes or issuing bonds.

(d) Comply with any plan for desegregation ordered by a court that is in effect in the school district in which the charter school is located.

(e) Comply with the provisions of chapter 241 of NRS.

(f) Except as otherwise provided in this paragraph, schedule and provide annually at least as many days of instruction as are required of other public schools located in the same school district as the charter school is located. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction for a waiver from providing the days of instruction required by this paragraph. The Superintendent of Public Instruction may grant such a request if the governing body demonstrates to the satisfaction of the Superintendent that:

(1) Extenuating circumstances exist to justify the waiver; and

(2) The charter school will provide at least as many hours or minutes of instruction as would be provided under a program consisting of 180 days.

(g) Cooperate with the board of trustees of the school district in the administration of the examinations administered pursuant to NRS 390.105 and, if the charter school enrolls pupils at a high school grade level, the ~~end-of course examinations administered pursuant to NRS 390.600 and the~~ college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610 to the pupils who are enrolled in the charter school.

(h) Comply with applicable statutes and regulations governing the achievement and proficiency of pupils in this State.

(i) Provide instruction in the core academic subjects set forth in subsection 1 of NRS 389.018, as applicable for the grade levels of pupils who are enrolled in the charter school, and provide at least the courses of study that are required of pupils by statute or regulation for promotion to the next grade or graduation from a public high school and require the pupils who are enrolled in the charter school to take those courses of study. This paragraph does not preclude a charter school from offering, or requiring the pupils who are enrolled in the charter school to take, other courses of study that are required by statute or regulation.

(j) If the parent or legal guardian of a child submits an application to enroll in kindergarten, first grade or second grade at the charter school, comply with NRS 392.040 regarding the ages for enrollment in those grades.

(k) Refrain from using public money to purchase real property or buildings without the approval of the sponsor.

(l) Hold harmless, indemnify and defend the sponsor of the charter school against any claim or liability arising from an act or omission by the governing body of the charter school or an employee or officer of the charter school. An action at law may not be maintained against the sponsor of a charter school for any cause of action for which the charter school has obtained liability insurance.

(m) Provide written notice to the parents or legal guardians of pupils in grades 9 to 12, inclusive, who are enrolled in the charter school of whether the charter school is accredited by the Northwest Accreditation Commission.

(n) Adopt a final budget in accordance with the regulations adopted by the Department. A charter school is not required to adopt a final budget pursuant to NRS 354.598 or otherwise comply with the provisions of chapter 354 of NRS.

(o) If the charter school provides a program of distance education pursuant to NRS 388.820 to 388.874, inclusive, comply with all statutes and regulations that are applicable to a program of distance education for purposes of the operation of the program.

2. A charter school shall not provide instruction through a program of distance education to children who are exempt from compulsory attendance pursuant to NRS 392.070. As used in this subsection, "distance education" has the meaning ascribed to it in NRS 388.826.

Sec. 35. NRS 388A.405 is hereby amended to read as follows:

388A.405 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required by the Department pursuant to NRS 388A.105 or 388A.110 contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded the ~~annual-measurable objectives~~ **school achievement targets** and performance targets established pursuant to the statewide system of accountability for public schools or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by those ~~annual-measurable objectives~~ **school achievement targets** and performance targets, for the majority of the years of its operation; and

(d) At least 75 percent of the pupils enrolled in grade 12 in the charter school in the immediately preceding school year have satisfied the criteria prescribed by the State Board pursuant to NRS 390.600, if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the Department one time every 3 years. The sponsor of the charter school and the Department shall not

request a performance audit of the charter school more frequently than every 3 years without reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school based upon the annual report submitted to the Department pursuant to NRS 388A.351. If the charter school no longer satisfies the requirements of subsection 1 or if reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school exists based upon the annual report, the charter school shall, upon written notice from the sponsor, submit to an annual performance audit. Notwithstanding the provisions of paragraph (b) of subsection 1, such a charter school:

(a) May, after undergoing the annual performance audit, reapply to the sponsor to determine whether the charter school satisfies the requirements of paragraphs (a), (c) and (d) of subsection 1.

(b) Is not eligible for any available money pursuant to subsection 1 until the sponsor determines that the charter school satisfies the requirements of that subsection.

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

Sec. 36. NRS 388A.518 is hereby amended to read as follows:

388A.518 1. Except as otherwise provided in this subsection, at least 70 percent of the teachers who provide instruction at a charter school must ~~be highly qualified.~~ **demonstrate experience and qualifications through licensure or subject matter expertise.** If a charter school is a vocational school, the charter school shall, to the extent practicable, ensure that at least 70 percent of the teachers who provide instruction at the school ~~are highly qualified.~~ **demonstrate experience and qualifications through licensure or subject matter expertise,** but in no event may less than 50 percent of the teachers who provide instruction at the school ~~be highly qualified.~~ **demonstrate experience and qualifications through licensure or subject matter expertise.**

2. If a charter school specializes in:

(a) Arts and humanities, physical education or health education, a teacher must ~~be highly qualified.~~ **demonstrate experience and qualifications through licensure or subject matter expertise** to teach those courses of study.

(b) The construction industry or other building industry, teachers must ~~be highly qualified.~~ **demonstrate experience and qualifications through licensure or subject matter expertise** to teach courses of study relating to the industry if those teachers are employed full-time.

(c) The construction industry or other building industry and the school offers courses of study in computer education, technology or business, teachers must ~~be highly qualified.~~ **demonstrate experience and qualifications through licensure or subject matter expertise** to teach those courses of study if those teachers are employed full-time.

3. ~~[A person who is initially hired by the governing body of a charter school on or after January 8, 2002, to teach in a program supported with money from Title I must be highly qualified. For the purposes of this subsection, a person is not "initially hired" if the person has been employed as a teacher by another school district or charter school in this State without an interruption in employment before the date of hire by his or her current employer.]~~

~~4.]~~ A teacher who is employed by a charter school, regardless of the date of hire, must ~~be on or before July 1, 2006, be highly qualified]~~ **demonstrate experience and qualifications through licensure or subject matter expertise** if the teacher teaches one or more of the following subjects:

- (a) English language arts;
- (b) Mathematics;
- (c) Science;
- (d) A foreign or world language;
- (e) Civics or government;
- (f) Economics;
- (g) Geography;
- (h) History; or
- (i) The arts.

~~5.]~~ **4.** Except as otherwise provided in NRS 388A.515, a charter school may employ a person who ~~is not highly qualified]~~ **does not demonstrate experience and qualifications through licensure or subject matter expertise** to teach a course of study for which a teacher is not required to ~~be highly qualified]~~ **demonstrate such experience and qualifications** if the person has:

- (a) A degree, a license or a certificate in the field for which the person is employed to teach at the charter school; and
- (b) At least 2 years of experience in that field.

~~6.]~~ **5.** A teacher who is employed by a charter school to teach special education or English as a second language must be licensed to teach special education or English as a second language, as applicable.

~~7.]~~ **6.** For purposes of this section, a teacher ~~is highly qualified]~~ **demonstrates experience and qualifications through licensure or subject matter expertise:**

(a) If **the teacher is** employed by a charter school that has not received, within the immediately preceding 2 consecutive school years, one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools, or equivalent ratings in another state, as determined by the Department, ~~and the :~~ **teacher:**

(1) ~~[Meets the qualifications prescribed in 20 U.S.C. § 7801(23)(B) or (C), as applicable.]~~ **Overall performance of the teacher has been [determined to be] reported as effective or highly effective, in accordance with the regulations adopted by the State Public Charter School Authority;** and

(2) ~~He]~~ **Teacher is** licensed to teach pursuant to chapter 391 of NRS.

(b) If ***the teacher is*** employed by a charter school that has received, within the immediately preceding 2 consecutive school years, one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools, or equivalent ratings in another state, as determined by the Department, ~~if and the teacher meets the qualifications prescribed in 20 U.S.C. § 7801(23)(B) or (C), as applicable,~~ ***overall performance of the teacher has been determined to be reported as effective or highly effective, in accordance with the regulations adopted by the State Public Charter School Authority,*** regardless of whether the teacher is licensed to teach pursuant to chapter 391 of NRS.

~~18.1.7.~~ If a charter school that has received within the immediately preceding 2 consecutive school years, one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools, or equivalent ratings in another state, as determined by the Department, intends to employ persons to teach who are not licensed, the charter school shall within 3 years:

(a) Obtain approval for and offer an alternative route to licensure pursuant to NRS 391.019; or

(b) Enter into an agreement with a qualified provider of an alternative route to licensure to provide the required education and training to unlicensed teachers who are employed by the school to teach such a course of study.

Sec. 37. NRS 388A.527 is hereby amended to read as follows:

388A.527 1. ~~[A person who is initially hired as a paraprofessional by a charter school after January 8, 2002, to work in a program supported with Title I money must possess the qualifications required by 20 U.S.C. § 6319(c).~~

~~2.] A person who is employed as a paraprofessional by a charter school [regardless of the date of hire,~~ to work in a program supported with Title I money must possess ~~[, on or before January 8, 2006,~~ the qualifications ~~[required by 20 U.S.C. § 6319(c).~~

~~3. For the purposes of this section, a person is not “initially hired” if the person has been employed as a paraprofessional by another school district, achievement charter school or charter school in this State without an interruption in employment before the date of hire by his or her current employer.~~

~~4.] prescribed by the State Public Charter School Authority.~~

2. As used in this section, “paraprofessional” has the meaning ascribed to it in NRS 391.008.

Sec. 38. NRS 388B.240 is hereby amended to read as follows:

388B.240 1. Each achievement charter school is hereby deemed a local educational agency for the purpose of receiving any money available from federal and state categorical grant programs. An achievement charter school that receives money pursuant to such a grant program shall comply with any applicable reporting requirements to receive the grant.

2. If an achievement charter school is eligible to receive special education program units, the Department must pay the special education program units directly to the achievement charter school.

3. As used in this section, "local educational agency" has the meaning ascribed to it in 20 U.S.C. § ~~17801(26)(A)~~ **7801(30)(A)**.

Sec. 39. NRS 388B.270 is hereby amended to read as follows:

388B.270 1. To the extent money is available from legislative appropriation or otherwise, an achievement charter school may apply to the Department for money for facilities if:

(a) The achievement charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) The Executive Director has determined that the finances of the achievement charter school are being managed in a prudent manner;

(c) The achievement charter school has met or exceeded the ~~annual measurable objectives~~ **school achievement targets** and performance targets established pursuant to the statewide system of accountability for public schools or has demonstrated improvement in the achievement of pupils enrolled in the achievement charter school, as indicated by those ~~annual measurable objectives~~ **school achievement targets** and performance targets, for the majority of the years of its operation;

(d) At least 75 percent of the pupils enrolled in grade 12 in the achievement charter school in the immediately preceding school year have satisfied the criteria prescribed by the State Board pursuant to NRS 390.600, if the achievement charter school enrolls pupils at a high school grade level; and

(e) The achievement charter school meets the requirements prescribed by regulation of the Department.

2. An achievement charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the achievement charter school if requested by the Executive Director.

Sec. 40. NRS 388G.120 is hereby amended to read as follows:

388G.120 1. Each empowerment plan for a school must:

(a) Set forth the manner by which the school will be governed;

(b) Set forth the proposed budget for the school, including, without limitation, the cost of carrying out the empowerment plan, and the manner by which the money apportioned to the school will be administered;

(c) Prescribe the academic plan for the school, including, without limitation, the manner by which courses of study will be provided to the pupils enrolled in the school and any special programs that will be offered for pupils;

(d) Prescribe the manner by which the achievement of pupils will be measured and reported for the school, including, without limitation, the results of the pupils on the examinations administered pursuant to NRS 390.105 and, if applicable for the grade levels of the empowerment school, the ~~end-of-course examinations administered pursuant to NRS 390.600 and~~

~~the~~ college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610;

(e) Prescribe the manner by which teachers and other licensed educational personnel will be selected and hired for the school, which must be determined and negotiated pursuant to chapter 288 of NRS;

(f) Prescribe the manner by which all other staff for the school will be selected and hired, which must be determined and negotiated pursuant to chapter 288 of NRS;

(g) Indicate whether the empowerment plan will offer an incentive pay structure for staff and a description of that pay structure, if applicable;

(h) Indicate the intended ratio of pupils to teachers at the school, designated by grade level, which must comply with NRS 388.700 or 388.720, as applicable;

(i) Provide a description of the professional development that will be offered to the teachers and other licensed educational personnel employed at the school;

(j) Prescribe the manner by which the empowerment plan will increase the involvement of parents and legal guardians of pupils enrolled in the school;

(k) Comply with the plan to improve the achievement of the pupils enrolled in the school prepared pursuant to NRS 385A.650;

(l) Address the specific educational needs and concerns of the pupils who are enrolled in the school; and

(m) Set forth the calendar and schedule for the school.

2. If the empowerment plan includes an incentive pay structure, that pay structure must:

(a) Provide an incentive for all staff employed at the school;

(b) Set forth the standards that must be achieved by the pupils enrolled in the school and any other measurable objectives that must be met to be eligible for incentive pay; and

(c) Be in addition to the salary or hourly rate of pay negotiated pursuant to chapter 288 of NRS that is otherwise payable to the employee.

3. An empowerment plan may:

(a) Request a waiver from a statute contained in this title or a regulation of the State Board or the Department.

(b) Identify the services of the school district which the school wishes to receive, including, without limitation, professional development, transportation, food services and discretionary services. Upon approval of the empowerment plan, the school district may deduct from the total apportionment to the empowerment school the costs of such services.

4. For purposes of determining the budget pursuant to paragraph (b) of subsection 1, if a public school which converts to an empowerment school is a:

(a) Charter school, the amount of the budget is the amount equal to the apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.1245, inclusive, and its proportionate share

of any other money available from federal, state or local sources that the school or the pupils enrolled in the school are eligible to receive.

(b) Public school, other than a charter school, the empowerment team for the school shall have discretion of 90 percent of the amount of money from the state financial aid and local funds that the school district apportions for the school, without regard to any line-item specifications or specific uses determined advisable by the school district, unless the empowerment team determines that a lesser amount is necessary to carry out the empowerment plan.

Sec. 41. NRS 388G.210 is hereby amended to read as follows:

388G.210 1. Except as otherwise provided pursuant to a waiver granted in accordance with NRS 388G.130 or 388G.140, each empowerment school, each person employed by an empowerment school and each pupil enrolled in an empowerment school shall comply with the applicable requirements of state law, including, without limitation, the standards of content and performance prescribed pursuant to NRS 389.520 and the examinations that are administered pursuant to NRS 390.105 ~~and 390.600~~ and the college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610.

2. Each empowerment school may accept gifts, grants and donations from any source for the support of its empowerment plan. A person who gives a gift, grant or donation may designate all or part of the gift, grant or donation specifically to carry out the incentive pay structure of the school, if applicable.

Sec. 41.2. Chapter 390 of NRS is hereby amended by adding thereto the provisions set forth as sections 41.3, 41.5 and 41.7 of this act.

Sec. 41.3. 1. The State Board shall adopt regulations that prescribe the:

(a) Courses of study for which an end-of-course final must be administered; and

(b) Amount, expressed as a percentage of the pupil's overall grade in the course of study or other weight, that the end-of-course final must comprise when determining the overall grade of a pupil in the course for which the end-of-course final is administered.

2. The State Board may adopt regulations that prescribe the minimum score a pupil must attain on an end-of-course final to receive credit for the course of study for which the end-of-course examination is administered.

Sec. 41.5. 1. A pupil who satisfies the criteria established by the State Board by regulation may graduate with a pathway high school diploma. A pathway high school diploma confers all the same rights, privileges and benefits as a standard high school diploma.

2. The State Board shall adopt regulations that prescribe the criteria for a pupil to receive a pathway high school diploma, which must include, without limitation, a requirement that the pupil:

(a) Satisfy the criteria for receipt of a standard high school diploma prescribed by the State Board pursuant to NRS 390.600 and any other criteria established by law; and

(b) Obtain an endorsement described in subsection 3.

3. The State Board shall adopt regulations prescribing the criteria for a pupil to obtain:

(a) A college-ready endorsement that reflects that the pupil has completed certain coursework or obtained experience that makes the pupil qualified for and prepared to succeed in college without the need for remediation.

(b) A career-ready endorsement that reflects that the pupil has completed certain coursework or obtained certain experience that makes the pupil qualified for and prepared to succeed in postsecondary job training or education in high-demand occupations.

4. The regulations adopted pursuant to subsection 3 must include, without limitation:

(a) The number of credits and courses of study that must be completed for each endorsement prescribed pursuant to subsection 3.

(b) Any assessment a pupil must pass for each endorsement prescribed pursuant to subsection 3.

(c) Any credential, certificate or certification a pupil must obtain for each endorsement prescribed pursuant to subsection 3.

5. Any assessment, credential, certificate or certification required for an endorsement must:

(a) Be established so that it is recognized and valued by industries and postsecondary educational institutions; and

(b) Require demonstration of a mastery of tasks aligned to the demands of industries and postsecondary educational institutions.

6. The State Board shall annually review and, if necessary, revise the regulations adopted pursuant to subsection 4.

7. To the extent that money is available for this purpose, the State Board shall adopt regulations to provide:

(a) Incentive grants to be awarded to public high schools for each pupil at the school who earns a pathway high school diploma.

(b) Reimbursement to a public high school or school district for any costs associated with the administration or provision of an assessment, credential, certificate or certification required for receipt of a pathway high school diploma.

Sec. 41.7. To the extent money is available, the Department shall conduct a public awareness campaign to inform pupils enrolled in public schools, the parents or guardian of pupils enrolled in public schools, persons involved in business and industry in this State and members of the general public of:

1. The types of diplomas a pupil may receive upon graduation from high school and the types of endorsements a pupil may receive on a diploma, if applicable; and

2. The criteria to earn each type of diploma and endorsement.

Sec. 42. NRS 390.015 is hereby amended to read as follows:

390.015 The board of trustees of each school district shall maintain on its Internet website, and shall post in a timely manner, all pertinent information concerning the examinations and assessments available to children who reside in the school district, including, without limitation, the dates and times of, and contact information concerning, such examinations and assessments. The examinations and assessments posted must include, without limitation:

1. The college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610.

2. ~~The examinations required pursuant to NRS 390.600.~~

~~3.~~ All other college entrance examinations offered in this State, including, without limitation, the Scholastic Aptitude Test, the American College Test, the Preliminary Scholastic Aptitude Test and the National Merit Scholarship Qualifying Test.

Sec. 43. NRS 390.105 is hereby amended to read as follows:

390.105 1. The State Board shall, in consultation with the Council to Establish Academic Standards for Public Schools, prescribe examinations that comply with 20 U.S.C. § ~~6311(b)(3)~~ **6311(b)(2)** and that measure the achievement and proficiency of pupils:

(a) For grades 3, 4, 5, 6, 7 and 8 in the standards of content established by the Council for the subjects of English language arts and mathematics.

(b) For grades 5 and 8, in the standards of content established by the Council for the subject of science.

(c) For grades 9, 10, 11 and 12, in the standards of content established by the Council for the subjects required to comply with 20 U.S.C. § ~~6311(b)(3)~~ **6311(b)(2)**.

➔ The examinations prescribed pursuant to this subsection must be written, developed, printed and scored by a nationally recognized testing company.

2. In addition to the examinations prescribed pursuant to subsection 1, the State Board shall, in consultation with the Council to Establish Academic Standards for Public Schools, prescribe a writing examination for grades 5 and 8.

3. The State Board shall prescribe:

(a) The minimum number of school days that must take place before the examinations prescribed by the State Board pursuant to subsection 1 may be administered to pupils; and

(b) The period during which the examinations prescribed by the State Board pursuant to subsection 1 must be administered.

4. The board of trustees of each school district and the governing body of each charter school shall administer the examinations prescribed by the State

Board at such times as prescribed by the State Board pursuant to subsection 3. The examinations must be:

(a) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the school districts and individual schools to ensure compliance with the uniform procedures.

(b) Administered in each school in accordance with the plan adopted pursuant to NRS 390.270 by the Department and with the plan adopted pursuant to NRS 390.275 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

(1) The plan adopted by the Department; and

(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

Sec. 44. NRS 390.255 is hereby amended to read as follows:

390.255 “Irregularity in testing administration” means the failure to administer an examination to pupils pursuant to NRS 390.105 ~~for 390.600~~ or the ~~for~~ college and career readiness assessment pursuant to NRS 390.610 in the manner intended by the person or entity that created the examination or assessment.

Sec. 45. NRS 390.260 is hereby amended to read as follows:

390.260 “Irregularity in testing security” means an act or omission that tends to corrupt or impair the security of an examination administered to pupils pursuant to NRS 390.105 ~~for 390.600~~ or the ~~for~~ college and career readiness assessment administered pursuant to NRS 390.610, including, without limitation:

1. The failure to comply with security procedures adopted pursuant to NRS 390.270 or 390.275;

2. The disclosure of questions or answers to questions on an examination or assessment in a manner not otherwise approved by law; and

3. Other breaches in the security or confidentiality of the questions or answers to questions on an examination or assessment.

Sec. 46. NRS 390.270 is hereby amended to read as follows:

390.270 1. The Department shall, by regulation or otherwise, adopt and enforce a plan setting forth procedures to ensure the security of examinations that are administered to pupils pursuant to NRS 390.105 ~~and 390.600~~ and the college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610.

2. A plan adopted pursuant to subsection 1 must include, without limitation:

(a) Procedures pursuant to which pupils, school officials and other persons may, and are encouraged to, report irregularities in testing administration and testing security.

(b) Procedures necessary to ensure the security of test materials and the consistency of testing administration.

(c) Procedures that specifically set forth the action that must be taken in response to a report of an irregularity in testing administration or testing security and the actions that must be taken during an investigation of such an irregularity. For each action that is required, the procedures must identify:

(1) By category, the employees of the school district, Achievement School District, charter school or Department, or any combination thereof, who are responsible for taking the action; and

(2) Whether the school district, Achievement School District, charter school or Department, or any combination thereof, is responsible for ensuring that the action is carried out successfully.

(d) Objective criteria that set forth the conditions under which a school, including, without limitation, a charter school or a school district, or both, is required to file a plan for corrective action in response to an irregularity in testing administration or testing security for the purposes of NRS 390.295.

3. A copy of the plan adopted pursuant to this section and the procedures set forth therein must be submitted on or before September 1 of each year to:

(a) The State Board; and

(b) The Legislative Committee on Education, created pursuant to NRS 218E.605.

Sec. 47. NRS 390.275 is hereby amended to read as follows:

390.275 1. The board of trustees of each school district shall, for each public school in the district, including, without limitation, charter schools, adopt and enforce a plan setting forth procedures to ensure the security of examinations and assessments.

2. A plan adopted pursuant to subsection 1 must include, without limitation:

(a) Procedures pursuant to which pupils, school officials and other persons may, and are encouraged to, report irregularities in testing administration and testing security.

(b) Procedures necessary to ensure the security of test materials and the consistency of testing administration.

(c) With respect to secondary schools, procedures pursuant to which the school district or charter school, as appropriate, will verify the identity of pupils taking an examination or assessment.

(d) Procedures that specifically set forth the action that must be taken in response to a report of an irregularity in testing administration or testing security and the action that must be taken during an investigation of such an irregularity. For each action that is required, the procedures must identify, by category, the employees of the school district or charter school who are responsible for taking the action and for ensuring that the action is carried out successfully.

↪ The procedures adopted pursuant to this subsection must be consistent, to the extent applicable, with the procedures adopted by the Department pursuant to NRS 390.270.

3. A copy of each plan adopted pursuant to this section and the procedures set forth therein must be submitted on or before September 1 of each year to:

- (a) The State Board; and
- (b) The Legislative Committee on Education, created pursuant to NRS 218E.605.

4. On or before September 30 of each school year, the board of trustees of each school district and the governing body of each charter school shall provide a written notice regarding the examinations and assessments to all teachers and educational personnel employed by the school district or governing body, all personnel employed by the school district or governing body who are involved in the administration of the examinations and assessments, all pupils who are required to take the examinations or assessments and all parents and legal guardians of such pupils. The written notice must be prepared in a format that is easily understood and must include, without limitation, a description of the:

- (a) Plan adopted pursuant to this section; and
- (b) Action that may be taken against personnel and pupils for violations of the plan or for other irregularities in testing administration or testing security.

5. As used in this section:

(a) “Assessment” means the ~~the~~ college and career readiness assessment administered to pupils enrolled in grade 11 pursuant to NRS 390.610.

(b) “Examination” means:

(1) The examinations that are administered to pupils pursuant to NRS 390.105; ~~for 390.600;~~ and

(2) Any other examinations which measure the achievement and proficiency of pupils and which are administered to pupils on a district-wide basis.

(c) “Irregularity in testing administration” means the failure to administer an examination or assessment in the manner intended by the person or entity that created the examination or assessment.

(d) “Irregularity in testing security” means an act or omission that tends to corrupt or impair the security of an examination or assessment, including, without limitation:

(1) The failure to comply with security procedures adopted pursuant to this section or NRS 390.270;

(2) The disclosure of questions or answers to questions on an examination or assessment in a manner not otherwise approved by law; and

(3) Other breaches in the security or confidentiality of the questions or answers to questions on an examination or assessment.

Sec. 48. NRS 390.280 is hereby amended to read as follows:

390.280 1. If the Department:

(a) Has reason to believe that a violation of the plan adopted pursuant to NRS 390.270 may have occurred;

(b) Has reason to believe that a violation of the plan adopted pursuant to NRS 390.275 may have occurred with respect to an examination that is administered pursuant to NRS 390.105 ~~for 390.600~~ or ~~the for~~ college and career readiness assessment administered pursuant to NRS 390.610; or

(c) Receives a request pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 390.285 to investigate a potential violation of the plan adopted pursuant to NRS 390.275 with respect to an examination that is administered pursuant to NRS 390.105 ~~for 390.600~~ or ~~the for~~ college and career readiness assessment administered pursuant to NRS 390.610,
 ➤ the Department shall investigate the matter as it deems appropriate.

2. If the Department investigates a matter pursuant to subsection 1, the Department may issue a subpoena to compel the attendance or testimony of a witness or the production of any relevant materials, including, without limitation, books, papers, documents, records, photographs, recordings, reports and tangible objects.

3. If a witness refuses to attend, testify or produce materials as required by the subpoena, the Department may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance or testimony of the witness or the production of materials;

(b) The witness has been subpoenaed by the Department pursuant to this section; and

(c) The witness has failed or refused to attend, testify or produce materials before the Department as required by the subpoena, or has refused to answer questions propounded to him or her,

➤ and asking for an order of the court compelling the witness to attend, testify or produce materials before the Department.

4. Upon receipt of such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why the witness has not attended, testified or produced materials before the Department. A certified copy of the order must be served upon the witness.

5. If it appears to the court that the subpoena was regularly issued by the Department, the court shall enter an order that the witness appear before the Department at a time and place fixed in the order and testify or produce materials, and that upon failure to obey the order the witness must be dealt with as for contempt of court.

Sec. 49. NRS 390.285 is hereby amended to read as follows:

390.285 1. If a school official has reason to believe that a violation of the plan adopted pursuant to NRS 390.275 may have occurred, the school official shall immediately report the incident to the board of trustees of the school district. If the board of trustees of a school district has reason to

believe that a violation of the plan adopted pursuant to NRS 390.275 may have occurred, the board of trustees shall:

(a) If the violation is with respect to an examination administered pursuant to NRS 390.105 ~~for 390.600~~ or ~~the for~~ college and career readiness assessment administered pursuant to NRS 390.610, immediately report the incident to the Department orally or in writing followed by a comprehensive written report within 14 school days after the incident occurred; and

(b) Cause to be commenced an investigation of the incident. The board of trustees may carry out the requirements of this paragraph by:

(1) Investigating the incident as it deems appropriate, including, without limitation, using the powers of subpoena set forth in this section.

(2) With respect to an examination that is administered pursuant to NRS 390.105 ~~for 390.600~~ or ~~the for~~ college and career readiness assessment administered pursuant to NRS 390.610, requesting that the Department investigate the incident pursuant to NRS 390.280.

➡ The fact that a board of trustees elects initially to carry out its own investigation pursuant to subparagraph (1) of paragraph (b) does not affect the ability of the board of trustees to request, at any time, that the Department investigate the incident as authorized pursuant to subparagraph (2) of paragraph (b).

2. Except as otherwise provided in this subsection, if the board of trustees of a school district proceeds in accordance with subparagraph (1) of paragraph (b) of subsection 1, the board of trustees may issue a subpoena to compel the attendance or testimony of a witness or the production of any relevant materials, including, without limitation, books, papers, documents, records, photographs, recordings, reports and tangible objects. A board of trustees shall not issue a subpoena to compel the attendance or testimony of a witness or the production of materials unless the attendance, testimony or production sought to be compelled is related directly to a violation or an alleged violation of the plan adopted pursuant to NRS 390.275.

3. If a witness refuses to attend, testify or produce materials as required by the subpoena, the board of trustees may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance or testimony of the witness or the production of materials;

(b) The witness has been subpoenaed by the board of trustees pursuant to this section; and

(c) The witness has failed or refused to attend, testify or produce materials before the board of trustees as required by the subpoena, or has refused to answer questions propounded to him or her,

➡ and asking for an order of the court compelling the witness to attend, testify or produce materials before the board of trustees.

4. Upon receipt of such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the

order, and then and there show cause why the witness has not attended, testified or produced materials before the board of trustees. A certified copy of the order must be served upon the witness.

5. If it appears to the court that the subpoena was regularly issued by the board of trustees, the court shall enter an order that the witness appear before the board of trustees at a time and place fixed in the order and testify or produce materials, and that upon failure to obey the order the witness must be dealt with as for contempt of court.

Sec. 50. NRS 390.300 is hereby amended to read as follows:

390.300 1. The Department shall establish a program of education and training regarding the administration and security of the examinations administered pursuant to NRS 390.105 ~~for and 390.600~~ and the college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610. Upon approval of the Department, the board of trustees of a school district or the governing body of a charter school may establish an expanded program of education and training that includes additional education and training if the expanded program complies with the program established by the Department.

2. The board of trustees of each school district and the governing body of each charter school shall ensure that:

(a) All the teachers and other educational personnel who provide instruction to pupils enrolled in a grade level that is required to be tested pursuant to NRS 390.105, 390.600 or 390.610, and all other personnel who are involved with the administration of the examinations that are administered pursuant to NRS 390.105 ~~for 390.600~~ or the ~~for~~ college and career readiness assessment administered pursuant to NRS 390.610, receive, on an annual basis, the program of education and training established by the Department or the expanded program, if applicable; and

(b) The training and education is otherwise available for all personnel who are not required to receive the training and education pursuant to paragraph (a).

~~**Sec. 51.** NRS 390.355 is hereby amended to read as follows:
390.355 "Assessment" means [the] a college and career readiness assessment administered to pupils in grade 11 pursuant to NRS 390.610.~~
(Deleted by amendment.)

Sec. 51.5. NRS 390.360 is hereby amended to read as follows:

390.360 "Examination" means:

1. The examinations that are administered to pupils pursuant to NRS 390.105 ~~; for 390.600;~~ and

2. Any other examinations which measure the achievement and proficiency of pupils and which are administered to pupils on a district-wide basis.

Sec. 52. NRS 390.600 is hereby amended to read as follows:

390.600 1. A pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive a

diploma designated as an adjusted diploma if the pupil satisfies the requirements set forth in his or her individualized education program. As used in this subsection, “individualized education program” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

2. The State Board shall adopt regulations that prescribe the:

(a) Criteria for a pupil to receive a standard high school diploma, which must include, without limitation, the requirement that:

(1) ~~Commencing with the 2014 2015 2016 2017 school year and each school year thereafter, a~~ A pupil enrolled in grade 11 take ~~the~~ the ~~fa~~ college and career readiness assessment administered pursuant to NRS 390.610; and

(2) Commencing with the ~~{2014 2015 school year}~~ graduating class of 2022 and each ~~{school year thereafter,}~~ graduating class thereafter, a pupil ~~{enroll in the courses}~~ successfully complete a course of study designed to prepare the pupil for graduation from high school and for readiness for college and career. ~~}; and~~

~~(3) Commencing with the 2014 2015 school year and each school year thereafter, a pupil pass at least four end of course examinations prescribed pursuant to paragraph (b).~~

~~(b) Courses of study in which pupils must pass the end of course examinations required by subparagraph (3) of paragraph (a), which must include, without limitation, the subject areas for which the State Board has adopted the common core standards and which may include any other courses of study prescribed by the State Board.~~

~~(c) The maximum number of times, if any, that a pupil is allowed to take the end of course examinations if the pupil fails to pass the examinations after the first administration.}~~

3. The criteria prescribed by the State Board pursuant to subsection 2 for a pupil to receive a standard high school diploma must not include the results of the pupil on ~~the~~ the ~~fa~~ college and career readiness assessment administered to the pupil in grade 11 pursuant to NRS 390.610.

4. If a pupil does not satisfy the requirements prescribed by the State Board to receive a standard high school diploma, the pupil must not be issued a certificate of attendance or any other document indicating that the pupil attended high school but did not satisfy the requirements for such a diploma. The provisions of this subsection do not apply to a pupil who receives an adjusted diploma pursuant to subsection 1.

Sec. 53. NRS 390.610 is hereby amended to read as follows:

390.610 1. The State Board shall select a ~~{one or more}~~ college and career readiness assessment ~~{assessments}~~ for administration ~~{, commencing with the 2014 2015 2016 2017 school year and each school year thereafter,}~~ to pupils who are enrolled in grade 11 in public high schools.

2. Except as otherwise provided in this subsection, a pupil must take the ~~fa~~ college and career readiness assessment to receive a standard high school diploma. ~~{The results of a pupil on the assessment must not be used in the determination of whether the pupil satisfies the requirements for receipt of a~~

~~standard high school diploma.~~ A pupil with a disability may, in accordance with his or her individualized education program, be exempt from the requirement to take ~~the~~ the college and career readiness assessment.

3. ***The results of a pupil on the college and career readiness assessment:***

(a) Must not be used in the determination of whether the pupil satisfies the requirements for receipt of standard high school diploma.

(b) May be used in the determination of whether the pupil satisfies the requirements for receipt of a pathway high school diploma.

4. ~~The~~ The ~~For each~~ assessment selected pursuant to subsection 1 ~~the assessment~~ must be:

(a) Administered at the same time during the school year by the board of trustees of each school district to pupils enrolled in grade 11 in all public high schools of the school district and by the governing body of each charter school that enrolls pupils in grade 11, as prescribed by the State Board, and in accordance with uniform procedures adopted by the State Board. The Department shall monitor the compliance of the school districts and individual schools with the uniform procedures and report to the State Board any instance of noncompliance.

(b) Administered in accordance with the plan adopted by the Department pursuant to NRS 390.270 and with the plan adopted by the board of trustees of the school district in which the assessment is administered pursuant to NRS 390.275. The Department shall monitor the compliance of the school districts and individual schools with:

(1) The plan adopted by the Department; and

(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department, and shall report to the State Board any instance of noncompliance.

~~4.1~~ 5. ~~The~~ The ~~Each~~ assessment selected pursuant to subsection 1 must:

(a) Be used to provide data and information to each pupil who takes the assessment in a manner that allows the pupil to review the areas of his or her academic strengths and weaknesses, including, without limitation, areas where additional work in the subject areas tested on the assessment is necessary to prepare for college and career success without the need for remediation; and

(b) Allow teachers and other educational personnel to use the results of a pupil on the assessment to provide appropriate interventions for the pupil to prepare for college and career success.

~~5.1~~ 6. ***The State Board shall adopt regulations prescribing the manner in which the results of a college and career readiness assessment selected pursuant to subsection 1 must be used by a school district or charter school that operates as a high school to inform the instruction provided to pupils enrolled in grade 12, including, without limitation, to determine whether to***

provide remediation in areas of academic weakness and acceleration in areas of academic strength.

7. The State Board may work in consultation with the boards of trustees of school districts and, if a charter school enrolls pupils at a high school grade level, the governing body of the charter school to develop and implement appropriate plans of remediation for pupils based upon the results of the pupils on ~~the~~ **the** ~~final~~ assessment.

Sec. 54. NRS 390.620 is hereby amended to read as follows:

390.620 1. The Department shall develop an informational pamphlet concerning the ~~end-of-course examinations required pursuant to NRS 390.600 and the~~ college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610 for pupils who are enrolled in junior high, middle school and high school, and their parents and legal guardians. The pamphlet must include a written explanation of the:

(a) Importance of ~~passing the end-of-course examinations and the importance of~~ taking ~~the~~ **the** ~~final~~ college and career readiness assessment;

(b) ~~Courses of study for which the end-of-course examinations are administered and the subject~~ **Subject** areas tested on ~~the~~ **the** ~~each~~ college and career readiness assessment; **and**

(c) Format for the ~~end-of-course examinations and the each~~ college and career readiness assessment, including, without limitation, the range of items that ~~are~~ **is** contained on ~~the examinations and~~ **the assessment** . ~~the assessments; and~~

~~(d) Maximum number of times, if any, that a pupil is allowed to take the end-of-course examinations if the pupil fails to pass the examinations after the first administration.]~~

2. The Department shall review the pamphlet on an annual basis and make such revisions to the pamphlet as it considers necessary to ensure that pupils and their parents or legal guardians fully understand the ~~end-of-course examinations and the each~~ college and career readiness assessment.

3. On or before September 1, the Department shall:

(a) Provide an electronic copy of the pamphlet or revised pamphlet to the board of trustees of each school district and the governing body of each charter school that includes pupils enrolled in a junior high, middle school or high school grade level; and

(b) Post a copy of the pamphlet or revised pamphlet on the Internet website maintained by the Department.

4. The board of trustees of each school district shall provide a copy of the pamphlet to each junior high, middle school or high school within the school district for posting. The governing body of each charter school shall ensure that a copy of the pamphlet is posted at the charter school. Each principal of a junior high, middle school, high school or charter school shall ensure that the teachers, counselors and administrators employed at the school fully understand the contents of the pamphlet.

5. On or before October 1, the:

(a) Board of trustees of each school district shall provide a copy of the pamphlet to each pupil who is enrolled in a junior high, middle school or high school of the school district and to the parents or legal guardians of such a pupil.

(b) Governing body of each charter school shall provide a copy of the pamphlet to each pupil who is enrolled in the charter school at a junior high, middle school or high school grade level and to the parents or legal guardians of such a pupil.

Sec. 55. NRS 390.810 is hereby amended to read as follows:

390.810 1. The board of trustees of each school district and the governing body of each charter school shall ensure that each pupil who is ~~limited~~ **an English learner** and is enrolled in the school district or charter school, as applicable, participates in the achievement and proficiency examinations administered pursuant to this chapter. The State Board shall prescribe reasonable modifications and accommodations that must be used in the administration of an examination to a pupil who is ~~limited~~ **an English learner** and who is unable to take an examination under regular testing conditions. The results of each pupil who is ~~limited~~ **an English learner** and who takes an examination with modifications and accommodations must be reported and included within the determination of whether the school has met the ~~annual measurable objectives~~ **school achievement targets** and performance targets established pursuant to the statewide system of accountability for public schools.

2. The board of trustees of a school district and the governing body of a charter school shall administer to a pupil who is ~~limited English proficient~~ **an English learner**:

(a) To the extent practicable, examinations in mathematics and science required by subsection 1 in the language most likely to yield accurate and reliable information on what the pupil knows.

(b) To the extent practicable, examinations in reading required by subsection 1 in the language most likely to yield accurate and reliable information on what the pupil knows if the pupil has attended public schools in the United States for less than 3 consecutive years.

(c) If the pupil has attended public schools in the United States for 3 consecutive years but less than 5 consecutive years:

(1) Examinations in reading required by subsection 1 in the English language; or

(2) Examinations in reading required by subsection 1 in the language most likely to yield accurate and reliable information on what the pupil knows if the board of trustees or the governing body, as applicable, determines that the pupil has not reached a level of English proficiency sufficient to yield valid and reliable information on what the pupil knows. The board of trustees or the governing body of a charter school, as applicable, may grant exceptions for a particular pupil pursuant to this

subparagraph, on a case-by-case basis, for a period not longer than 2 consecutive years.

(d) If the pupil has attended public schools in the United States for 5 consecutive years or more, examinations in reading required by subsection 1 in the English language.

3. The State Board shall prescribe an assessment of proficiency in the English language for pupils who are ~~limited~~ English ~~proficient~~ **learners** to measure oral language skills, comprehension skills, reading skills and writing skills. The board of trustees of each school district and the governing body of each charter school shall administer the assessment annually at the time prescribed by the State Board. A pupil who takes the assessment prescribed pursuant to this subsection is not exempt from the achievement and proficiency examinations administered pursuant to this chapter.

Sec. 56. NRS 390.820 is hereby amended to read as follows:

390.820 1. If a pupil with a disability is unable to take an examination administered pursuant to NRS 390.105 ~~for 390.600~~ under regular testing conditions, the pupil may take the examination with modifications and accommodations that the pupil's individualized education program team determines, in consultation with the Department and in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the ~~No Child Left Behind Act of 2001,~~ **Every Student Succeeds Act of 2015**, 20 U.S.C. §§ 6301 et seq., are necessary to measure the progress of the pupil. If modifications or accommodations are made in the administration of an examination for a pupil with a disability, the modifications or accommodations must be set forth in the pupil's individualized education program. The results of each pupil with a disability who takes an examination with modifications or accommodations must be reported and must be included in the determination of whether the school has met the ~~annual measurable objectives~~ **school achievement targets** and performance targets established pursuant to the statewide system of accountability for public schools.

2. The State Board shall prescribe an alternate examination for administration to a pupil with a disability if the pupil's individualized education program team determines, in consultation with the Department, that the pupil cannot participate in all or a portion of an examination administered pursuant to NRS 390.105 ~~for 390.600~~ even with modifications and accommodations.

3. The State Board shall prescribe, in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the ~~No Child Left Behind Act of 2001,~~ **Every Student Succeeds Act of 2015**, 20 U.S.C. §§ 6301 et seq., the modifications and accommodations that must be used in the administration of an examination to a pupil with a disability who is unable to take the examination under regular testing conditions.

4. As used in this section:

(a) "Individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

(b) "Individualized education program team" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).

Sec. 56.5. NRS 390.830 is hereby amended to read as follows:

390.830 1. The State Board shall:

(a) In accordance with guidelines established by the National Assessment Governing Board and National Center for Education Statistics and in accordance with 20 U.S.C. §§ 6301 et seq. and the regulations adopted pursuant thereto, adopt regulations requiring the schools of this State that are selected by the National Assessment Governing Board or the National Center for Education Statistics to participate in the examinations of the National Assessment of Educational Progress.

(b) Report the results of those examinations to the:

(1) Governor;

(2) Board of trustees of each school district of this State;

(3) Legislative Committee on Education created pursuant to NRS 218E.605; and

(4) Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218E.625.

(c) Include in the report required pursuant to paragraph (b) an analysis and comparison of the results of pupils in this State on the examinations required by this section with:

(1) The results of pupils throughout this country who participated in the examinations of the National Assessment of Educational Progress; and

(2) The results of pupils on the achievement and proficiency examinations administered pursuant to this chapter.

2. If the report required by subsection 1 indicates that the percentage of pupils enrolled in the public schools in this State who are proficient on the National Assessment of Educational Progress differs by more than 10 percent of the pupils who are proficient on the examinations administered pursuant to NRS 390.105, ~~and the examinations administered pursuant to NRS 390.600,~~ the Department shall prepare a written report describing the discrepancy. The report must include, without limitation, a comparison and evaluation of:

(a) The standards of content and performance for English language arts and mathematics established pursuant to NRS 389.520 with the standards for English language arts and mathematics that are tested on the National Assessment.

(b) The standards for proficiency established for the National Assessment with the standards for proficiency established for the examinations that are administered pursuant to NRS 390.105, ~~and the examinations administered pursuant to NRS 390.600.~~

3. The report prepared by the Department pursuant to subsection 2 must be submitted to the:

- (a) Governor;
- (b) Legislative Committee on Education;
- (c) Legislative Bureau of Educational Accountability and Program Evaluation; and
- (d) Council to Establish Academic Standards for Public Schools.

4. The Council to Establish Academic Standards for Public Schools shall review and evaluate the report provided to the Council pursuant to subsection 3 to identify any discrepancies in the standards of content and performance established by the Council that require revision and a timeline for carrying out the revision, if necessary. The Council shall submit a written report of its review and evaluation to the Legislative Committee on Education and Legislative Bureau of Educational Accountability and Program Evaluation.

Sec. 57. NRS 390.840 is hereby amended to read as follows:

390.840 If the Department enters into a contract with a person or entity to score the results of an examination that is administered to pupils pursuant to NRS 390.105 ~~for 390.600~~ or ~~the~~ ~~for~~ college and career readiness assessment administered pursuant to NRS 390.610, and the contract sets forth penalties or sanctions in the event that the person or entity fails to deliver the scored results to a school district or charter school on a timely basis, the Department shall ensure that any such penalties or sanctions are fully enforced.

Sec. 58. NRS 391.008 is hereby amended to read as follows:

391.008 1. “Paraprofessional” means a person who is employed by and assigned by a school district or charter school to:

- (a) Provide one-on-one tutoring for a pupil;
- (b) Assist with the management of a classroom, including, without limitation, organizing instructional materials;
- (c) Provide assistance in a computer laboratory;
- (d) Conduct parental involvement activities in conjunction with one or more duties set forth in this subsection;
- (e) Provide support in a library or media center;
- (f) Except as otherwise provided in subsection 2, provide services as a translator; or
- (g) Provide instructional services to pupils under the direct supervision of a licensed teacher.

2. The term “paraprofessional” does not include a person who:

- (a) Is proficient in the English language and a language other than English and who provides services as a translator primarily to enhance the participation of children in programs that are financially supported pursuant to the ~~[No Child Left Behind Act of 2001.]~~ **Every Student Succeeds Act of 2015**, 20 U.S.C. §§ 6301 et seq.

- (b) Solely conducts parental involvement activities.

Sec. 59. NRS 391.094 is hereby amended to read as follows:

391.094 The State Board shall prescribe by regulation at least one examination for those paraprofessionals who desire to satisfy the

requirements ~~of 20 U.S.C. § 6319(c) by passing an examination prescribed by this State.~~ **prescribed by the Department to comply with 20 U.S.C. § 6311(q)(2)(M).** The regulations must include the passing score required to demonstrate satisfaction of ~~the~~ **those** requirements ~~of 20 U.S.C. § 6319(c).~~ ~~qualifications for paraprofessionals.~~

Sec. 60. NRS 391.098 is hereby amended to read as follows:

391.098 1. If a pupil enrolled in a Title I school or a school that is rated as underperforming pursuant to the statewide system of accountability for public schools:

(a) Is assigned to a teacher, as the pupil's regular classroom teacher, ~~who is not highly qualified; whose overall performance has been determined to be minimally effective or ineffective;~~ **licensed to teach pursuant to chapter 391 of NRS or who does not hold an endorsement to teach in the subject area in which he or she is teaching;** or

(b) Has been taught for 4 consecutive weeks or more by a teacher who is not the pupil's regular classroom teacher and ~~who is not highly qualified, whose overall performance has been determined to be minimally effective or ineffective;~~ **licensed to teach pursuant to chapter 391 of NRS or who does not hold an endorsement to teach in the subject area in which he or she is teaching.**

↪ the principal of the school or the administrative head of the charter school, as applicable, shall provide notice of that fact to the parent or legal guardian of the pupil.

2. The State Board shall prescribe the date on which the notice required by subsection 1 must be provided. The notice must be provided in a uniform and understandable format and, to the extent practicable, in a language that parents and guardians can understand.

~~3.— As used in this section, “highly qualified” has the meaning ascribed to it in 20 U.S.C. § 7801(23).]~~

Sec. 61. NRS 391.100 is hereby amended to read as follows:

391.100 1. The board of trustees of a school district may employ a superintendent of schools, teachers and all other necessary employees.

2. ~~[A person who is initially hired by the board of trustees of a school district on or after January 8, 2002, to teach in a program supported with money from Title I must possess the qualifications required by 20 U.S.C. § 6319(a). For the purposes of this subsection, a person is not “initially hired” if he or she has been employed as a teacher by another school district or charter school in this State without an interruption in employment before the date of hire by the person's current employer.~~

~~3.— A person who is employed as a teacher, regardless of the date of hire, must possess, on or before July 1, 2006, the qualifications required by 20 U.S.C. § 6319(a) if the person teaches:~~

- ~~—(a) English language arts;~~
- ~~—(b) Mathematics;~~
- ~~—(c) Science;~~

- ~~— (d) A foreign or world language;~~
- ~~— (e) Civics or government;~~
- ~~— (f) Economics;~~
- ~~— (g) Geography;~~
- ~~— (h) History; or~~
- ~~— (i) The arts.~~
- ~~— 4.1~~ The board of trustees of a school district:

(a) May employ teacher aides and other auxiliary, nonprofessional personnel to assist licensed personnel in the instruction or supervision of children, either in the classroom or at any other place in the school or on the grounds thereof. ~~[A person who is initially hired as a paraprofessional by a school district on or after January 8, 2002, to work in a program supported with Title I money must possess the qualifications required by 20 U.S.C. § 6319(c).]~~ A person who is employed as a paraprofessional by a school district ~~[, regardless of the date of hire,]~~ to work in a program supported with Title I money must possess ~~[, on or before January 8, 2006, the qualifications required by 20 U.S.C. § 6319(c). For the purposes of this paragraph, a person is not “initially hired” if he or she has been employed as a paraprofessional by another school district or charter school in this State without an interruption in employment before the date of hire]~~ **the requirements prescribed by the [person’s current employer.] State Board pursuant to NRS 391.094.**

(b) Shall establish policies governing the duties and performance of teacher aides.

Sec. 62. NRS 391.125 is hereby amended to read as follows:

391.125 1. If the board of trustees of a school district determines that a shortage of teachers exists within the school district in a particular subject area, the board of trustees may **, on or before September 1 of the school year for which such a determination is made,** submit a written request to the Superintendent of Public Instruction to employ persons who are licensed teachers but who do not hold an endorsement to teach in the subject area for which there is a shortage of teachers at a public school within the school district ~~_. [that is not rated as underperforming pursuant to the statewide system of accountability for public schools.]~~ The Superintendent of Public Instruction may grant such a request if the Superintendent determines that a shortage of teachers exists in the subject area. If the Superintendent of Public Instruction grants a request pursuant to this subsection, a person who holds a license to teach but not an endorsement in the subject area for which the request was granted may be employed by the school district for not more than ~~[2-4]~~ **3** school ~~years [year]~~ to teach in that subject area at a public school within the school district ~~_. [that is not rated as underperforming pursuant to the statewide system of accountability for public schools.]~~

2. If the Superintendent of Public Instruction grants a request pursuant to subsection 1, the Superintendent shall submit a written report to the Commission **and the State Board** that includes the name of the school

district for which the request was granted and the subject area for which the request was granted. Upon receipt of such a report, the Commission **and the State Board** shall consider whether to adopt revisions to the requirements for an endorsement in that subject area to address the shortage of teachers.

Sec. 63. NRS 391.170 is hereby amended to read as follows:

391.170 1. Except as otherwise provided in subsection 2, a teacher or other employee for whom a license is required is not entitled to receive any portion of public money for schools as compensation for services rendered unless he or she:

(a) Is legally employed by the board of trustees of the school district or the governing body of the charter school in which he or she is teaching or performing other educational functions.

(b) Has a license authorizing him or her to teach or perform other educational functions at the level and, except as otherwise provided in NRS 391.125, in the field for which he or she is employed, issued in accordance with law and in full force at the time the services are rendered.

2. The provisions of subsection 1 do not prohibit the payment of public money to teachers or other employees who are employed by a charter school who are not required to ~~be highly qualified~~ **demonstrate experience and qualifications through licensure or subject matter expertise** pursuant to the provisions of NRS 388A.518.

~~3. As used in this section, "highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801, subsection 7 of NRS 388A.518.~~

Sec. 64. NRS 391.273 is hereby amended to read as follows:

391.273 1. Except as otherwise provided in this section and except for persons who are supervised pursuant to NRS 391.096, the unlicensed personnel of a school district must be directly supervised by licensed personnel in all duties which are instructional in nature. To the extent practicable, the direct supervision must be such that the unlicensed personnel are in the immediate location of the licensed personnel and are readily available during such times when supervision is required.

2. Unlicensed personnel who are exempted pursuant to subsection 4, 5 or 6 must be under administrative supervision when performing any duties which are instructional in nature.

3. Unlicensed personnel may temporarily perform duties under administrative supervision which are not primarily instructional in nature.

4. Except as otherwise provided in subsection 7, upon application by a superintendent of schools, the Superintendent of Public Instruction may grant an exemption from the provisions of subsection 1 pursuant to subsection 5 or 6.

5. Except as otherwise provided in subsection 6, the Superintendent shall not grant an exemption from the provisions of subsection 1 unless:

(a) The duties are within the employee's special expertise or training;

(b) The duties relate to the humanities or an elective course of study, or are supplemental to the basic curriculum of a school;

(c) The performance of the duties does not result in the replacement of a licensed employee or prevent the employment of a licensed person willing to perform those duties;

(d) The secondary or combined school in which the duties will be performed has less than 100 pupils enrolled and is at least 30 miles from a school in which the duties are performed by licensed personnel; and

(e) The unlicensed employee submits his or her fingerprints for an investigation pursuant to NRS 391.033.

6. Upon application by a superintendent of schools, the Superintendent of Public Instruction may grant an exemption from the provisions of subsection 1 if:

(a) The duties of the unlicensed employee relate to the supervision of pupils attending a course of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, while the pupils are receiving instruction from a licensed employee remotely through any electronic means of communication; and

(b) The unlicensed employee submits his or her fingerprints for an investigation pursuant to NRS 391.033.

7. The exemption authorized by subsection 4, 5 or 6 does not apply to a paraprofessional if the ~~provisions of 20 U.S.C. § 6319 and the regulations adopted~~ **requirements prescribed by the State Board** pursuant ~~thereto~~ **to NRS 391.094** require the paraprofessional to be directly supervised by a licensed teacher.

8. The Superintendent of Public Instruction shall file a record of all exempt personnel with the clerk of the board of trustees of each local school district, and advise the clerk of any changes therein. The record must contain:

(a) The name of the exempt employee;

(b) The specific instructional duties the exempt employee may perform;

(c) Any terms or conditions of the exemption deemed appropriate by the Superintendent of Public Instruction; and

(d) The date the exemption expires or a statement that the exemption is valid as long as the employee remains in the same position at the same school.

9. The Superintendent of Public Instruction may adopt regulations prescribing the procedure to apply for an exemption pursuant to this section and the criteria for the granting of such exemptions.

10. Except in an emergency, it is unlawful for the board of trustees of a school district to allow a person employed as a teacher's aide to serve as a teacher unless the person is a legally qualified teacher licensed by the Superintendent of Public Instruction. As used in this subsection, "emergency" means an unforeseen circumstance which requires immediate action and includes the fact that a licensed teacher or substitute teacher is not immediately available.

11. If the Superintendent of Public Instruction determines that the board of trustees of a school district has violated the provisions of subsection 10,

the Superintendent shall take such actions as are necessary to reduce the amount of money received by the district pursuant to NRS 387.124 by an amount equal to the product when the following numbers are multiplied together:

- (a) The number of days on which the violation occurred;
- (b) The number of pupils in the classroom taught by the teacher's aide;
- and
- (c) The number of dollars of basic support apportioned to the district per pupil per day pursuant to NRS 387.1223.

12. Except as otherwise provided in this subsection, a person employed as a teacher's aide or paraprofessional may monitor pupils in a computer laboratory without being directly supervised by licensed personnel. The provisions of this subsection do not apply to a paraprofessional if the ~~provisions of 20 U.S.C. § 6319 and the regulations adopted~~ **requirements prescribed by the State Board** pursuant ~~thereto~~ **to NRS 391.094** require the paraprofessional to be directly supervised by a licensed teacher.

13. The provisions of this section do not apply to unlicensed personnel who are employed by the governing body of a charter school, unless a paraprofessional employed by the governing body is required to be directly supervised by a licensed teacher pursuant to the ~~provisions of 20 U.S.C. § 6319 and the regulations adopted~~ **requirements prescribed by the State Board** pursuant ~~thereto~~ **to NRS 391.094**.

Sec. 65. NRS 391.330 is hereby amended to read as follows:

391.330 The State Board may suspend or revoke the license of any teacher, administrator or other licensed employee, after notice and an opportunity for hearing have been provided pursuant to NRS 391.322 and 391.323, for:

- 1. Immoral or unprofessional conduct.
- 2. Evident unfitness for service.
- 3. Physical or mental incapacity which renders the teacher, administrator or other licensed employee unfit for service.
- 4. Conviction of a felony or crime involving moral turpitude.
- 5. Conviction of a sex offense under NRS 200.366, 200.368, 201.190, 201.220, 201.230, 201.540 or 201.560 in which a pupil enrolled in a school of a county school district was the victim.
- 6. Knowingly advocating the overthrow of the Federal Government or of the State of Nevada by force, violence or unlawful means.
- 7. Persistent defiance of or refusal to obey the regulations of the State Board, the Commission or the Superintendent of Public Instruction, defining and governing the duties of teachers, administrators and other licensed employees.
- 8. Breaches in the security or confidentiality of the questions and answers of the examinations that are administered pursuant to NRS 390.105 ~~for 390.600~~ and the college and career readiness assessment ~~assessments~~ administered pursuant to NRS 390.610.

9. Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations and assessments adopted pursuant to NRS 390.270 or 390.275.

10. An intentional violation of NRS 388.497 or 388.499.

11. Knowingly and willfully failing to comply with the provisions of NRS 388.1351.

Sec. 65.5. NRS 391.460 is hereby amended to read as follows:

391.460 1. The Council shall:

(a) Make recommendations to the State Board concerning the adoption of regulations for establishing a statewide performance evaluation system to ensure that teachers, administrators who provide primarily administrative services at the school level and administrators at the district level who provide direct supervision of the principal of a school, and who do not provide primarily direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal are:

(1) Evaluated using multiple, fair, timely, rigorous and valid methods, which includes evaluations based upon pupil achievement data as required by NRS 391.465;

(2) Afforded a meaningful opportunity to improve their effectiveness through professional development that is linked to their evaluations; and

(3) Provided with the means to share effective educational methods with other teachers and administrators throughout this State.

(b) Develop and recommend to the State Board a plan, including duties and associated costs, for the development and implementation of the performance evaluation system by the Department and school districts.

(c) Consider the role of professional standards for teachers and administrators to which paragraph (a) applies and, as it determines appropriate, develop a plan for recommending the adoption of such standards by the State Board.

(d) Develop and recommend to the State Board a process for peer ~~evaluations~~ **observations** of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching.

2. The performance evaluation system recommended by the Council must ensure that:

(a) Data derived from the evaluations is used to create professional development programs that enhance the effectiveness of teachers and administrators; and

(b) A timeline is included for monitoring the performance evaluation system at least annually for quality, reliability, validity, fairness, consistency and objectivity.

3. The Council may establish such working groups, task forces and similar entities from within or outside its membership as necessary to address specific issues or otherwise to assist in its work.

4. The State Board shall consider the recommendations made by the Council pursuant to this section and shall adopt regulations establishing a statewide performance evaluation system as required by NRS 391.465.

Sec. 66. NRS 391.465 is hereby amended to read as follows:

391.465 1. The State Board shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to NRS 391.460, adopt regulations establishing a statewide performance evaluation system which incorporates multiple measures of an employee's performance. Except as otherwise provided in subsection 4, the State Board shall prescribe the tools to be used by a school district for obtaining such measures.

2. The statewide performance evaluation system must:

(a) Require that an employee's overall performance is determined to be:

- (1) Highly effective;
- (2) Effective;
- (3) Minimally effective; or
- (4) Ineffective.

(b) Include the criteria for making each designation identified in paragraph (a).

(c) Except as otherwise provided in subsections 2 and 3 of NRS 391.695 and subsections 2 and 3 of NRS 391.715, require that pupil achievement data account for at least 40 percent of the evaluation.

(d) Except as otherwise provided in subsection 3, prescribe the pupil achievement data that must be used as part of the evaluation system pursuant to paragraph (c) which must require that:

(1) Pupil achievement data derived from statewide examinations and assessments must account for at least 20 percent of the evaluation of a teacher or administrator, as applicable; and

(2) Pupil achievement data derived from assessments approved by the board of trustees of a school district that employs the teacher or administrator, as applicable, must account for at least 20 percent of the evaluation.

(e) Include an evaluation of whether the teacher, or administrator who provides primarily administrative services at the school level or administrator at the district level who provides direct supervision of the principal of a school, and who does not provide primarily direct instructional services to pupils, regardless of whether the probationary administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, employs practices and strategies to involve and engage the parents and families of pupils.

(f) Include a process for peer ~~evaluations~~ **observations** of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without

limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching. The regulations must include the criteria for school districts to determine which educational personnel are qualified to conduct peer ~~reviews~~ **observations** pursuant to the process.

3. The State Board shall, by regulation, ~~designate~~ **establish the criteria for** the assessments that may be used by a school district to determine pupil achievement pursuant to subparagraph (2) of paragraph (d) of subsection 2. The board of trustees of a school district ~~may~~ **shall** select one or more ~~of the assessments designated~~ **assessments that meet the criteria established** by the State Board ~~to determine pupil achievement, or the board of trustees may apply to the Superintendent of Public Instruction for approval to use a different assessment~~ to determine pupil achievement.

4. A school district may apply to the State Board to use a performance evaluation system and tools that are different than the evaluation system and tools prescribed pursuant to subsection 1. The application must be in the form prescribed by the State Board and must include, without limitation, a description of the evaluation system and tools proposed to be used by the school district. The State Board may approve the use of the proposed evaluation system and tools if it determines that the proposed evaluation system and tools apply standards and indicators that are equivalent to those prescribed by the State Board.

Sec. 66.5. NRS 391.470 is hereby amended to read as follows:

391.470 On or before August 1 of each year, the board of trustees of each school district shall submit a report to the State Board and the Teachers and Leaders Council of Nevada created by NRS 391.455 concerning the implementation and effectiveness of the process for peer ~~evaluations~~ **observations** of teachers set forth in the regulations adopted by the State Board pursuant to paragraph (f) of subsection 2 of NRS 391.465, including, without limitation, any recommendations for revisions to the process of peer ~~evaluations~~ **observations.**

Sec. 67. NRS 391.685 is hereby amended to read as follows:

391.685 1. A probationary teacher must receive one evaluation during each school year of his or her probationary employment. The evaluation must be based in part upon at least three scheduled ~~observations~~ **observation cycles** of the teacher during the first school year of his or her probationary period as follows:

(a) The first scheduled observation **cycle** must occur within 40 days after the first day of instruction of the school year;

(b) The second scheduled observation **cycle** must occur after 40 days but within 80 days after the first day of instruction of the school year; and

(c) The third scheduled observation **cycle** must occur after 80 days but within 120 days after the first day of instruction of the school year.

~~2. [After each observation conducted pursuant to subsection 1, a probationary teacher must receive notice, on a form prescribed by the State Board, that he or she may request that a subsequent observation be conducted by another administrator. If a probationary teacher requests that his or her next observation be conducted by another administrator, the administrator conducting the observation must meet the requirements prescribed by subsection 2 of NRS 391.725.]~~

~~3.1~~ If a probationary teacher receives an evaluation designating his or her overall performance as effective or highly effective:

(a) During the first school year of his or her probationary period, the evaluation during the second school year of the probationary period must be based in part upon at least two scheduled ~~[observations]~~ observation cycles of the teacher which must occur within the times specified in paragraphs (b) and (c) of subsection 1.

(b) During the first and second school years of his or her probationary period, the evaluation during the third school year of the probationary period must be based in part upon at least one scheduled observation cycle of the teacher which must occur within 120 days after the first day of instruction of the school year.

~~3.141~~ If a probationary teacher receives an evaluation designating his or her overall performance as minimally effective or ineffective during the first or second school year of the probationary period, the probationary teacher must receive one evaluation during the immediately succeeding school year which is based in part upon three ~~[observations]~~ observation cycles which must occur in accordance with the observation schedule set forth in subsection 1.

Sec. 67.5. NRS 391.690 is hereby amended to read as follows:

391.690 1. If a postprobationary teacher receives an evaluation designating his or her overall performance as minimally effective or ineffective, the postprobationary teacher must receive one evaluation in the immediately succeeding school year which is based in part upon three ~~[observations]~~ observation cycles which must occur in accordance with the observation schedule set forth in subsection 1 of NRS 391.685. If a postprobationary teacher receives evidence from the first two ~~[observations]~~ observation cycles during the school year indicating that, unless his or her performance improves, his or her overall performance may be rated as minimally effective or ineffective on the evaluation, the postprobationary teacher may request that the third observation cycle be conducted by another administrator. If a postprobationary teacher requests that his or her third observation cycle be conducted by another administrator, that administrator must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the postprobationary teacher from a list of three candidates submitted by the superintendent.

2. If a postprobationary teacher receives an evaluation designating his or her overall performance as effective or highly effective, the postprobationary teacher must receive one evaluation in the immediately succeeding school year. The evaluation must be based in part upon at least one scheduled observation cycle which must occur within 120 days after the first day of instruction of the school year.

Sec. 68. NRS 391.705 is hereby amended to read as follows:

391.705 1. A probationary administrator must receive one evaluation during each school year of his or her probationary employment. The evaluation must be based in part upon at least three scheduled ~~observations~~ observation cycles of the probationary administrator during the first school year of his or her probationary period which must occur as follows:

(a) The first scheduled observation cycle must occur within 40 days after the first day of instruction of the school year;

(b) The second scheduled observation cycle must occur after 40 days but within 80 days after the first day of instruction of the school year; and

(c) The third scheduled observation cycle must occur after 80 days but within 120 days after the first day of instruction of the school year.

2. ~~After each observation conducted pursuant to subsection 1, a probationary administrator must receive notice, on a form prescribed by the State Board, that he or she may request that a subsequent observation be conducted by another administrator. If a probationary administrator requests that his or her next observation be conducted by another administrator, the administrator conducting the observation must meet the requirements prescribed by subsection 2 of NRS 391.725.~~

~~3.~~ If a probationary administrator receives an evaluation designating his or her overall performance as effective or highly effective:

(a) During the first school year of his or her probationary period, the evaluation during the second school year of the probationary period must be based in part upon at least two scheduled ~~observations~~ observation cycles of the administrator which must occur within the times specified in paragraphs (b) and (c) of subsection 1.

(b) During the first and second school year of his or her probationary period, the evaluation during the third school year of the probationary period must be based in part upon at least one scheduled observation cycle of the administrator which must occur within 120 days after the first day of instruction of the school year.

~~3.~~ ~~4.~~ If a probationary administrator receives an evaluation designating his or her overall performance as minimally effective or ineffective during the first or second school year of the probationary period, the probationary administrator must receive one evaluation during the immediately succeeding school year which is based in part upon three ~~observations~~ observation cycles which must occur in accordance with the observation schedule set forth in subsection 1.

~~4. 45.1~~ Each probationary administrator is subject to the provisions of NRS 391.725 and 391.820.

Sec. 68.5. NRS 391.710 is hereby amended to read as follows:

391.710 1. If a postprobationary administrator receives an evaluation designating his or her overall performance as minimally effective or ineffective, the postprobationary administrator must receive one evaluation in the immediately succeeding school year which is based in part upon three ~~observations~~ **observation cycles** which must occur in accordance with the observation schedule set forth in subsection 1 of NRS 391.705. If a postprobationary administrator receives evidence from the first two ~~observations~~ **observation cycles** indicating that, unless his or her performance improves, his or her overall performance may be rated as minimally effective or ineffective on the evaluation, the postprobationary administrator may request that the third observation **cycle** be conducted by another administrator. If a postprobationary administrator requests that his or her third observation **cycle** be conducted by another administrator, that administrator must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the postprobationary administrator from a list of three candidates submitted by the superintendent.

2. If a postprobationary administrator receives an evaluation designating his or her overall performance as effective or highly effective, the postprobationary administrator must receive one evaluation in the immediately succeeding school year. The evaluation must be based in part upon at least one scheduled observation **cycle** which must occur within 120 days after the first day of instruction of the school year.

Sec. 69. NRS 391.725 is hereby amended to read as follows:

391.725 1. If a written evaluation of a probationary teacher, or a probationary administrator who provides primarily administrative services at the school level and who does not provide primarily direct instructional services to pupils, regardless of whether the probationary administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, designates the overall performance of the teacher or administrator as “minimally effective” or “ineffective”:

(a) The written evaluation must include the following statement: “Please be advised that, pursuant to Nevada law, your contract may not be renewed for the next school year. If you receive a ‘minimally effective’ or ‘ineffective’ evaluation ~~on the first or second evaluation, or both evaluations for this school year,~~ **and are reemployed for a second or third year of your probationary period,** you may request that ~~the third~~ **your next** evaluation be conducted by another administrator. You may also request, to the administrator who conducted the evaluation, reasonable assistance in improving your performance based upon the recommendations reported in

the evaluation for which you request assistance, and upon such request, a reasonable effort will be made to assist you in improving your performance.”

(b) The probationary teacher or probationary administrator, as applicable, must acknowledge in writing that he or she has received and understands the statement described in paragraph (a).

2. If a probationary teacher or probationary administrator to which subsection 1 applies requests that his or her next evaluation be conducted by another administrator in accordance with the notice required by subsection 1, the administrator conducting the evaluation must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the probationary teacher or probationary administrator, as applicable, from a list of three candidates submitted by the superintendent.

3. If a probationary teacher or probationary administrator to which subsection 1 applies requests assistance in improving performance reported in his or her evaluation, the administrator who conducted the evaluation shall ensure that a reasonable effort is made to assist the probationary teacher or probationary administrator in improving his or her performance.

Sec. 70. NRS 391.750 is hereby amended to read as follows:

391.750 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) Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations and assessments adopted pursuant to NRS 390.270 or 390.275;
- (r) An intentional violation of NRS 388.497 or 388.499;
- (s) Knowingly and willfully failing to comply with the provisions of NRS 388.1351;
- (t) Gross misconduct; or
- (u) 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 is found, through an investigation of a testing irregularity, to have willfully breached the security or confidentiality of the questions and answers of the examinations that are administered pursuant to NRS 390.105 ~~for 390.600~~ or ~~the for~~ college and career readiness assessment administered pursuant to NRS 390.610, 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.

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. 71. NRS 391A.125 is hereby amended to read as follows:

391A.125 1. Based upon the priorities of programs prescribed by the State Board pursuant to subsection 4 of NRS 391A.505 and the assessment of needs for training within the region and priorities of training adopted by the governing body pursuant to NRS 391A.175, each regional training program shall provide:

- (a) Training for teachers and other licensed educational personnel in the:
 - (1) Standards established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520;
 - (2) Curriculum and instruction required for the standards adopted by the State Board;
 - (3) Curriculum and instruction recommended by the Teachers and Leaders Council of Nevada; and
 - (4) Culturally relevant pedagogy, taking into account cultural diversity and demographic differences throughout this State.
- (b) Through the Nevada Early Literacy Intervention Program established for the regional training program, training for teachers who teach

kindergarten and grades 1, 2 or 3 on methods to teach fundamental reading skills, including, without limitation:

- (1) Phonemic awareness;
- (2) Phonics;
- (3) Vocabulary;
- (4) Fluency;
- (5) Comprehension; and
- (6) Motivation.

(c) Training for administrators who conduct the evaluations required pursuant to NRS 391.685, 391.690, 391.705 and 391.710 relating to the manner in which such evaluations are conducted. Such training must be developed in consultation with the Teachers and Leaders Council of Nevada created by NRS 391.455.

(d) Training for teachers, administrators and other licensed educational personnel relating to correcting deficiencies and addressing recommendations for improvement in performance that are identified in the evaluations conducted pursuant to NRS 391.685, 391.690, 391.705 or 391.710.

(e) At least one of the following types of training:

(1) Training for teachers and school administrators in the assessment and measurement of pupil achievement and the effective methods to analyze the test results and scores of pupils to improve the achievement and proficiency of pupils.

(2) Training for teachers in specific content areas to enable the teachers to provide a higher level of instruction in their respective fields of teaching. Such training must include instruction in effective methods to teach in a content area provided by teachers who are considered masters in that content area.

(3) In addition to the training provided pursuant to paragraph (b), training for teachers in the methods to teach basic skills to pupils, such as providing instruction in reading with the use of phonics and providing instruction in basic skills of mathematics computation.

(f) In accordance with the program established by the Statewide Council pursuant to paragraph (b) of subsection 2 of NRS 391A.135 training for:

(1) Teachers on how to engage parents and families, including, without limitation, disengaged families, in the education of their children and to build the capacity of parents and families to support the learning and academic achievement of their children.

(2) Training for teachers and paraprofessionals on working with parent liaisons in public schools to carry out strategies and practices for effective parental involvement and family engagement.

2. The training required pursuant to subsection 1 must:

(a) Include the activities set forth in 20 U.S.C. § ~~7801(34)~~, **7801(42)**, as deemed appropriate by the governing body for the type of training offered.

(b) Include appropriate procedures to ensure follow-up training for teachers and administrators who have received training through the program.

(c) Incorporate training that addresses the educational needs of:

(1) Pupils with disabilities who participate in programs of special education; and

(2) Pupils who are ~~limited~~ English ~~proficient~~ **learners**.

3. The governing body of each regional training program shall prepare and maintain a list that identifies programs for the professional development of teachers and administrators that successfully incorporate:

(a) The standards of content and performance established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520;

(b) Fundamental reading skills; and

(c) Other training listed in subsection 1.

↪ The governing body shall provide a copy of the list on an annual basis to school districts for dissemination to teachers and administrators.

4. A regional training program may include model classrooms that demonstrate the use of educational technology for teaching and learning.

5. A regional training program may contract with the board of trustees of a school district that is served by the regional training program as set forth in NRS 391A.120 to provide professional development to the teachers and administrators employed by the school district that is in addition to the training required by this section. Any training provided pursuant to this subsection must include the activities set forth in 20 U.S.C. § ~~7801(34)~~, **7801(42)**, as deemed appropriate by the governing body for the type of training offered.

6. To the extent money is available from legislative appropriation or otherwise, a regional training program may provide training to paraprofessionals.

7. As used in this section, "paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 72. NRS 391A.135 is hereby amended to read as follows:

391A.135 1. The Statewide Council shall meet not less than four times per year.

2. The Statewide Council shall:

(a) Adopt uniform standards for use by the governing body of each regional training program in the review and approval by the governing body of the training to be provided by the regional training program pursuant to NRS 391A.125 and 391A.175. The standards must ensure that the training provided by the regional training programs includes activities set forth in 20 U.S.C. § ~~7801(34)~~, **7801(42)**, as appropriate for the type of training offered, is of high quality and is effective in addressing the training programs specified in subsection 1 of NRS 391A.125.

(b) In cooperation with the Office of Parental Involvement and Family Engagement created by NRS 385.630, establish a statewide program for

teachers and administrators concerning effective parental involvement and family engagement which includes:

(1) Training for teachers on how to engage parents and families, including, without limitation, disengaged families, in the education of their children and to build the capacity of parents and families to support the learning and academic achievement of their children.

(2) Training for teachers and paraprofessionals on working with parent liaisons in public schools to carry out strategies and practices for effective parental involvement and family engagement.

(c) Coordinate the dissemination of information to school districts, administrators and teachers concerning the training, programs and services provided by the regional training programs.

(d) Disseminate information to the regional training programs concerning innovative and effective methods to provide professional development.

(e) Conduct long-range planning concerning the professional development needs of teachers and administrators employed in this state.

(f) Adopt uniform procedures and criteria for use by the governing body of each regional training program to report the evaluation conducted pursuant to NRS 391A.190.

(g) Review and recommend any necessary revisions to the 5-year plan prepared by the governing body of each regional training program pursuant to NRS 391A.175.

(h) Review and recommend any necessary revisions to the annual report prepared by the governing body of each regional training program pursuant to NRS 391A.190.

(i) Ensure that the governing body of each regional training program considers the plans to improve the achievement of pupils prepared pursuant to NRS 385A.650 for the public schools within the primary jurisdiction of the regional training program and the plan to improve the achievement of pupils prepared by the State Board pursuant to NRS 385.111 and is guided by those plans in the provision of professional development for teachers and administrators.

(j) Coordinate with the Office of Parental Involvement and Family Engagement in carrying out the duties of the Office.

3. The Statewide Council may:

(a) Accept gifts and grants from any source for use by the Statewide Council in carrying out its duties pursuant to this section and accept gifts and grants from any source on behalf of one or more regional training programs to assist with the training provided pursuant to NRS 391A.125; and

(b) Comply with applicable federal laws and regulations governing the provision of federal grants to assist the Statewide Council in carrying out its duties pursuant to this section and comply with applicable federal laws and regulations governing the provision of federal grants to assist with the training provided pursuant to NRS 391A.125, including, without limitation,

providing money from the budget of the Statewide Council to match the money received from a federal grant.

4. As used in this section, “paraprofessional” has the meaning ascribed to it in NRS 391.008.

Sec. 73. NRS 391A.370 is hereby amended to read as follows:

391A.370 The board of trustees of each school district and the governing body of each charter school shall ensure that the teachers and administrators employed by the school district or charter school have access to high-quality, ongoing professional development training. The professional development training must include, without limitation, training concerning:

1. The academic standards adopted by the State Board, including, without limitation, the academic standards for science.
2. The academic standards and curriculum in English language development and literacy.
3. The curriculum and instruction required for courses of study in:
 - (a) Science, technology, engineering and mathematics.
 - (b) English language development and literacy.
4. The cultural competency required to meet the social, emotional and academic needs of certain categories of pupils enrolled in the school, including, without limitation, pupils who are at risk, pupils who are ~~limited~~ English ~~proficient~~ **learners**, pupils with disabilities and gifted and talented pupils.

Sec. 74. NRS 391A.400 is hereby amended to read as follows:

391A.400 1. There is hereby created the Grant Fund for Incentives for Licensed Educational Personnel to be administered by the Department. The Department may accept gifts and grants from any source for deposit in the Grant Fund.

2. The board of trustees of each school district shall establish a program of incentive pay for licensed teachers, school psychologists, school librarians, school counselors and administrators employed at the school level which must be designed to attract and retain those employees. The program must be negotiated pursuant to chapter 288 of NRS, insofar as the provisions of that chapter apply to those employees, and must include, without limitation, the attraction and retention of:

(a) Licensed teachers, school psychologists, school librarians, school counselors and administrators employed at the school level who have been employed in that category of position for at least 5 years in this State or another state and who are employed in schools which are at-risk, as determined by the Department pursuant to subsection 8; and

(b) Teachers who hold a license or endorsement in the field of mathematics, science, special education, English as a second language or other area of need within the school district, as determined by the Superintendent of Public Instruction.

3. A program of incentive pay established by a school district must specify the type of financial incentives offered to the licensed educational

personnel. Money available for the program must not be used to negotiate the salaries of individual employees who participate in the program.

4. If the board of trustees of a school district wishes to receive a grant of money from the Grant Fund, the board of trustees shall submit to the Department an application on a form prescribed by the Department. The application must include a description of the program of incentive pay established by the school district.

5. The Superintendent of Public Instruction shall compile a list of the financial incentives recommended by each school district that submitted an application. On or before December 1 of each year, the Superintendent shall submit the list to the Interim Finance Committee for its approval of the recommended incentives.

6. After approval of the list of incentives by the Interim Finance Committee pursuant to subsection 5 and within the limits of money available in the Grant Fund, the Department shall provide grants of money to each school district that submits an application pursuant to subsection 4 based upon the amount of money that is necessary to carry out each program. If an insufficient amount of money is available to pay for each program submitted to the Department, the amount of money available must be distributed pro rata based upon the number of licensed employees who are estimated to be eligible to participate in the program in each school district that submitted an application.

7. An individual employee may not receive as a financial incentive pursuant to a program an amount of money that is more than \$3,500 per year.

8. The Department shall, in consultation with representatives appointed by the Nevada Association of School Superintendents and the Nevada Association of School Boards, develop a formula for identifying at-risk schools for purposes of this section. The formula must be developed on or before July 1 of each year and include, without limitation, the following factors:

(a) The percentage of pupils who are eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq.;

(b) The transiency rate of pupils;

(c) The percentage of pupils who are ~~limited~~ English ~~proficient~~ **learners**;

(d) The percentage of pupils who have individualized education programs; and

(e) The percentage of pupils who drop out of high school before graduation.

9. The board of trustees of each school district that receives a grant of money pursuant to this section shall evaluate the effectiveness of the program for which the grant was awarded. The evaluation must include, without limitation, an evaluation of whether the program is effective in recruiting and retaining the personnel as set forth in subsection 2. On or before December 1

of each year, the board of trustees shall submit a report of its evaluation to the:

- (a) Governor;
- (b) State Board;
- (c) Interim Finance Committee;
- (d) If the report is submitted in an even-numbered year, Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature; and
- (e) Legislative Committee on Education.

Sec. 75. NRS 392.457 is hereby amended to read as follows:

392.457 1. The State Board shall, in consultation with the boards of trustees of school districts, educational personnel, local associations and organizations of parents whose children are enrolled in public schools throughout this State and individual parents and legal guardians whose children are enrolled in public schools throughout this State, adopt a policy to encourage effective involvement and engagement by parents and families in support of their children and the education of their children. The policy adopted by the State Board must be considered when the Board:

- (a) Consults with the boards of trustees of school districts in the adoption of policies pursuant to subsection 3; and
- (b) Interacts with school districts, public schools, educational personnel, parents, legal guardians and families of pupils, and members of the general public in carrying out its duties pursuant to this title.

2. The policy adopted by the State Board pursuant to subsection 1 must include the following elements and goals:

(a) Promotion of an atmosphere for parents and families to visit the school that their children attend and feel welcome, valued and connected to the staff of the school, other parents and families and to the education of their children.

(b) Promotion of regular, two-way, meaningful communication between parents, families and schools relating to learning by pupils.

(c) Collaboration among parents, families and schools to support learning by pupils and healthy development of pupils at home and school.

(d) Empowerment of parents and families to advocate for their children and the children of other parents and families to ensure that all pupils are treated fairly and have access to learning opportunities that support pupil achievement.

(e) Promotion of an equal partnership between parents, families and schools in making decisions that affect children, parents and families and in informing, influencing and creating school policies, practices and programs.

(f) Collaboration of parents, families and schools with the community to connect pupils, parents, families and schools with learning opportunities, community services and civic participation.

3. The board of trustees of each school district shall, in consultation with the State Board, educational personnel, local associations and organizations

of parents whose children are enrolled in public schools of the school district and individual parents and legal guardians whose children are enrolled in public schools of the school district, adopt policies to encourage effective involvement and engagement by parents and families in support of their children and the education of their children. The policies adopted pursuant to this subsection must:

- (a) Be consistent, to the extent applicable, with the policy adopted by the State Board pursuant to subsection 1;
- (b) Include the elements and goals specified in subsection 2; and
- (c) Comply with the parental involvement policy required by the federal ~~[No Child Left Behind Act of 2001,]~~ **Every Student Succeeds Act of 2015**, as set forth in 20 U.S.C. § 6318.

4. The State Board and the board of trustees of each school district shall, at least once each year, review and amend their respective policies as necessary.

Sec. 76. NRS 392.4575 is hereby amended to read as follows:

392.4575 1. The Department shall prescribe a form for educational involvement accords to be used by all public schools in this State. The educational involvement accord must comply with the policy:

- (a) For parental involvement required by the federal ~~[No Child Left Behind Act of 2001,]~~ **Every Student Succeeds Act of 2015**, as set forth in 20 U.S.C. § 6318.

- (b) For parental involvement and family engagement adopted by the State Board pursuant to NRS 392.457.

2. Each educational involvement accord must include, without limitation:

- (a) A description of how the parent or legal guardian will be involved in the education of the pupil, including, without limitation:

- (1) Reading to the pupil, as applicable for the grade or reading level of the pupil;

- (2) Reviewing and checking the pupil's homework; and

- (3) Contributing 5 hours of time each school year, including, without limitation, by attending school-related activities, parent-teacher association meetings, parent-teacher conferences, volunteering at the school and chaperoning school-sponsored activities.

- (b) The responsibilities of a pupil in a public school, including, without limitation:

- (1) Reading each day before or after school, as applicable for the grade or reading level of the pupil;

- (2) Using all school equipment and property appropriately and safely;

- (3) Following the directions of any adult member of the staff of the school;

- (4) Completing and submitting homework in a timely manner; and

- (5) Respecting himself or herself, others and all property.

- (c) The responsibilities of a public school and the administrators, teachers and other personnel employed at a school, including, without limitation:

(1) Ensuring that each pupil is provided proper instruction, supervision and interaction;

(2) Maximizing the educational and social experience of each pupil;

(3) Carrying out the professional responsibility of educators to seek the best interest of each pupil; and

(4) Making staff available to the parents and legal guardians of pupils to discuss the concerns of parents and legal guardians regarding the pupils.

3. Each educational involvement accord must be accompanied by, without limitation:

(a) Information describing how the parent or legal guardian may contact the pupil's teacher and the principal of the school in which the pupil is enrolled;

(b) The curriculum of the course or standards for the grade in which the pupil is enrolled, as applicable, including, without limitation, a calendar that indicates the dates of major examinations and the due dates of significant projects, if those dates are known by the teacher at the time that the information is distributed;

(c) The homework and grading policies of the pupil's teacher or school;

(d) Directions for finding resource materials for the course or grade in which the pupil is enrolled, as applicable;

(e) Suggestions for parents and legal guardians to assist pupils in their schoolwork at home;

(f) The dates of scheduled conferences between teachers or administrators and the parents or legal guardians of the pupil;

(g) The manner in which reports of the pupil's progress will be delivered to the parent or legal guardian and how a parent or legal guardian may request a report of progress;

(h) The classroom rules and policies;

(i) The dress code of the school, if any;

(j) The availability of assistance to parents who have limited proficiency in the English language;

(k) Information describing the availability of free and reduced-price meals, including, without limitation, information regarding school breakfast, school lunch and summer meal programs;

(l) Opportunities for parents and legal guardians to become involved in the education of their children and to volunteer for the school or class; and

(m) The code of honor relating to cheating prescribed pursuant to NRS 392.461.

4. The board of trustees of each school district shall adopt a policy providing for the development and distribution of the educational involvement accord. The policy adopted by a board of trustees must require each classroom teacher to:

(a) Distribute the educational involvement accord to the parent or legal guardian of each pupil in the teacher's class at the beginning of each school year or upon a pupil's enrollment in the class, as applicable; and

(b) Provide the parent or legal guardian with a reasonable opportunity to sign the educational involvement accord.

5. Except as otherwise provided in this subsection, the board of trustees of each school district shall ensure that the form prescribed by the Department is used for the educational involvement accord of each public school in the school district. The board of trustees of a school district may authorize the use of an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

6. The Department and the board of trustees of each school district shall, at least once each year, review and amend their respective educational involvement accords.

Sec. 77. NRS 392.750 is hereby amended to read as follows:

392.750 If a pupil enrolled at a public elementary school in kindergarten or grade 1, 2 or 3 exhibits a deficiency in the subject area of reading based upon state or local assessments and the observations of the pupil's teacher, the principal of the school must provide written notice of the deficiency to the parent or legal guardian of the pupil within 30 days after the date on which the deficiency is discovered. The written notice must, without limitation:

1. Identify the educational programs and services that the pupil will receive to improve the pupil's proficiency in the subject area of reading, including, without limitation, the programs and services included in the plan to improve the literacy of pupils enrolled in kindergarten and grades 1, 2 and 3 that has been approved by the Department pursuant to NRS 388.157;

2. Describe, explain and, if appropriate, demonstrate the strategies which the parent or legal guardian may use at home to help improve the proficiency of the pupil in the subject area of reading;

3. Include information regarding the English literacy development of a pupil who is ~~limited~~ **an English learner**; and

4. Describe, explain and, if appropriate, demonstrate the strategies which the parent or legal guardian may use at home to help improve the English literacy of a pupil who is ~~limited~~ **an English learner**.

Sec. 78. NRS 392.760 is hereby amended to read as follows:

392.760 1. Except as otherwise provided in this section, a pupil enrolled in grade 3 must be retained in grade 3 rather than promoted to grade 4 if the pupil does not obtain a score in the subject area of reading on the criterion-referenced examination administered pursuant to NRS 390.105 that meets the passing score prescribed by the State Board pursuant to subsection 7.

2. The superintendent of schools of a school district or the governing body of a charter school, as applicable, may authorize the promotion of a pupil to grade 4 who would otherwise be retained in grade 3 only if the superintendent or governing body, as applicable, approves a good-cause

exemption for the pupil upon a determination by the principal of the school pursuant to subsection 4 that the pupil is eligible for such an exemption.

3. A good-cause exemption must be approved for a pupil who previously was retained in grade 3. Any other pupil is eligible for a good-cause exemption if the pupil:

(a) Demonstrates an acceptable level of proficiency in reading on an alternative standardized reading assessment approved by the State Board;

(b) Demonstrates, through a portfolio of the pupil's work, proficiency in reading at grade level, as evidenced by demonstration of mastery of the academic standards in reading beyond the retention level;

(c) Is ~~limited~~ **an** English ~~proficient~~ **learner** and has received less than 2 years of instruction in a program of instruction that teaches English as a second language;

(d) Received intensive remediation in the subject area of reading for 2 or more years but still demonstrates a deficiency in reading and was previously retained in kindergarten or grade 1 or 2 for a total of 2 years;

(e) Is a pupil with a disability and his or her individualized education program indicates that the pupil's participation in the criterion-referenced examinations administered pursuant to NRS 390.105 is not appropriate; or

(f) Is a pupil with a disability and:

(1) He or she participates in the criterion-referenced examinations administered pursuant to NRS 390.105;

(2) His or her individualized education program or plan developed in accordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, documents that the pupil has received intensive remediation in reading for more than 2 years, but he or she still demonstrates a deficiency in reading; and

(3) He or she was previously retained in kindergarten or grade 1, 2 or 3.

4. The principal of a school in which a pupil who may be retained in grade 3 pursuant to subsection 1 is enrolled shall consider the factors set forth in subsection 3 and determine whether the pupil is eligible for a good-cause exemption. In making the determination, the principal must consider documentation provided by the pupil's teacher indicating whether the promotion of the pupil is appropriate based upon the record of the pupil. Such documentation must only consist of the existing plan for monitoring the progress of the pupil, the pupil's individualized education program, if applicable, and the pupil's plan in accordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, if applicable. If the principal determines that promotion of the pupil to grade 4 is appropriate, the principal must submit a written recommendation to the superintendent of schools of the school district or to the governing body of the charter school, as applicable. The superintendent of schools or the governing body of the charter school, as applicable, shall approve or deny the recommendation of the principal and provide written notice of the approval or denial to the principal.

5. A principal who determines that a pupil is eligible for a good-cause exemption shall notify the parent or legal guardian of the pupil whether the superintendent of schools of the school district or the governing body of the charter school, as applicable, approves the good-cause exemption.

6. The principal of a school in which a pupil for whom a good-cause exemption is approved and who is promoted to grade 4 must ensure that the pupil continues to receive intensive instruction in the subject area of reading. Such instruction must include, without limitation, strategies based upon ~~scientifically-based~~ **evidence-based** research that will improve proficiency in the subject area of reading.

7. The State Board shall prescribe by regulation:

(a) The score which a pupil enrolled in grade 3 must obtain in the subject area of reading on the criterion-referenced examination administered pursuant to NRS 390.105 to be promoted to grade 4 without a good-cause exemption; and

(b) An alternate examination for administration to pupils enrolled in grade 3 who do not obtain the passing score in the subject area of reading on the criterion-referenced examination administered pursuant to NRS 390.105 and the passing score such a pupil must obtain on the alternate examination to be promoted to grade 4 without a good-cause exemption.

8. As used in this section, “individualized education program” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

Sec. 79. NRS 392.765 is hereby amended to read as follows:

392.765 1. If a pupil will be retained in grade 3 pursuant to NRS 392.760, the principal of the school must:

(a) Provide written notice to the parent or legal guardian of the pupil that the pupil will be retained in grade 3. The written notice must include, without limitation, a description of the intensive instructional services in the subject area of reading that the pupil will receive to improve the proficiency of the pupil in that subject area.

(b) Develop a plan to monitor the progress of the pupil in the subject area of reading.

(c) Require the teacher of the pupil to develop a portfolio of the pupil’s work in the subject area of reading, which must be updated as necessary to reflect progress made by the pupil.

(d) Ensure that the pupil receives intensive instructional services in the subject area of reading that are designed to improve the pupil’s proficiency in the subject area of reading, including, without limitation:

(1) Programs and services included in the plan to improve the literacy of pupils enrolled in kindergarten and grades 1, 2 and 3 approved by the Department pursuant to NRS 388.157;

(2) Instruction for at least 90 minutes each school day based upon ~~scientifically-based~~ **evidence-based research concerning** reading instruction ; ~~research~~ ; and

(3) Intensive instructional services prescribed by the board of trustees of the school district pursuant to subsection 2, as determined appropriate for the pupil.

2. The board of trustees of each school district or the governing body of a charter school, as applicable, shall:

(a) Review and evaluate the plans for monitoring the progress of pupils developed pursuant to subsection 1.

(b) Prescribe the intensive instructional services in the subject area of reading which the principal of a school must implement as determined appropriate for a pupil who is retained in grade 3 pursuant to NRS 392.760, which may include, without limitation:

(1) Instruction that is provided in small groups;

(2) Instruction provided in classes with reduced pupil-teacher ratios;

(3) A timeline for frequently monitoring the progress of the pupil;

(4) Tutoring and mentoring;

(5) Classes which are designed to increase the ability of pupils to transition from grade 3 to grade 4;

(6) Instruction provided through an extended school day, school week or school year;

(7) Programs to improve a pupil's proficiency in reading which are offered during the summer; or

(8) Any combination of the services set forth in subparagraphs (1) to (7), inclusive.

3. Except as otherwise provided in subsection 4, the intensive instructional services in the subject area of reading required by this section must be provided to the pupil by a teacher:

(a) Who is different than the teacher who provided instructional services to the pupil during the immediately preceding school year; and

(b) Who has been determined to be highly effective, as demonstrated by pupil performance data and performance evaluations.

4. The intensive instructional services in the subject area of reading required by this section may be provided to the pupil by the same teacher who provided instructional services to the pupil during the immediately preceding school year if a different teacher who meets the requirements of paragraph (b) of subsection 3 is not reasonably available and the pupil:

(a) Has an individualized education program; or

(b) Is enrolled in a school district in a county whose population is less than 100,000.

5. The board of trustees of each school district and the governing body of a charter school, as applicable, shall develop a policy by which the principal of a school may promote a pupil who is retained in grade 3 pursuant to NRS 392.760 to grade 4 at any time during the school year if the pupil demonstrates adequate proficiency in the subject area of reading. The policy must include the specific criteria a pupil must satisfy to be eligible for promotion, including, without limitation, a reasonable expectation that the

pupil's progress will allow him or her to sufficiently master the requirements for a fourth-grade reading level. If a pupil is promoted after November 1 of a school year, he or she must demonstrate proficiency in reading at a level prescribed by the State Board.

6. If a principal of a school determines that a pupil is not academically ready for promotion to grade 4 after being retained in grade 3 and the pupil received intensive instructional services pursuant to this section, the school district in which the pupil is enrolled must allow the parent or legal guardian of the pupil to decide, in consultation with the principal of the school, whether to place the pupil in a transitional instructional setting which is designed to produce learning gains sufficient for the pupil to meet the performance standards required for grade 4 while continuing to receive remediation in the subject area of reading.

7. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

Sec. 80. NRS 392.770 is hereby amended to read as follows:

392.770 In addition to the intensive instructional services provided to a pupil who is retained in grade 3 pursuant to NRS 392.760, the principal of the school must offer the parent or legal guardian of the pupil at least one of the following instructional options:

1. Supplemental tutoring which is based upon ~~{scientifically based}~~ **evidence-based** research concerning reading instruction;

2. Providing the parent or legal guardian with a plan for reading with the pupil at home and participating in any workshops that may be available in the school district to assist the parent or legal guardian with reading with his or her child at home, as set forth in an agreement with the parent or legal guardian; or

3. Providing the pupil with a mentor or tutor who has received specialized training in teaching pupils how to read.

Sec. 81. Section 1 of the Zoom Schools Act, being chapter 335, Statutes of Nevada 2015, at page 1870, is hereby amended to read as follows:

Section 1. 1. The Board of Trustees of the Clark County School District and the Board of Trustees of the Washoe County School District shall identify the elementary schools within the School District to operate as Zoom elementary schools based upon which elementary schools within the School District:

(a) Have the highest percentage of pupils who are limited English proficient or eligible for designation as limited English proficient; and

(b) Are the lowest performing academically.

2. The Board of Trustees of the Clark County School District and the Board of Trustees of the Washoe County School District shall distribute the money appropriated by the 2015 Legislature to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 387.1247 for each Zoom elementary school of those school districts to:

- (a) Provide prekindergarten programs free of charge;
- (b) Expand full-day kindergarten classes;
- (c) Operate reading skills centers;
- (d) Provide, free of charge, a summer academy or an intersession academy for those schools that do not operate on a traditional school calendar, including, without limitation, the provision of transportation to attend the summer academy or intersession academy;
- (e) Provide professional development for teachers and other licensed educational personnel regarding effective instructional practices and strategies for children who are limited English proficient;
- (f) Offer recruitment and retention incentives for the teachers and other licensed educational personnel who provide any of the programs and services set forth in this subsection from the list of incentives prescribed by the State Board of Education pursuant to subsection 12; and
- (g) Engage and involve parents and families of children who are limited English proficient, including, without limitation, increasing effective, culturally appropriate communication with and outreach to parents and families to support the academic achievement of those children.

3. A Zoom elementary school that receives money pursuant to subsection 2 shall offer each of the programs and services prescribed in paragraphs (a) to (g), inclusive, of that subsection so that the Zoom elementary school may offer a comprehensive package of programs and services for pupils who are limited English proficient. A Zoom elementary school shall not use the money for any other purpose or use more than 2 percent of the money for the purposes described in paragraphs (e), (f) and (g) of subsection 2.

4. A reading skills center operated by a Zoom elementary school must provide:

- (a) Support at the Zoom elementary school in the assessment of reading and literacy problems and language acquisition barriers for pupils; and
- (b) Instructional intervention to enable pupils to overcome such problems and barriers by the completion of grade 3.

5. The Board of Trustees of the Clark County School District shall identify at least three middle schools, junior high schools or high schools within the school district to operate as Zoom middle schools, junior high schools or high schools. The Board of Trustees of the Washoe County School District shall identify at least one middle school, junior high school or high school within the school district to operate as a Zoom middle school, junior high school or high school. Each such board of trustees shall identify those schools based upon which middle schools, junior high schools and high schools within the school district:

(a) Have the highest percentage of pupils who are limited English proficient; and

(b) Are the lowest performing academically.

6. The Clark County School District and the Washoe County School District shall distribute the money appropriated by the 2015 Legislature to the Account for Programs for Innovation and the Prevention of Remediation for each Zoom middle school, junior high school and high school of those school districts to carry out one or more of the following:

(a) Reduce class sizes for pupils who are limited English proficient and provide English language literacy based classes;

(b) Provide direct instructional intervention to each pupil who is limited English proficient using the data available from applicable assessments of that pupil;

(c) Provide for an extended school day;

(d) Provide, free of charge, a summer academy or an intersession academy for those schools that do not operate on a traditional school calendar, including, without limitation, the provision of transportation to attend the summer academy or intersession academy;

(e) Provide professional development for teachers and other licensed educational personnel regarding effective instructional practices and strategies for pupils who are limited English proficient;

(f) Offer recruitment and retention incentives for teachers and other licensed educational personnel who provide any of the programs and services set forth in this subsection from the list of incentives prescribed by the State Board of Education pursuant to subsection 12;

(g) Engage and involve parents and families of pupils who are limited English proficient, including, without limitation, increasing effective, culturally appropriate communication with and outreach to parents and families to support the academic achievement of those pupils; and

(h) Provide other evidence-based programs and services that are approved by the Department of Education and that are designed to meet the specific needs of pupils enrolled in the school who are limited English proficient.

↪ The Clark County School District and the Washoe County School District shall not use more than 2 percent of the money for the purposes described in paragraphs (e), (f) and (g).

7. On or before August 1, 2015, the Clark County School District and the Washoe County School District shall each provide a report to the Department of Education which includes the:

(a) Zoom elementary schools identified by the School District pursuant to subsection 1 and the plan of each such school for carrying out the programs and services prescribed by paragraphs (a) to (g), inclusive, of subsection 2; and

(b) Zoom middle schools, junior high schools and high schools identified by the School District pursuant to subsection 5 and the plan of each school for carrying out the programs and services described in paragraphs (a) to (h), inclusive, of subsection 6.

8. From the money appropriated by the 2015 Legislature to the Account for Programs for Innovation and the Prevention of Remediation for Zoom schools or charter schools or school districts other than the Clark County School District or Washoe County School District, the Department of Education shall provide grants of money to the sponsors of such charter schools and the school districts. The sponsor of such a charter school and the board of trustees of such a school district may submit an application to the Department on a form prescribed by the Department that includes, without limitation:

(a) The number of pupils in the school district or charter school, as applicable, who are limited English proficient or eligible for designation as limited English proficient; and

(b) A description of the programs and services the school district or charter school, as applicable, will provide with a grant of money, which may include, without limitation:

(1) The creation or expansion of high-quality, developmentally appropriate prekindergarten programs, free of charge, that will increase enrollment of children who are limited English proficient;

(2) The acquisition and implementation of empirically proven assessment tools to determine the reading level of pupils who are limited English proficient and technology-based tools, such as software, designed to support the learning of pupils who are limited English proficient;

(3) Professional development for teachers and other educational personnel regarding effective instructional practices and strategies for children who are limited English proficient;

(4) The provision of programs and services for pupils who are limited English proficient, free of charge, before and after school, during the summer or intersession for those schools that do not operate on a traditional school calendar, including, without limitation, the provision of transportation to attend the summer academy or intersession academy;

(5) Engaging and involving parents and families of children who are limited English proficient, including, without limitation, increasing effective, culturally appropriate communication with and outreach to parents and families to support the academic achievement of those children;

(6) Offering recruitment and retention incentives for the teachers and other licensed educational personnel who provide any of the programs and services set forth in this subsection from the list of

incentives prescribed by the State Board of Education pursuant to subsection 12; and

(7) Provide other evidence-based programs and services that are approved by the Department and that are designed to meet the specific needs of pupils enrolled in the school who are limited English proficient.

9. The Department of Education shall award grants of money to school districts and the sponsors of charter schools that submit applications pursuant to subsection 8 based upon the number of pupils enrolled in each such school district or charter school, as applicable, who are limited English proficient or eligible for designation as limited English proficient, and not on a competitive basis.

10. A school district and a sponsor of a charter school that receives a grant of money pursuant to subsection 8:

(a) Shall not use more than 2 percent of the money for the purposes described in subparagraphs (3), (5) and (6) of paragraph (b) of subsection 8.

(b) Shall provide a report to the Department in the form prescribed by the Department with the information required for the Department's report pursuant to subsection 15.

11. On or before August 17, 2015, the Department of Education shall submit a report to the State Board of Education and the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee which includes:

(a) The information reported by the Clark County School District and the Washoe County School District pursuant to subsection 7; and

(b) The school districts and charter schools for which a grant of money is approved pursuant to subsection 9 and the plan of each such school district and charter school for carrying out programs and services with the grant money, including, without limitation, any programs and services described in subparagraphs (1) to (7), inclusive, of paragraph (b) of subsection 8.

12. The State Board of Education shall prescribe:

(a) A list of recruitment and retention incentives for the school districts and the sponsors of charter schools that receive a distribution of money pursuant to this section to offer to teachers and other licensed educational personnel pursuant to paragraph (f) of subsection 2, paragraph (f) of subsection 6 and subparagraph (6) of paragraph (b) of subsection 8; and

(b) Criteria and procedures to notify a school district or a charter school that receives money pursuant to this section if the school district or charter school is not implementing the programs and services for which the money was received in accordance with the applicable requirements of this section or in accordance with the performance levels prescribed by the State Board pursuant to subsection 13, including, without limitation, a plan of corrective action for the school

district or charter school to follow to meet the requirements of this section or the performance levels.

13. The State Board of Education shall prescribe statewide performance levels and outcome indicators to measure the effectiveness of the programs and services for which money is received by the school districts and charter schools pursuant to this section. The performance levels must establish minimum expected levels of performance on a yearly basis based upon the performance results of children who participate in the programs and services. The outcome indicators must be designed to track short-term and long-term impacts on the progress of children who participate in the programs and services, including, without limitation:

- (a) The number of children who participated;
- (b) The extent to which the children who participated improved their English language proficiency and literacy levels compared to other children who are limited English proficient or eligible for such a designation who did not participate in the programs and services; and
- (c) To the extent that a valid comparison may be established, a comparison of the academic achievement and growth in the subject areas of English language arts and mathematics of children who participated in the programs and services to other children who are limited English proficient or eligible for such a designation who did not participate in the programs and services.

14. The Department of Education shall contract for an independent evaluation of the effectiveness of the programs and services offered by each Zoom elementary school pursuant to subsection 2, each Zoom middle school, junior high school and high school pursuant to subsection 6 and the programs and services offered by the other school districts and the charter schools pursuant to subsection 8.

15. The Clark County School District, the Washoe County School District and the Department of Education shall each prepare an annual report that includes, without limitation:

- (a) An identification of the schools that received money from the School District or a grant of money from the Department, as applicable.
- (b) How much money each such school received.
- (c) A description of the programs or services for which the money was used by each such school.
- (d) The number of children who participated in a program or received services.
- (e) The average per-child expenditure per program or service that was funded.
- (f) For the report prepared by the School Districts, an evaluation of the effectiveness of such programs and services, including, without limitation, data regarding the academic and linguistic achievement and

proficiency of children who participated in the programs or received services.

(g) Any recommendations for legislation, including, without limitation:

(1) For the continuation or expansion of programs and services that are identified as effective in improving the academic and linguistic achievement and proficiency of children who are limited English proficient.

(2) A plan for transitioning the funding for providing the programs and services set forth in this section to pupils who are limited English proficient from categorical funding to a weighted per pupil formula within the Nevada Plan.

(h) For the report prepared by the Department, in addition to the information reported for paragraphs (a) to (e), inclusive, and paragraph (g):

(1) The results of the independent evaluation required by subsection 14 of the effectiveness of the programs and services, including, without limitation, data regarding the academic and linguistic achievement and proficiency of children who participated in a program or received a service;

(2) Whether a school district or charter school was notified that it was not implementing the programs and services for which it received money pursuant to this section in accordance with the applicable requirements of this section or in accordance with the performance levels prescribed by the State Board of Education pursuant to subsection 13 and the status of such a school district or charter school, if any, in complying with a plan for corrective action; and

(3) Whether each school district or charter school that received money pursuant to this section met the performance levels prescribed by the State Board of Education pursuant to subsection 13.

16. The annual report prepared by the Clark County School District and the Washoe County School District pursuant to subsection 15 must be submitted to the Department of Education on or before June 1, 2016, and January 16, 2017, respectively. The Department shall submit the information reported by those school districts and the information prepared by the Department pursuant to subsection 15:

(a) On or before June 15, 2016, to the State Board of Education and the Legislative Committee on Education.

(b) On or before February 1, 2017, to the State Board of Education and the Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature.

17. The Department of Education may require a Zoom school or other public school that receives money pursuant to this section to provide a report to the Department on:

(a) The number of vacancies, if any, in full-time licensed educational personnel at the school;

(b) The number of probationary employees, if any, employed at the school;

(c) The number, if any, of persons who are employed at the school as substitute teachers for 20 consecutive days or more in the same classroom or assignment and designated as long-term substitute teachers; and

(d) Any other information relating to the personnel at the school as requested by the Department.

18. The money appropriated by the 2015 Legislature to the Account for Programs for Innovation and the Prevention of Remediation for Zoom schools:

(a) Must be accounted for separately from any other money received by school districts or charter schools of this State and used only for the purposes specified in this section.

(b) May not be used to settle or arbitrate disputes between a recognized organization representing employees of a school district and the school district, or to settle any negotiations.

(c) May not be used to adjust the district-wide schedules of salaries and benefits of the employees of a school district.

19. Upon request of the Legislative Commission, the Clark County School District and the Washoe County School District shall make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money distributed by the 2015 Legislature to the Account for Programs for Innovation and the Prevention of Remediation for Zoom schools.

20. As used in this section:

(a) "Limited English proficient" has the meaning ascribed to it in ~~NRS 385.007~~ **20 U.S.C. § 7801(25), as that section existed on July 1, 2015.**

(b) "Probationary employee" has the meaning ascribed to it in NRS 391.650.

Sec. 82. Section 2 of the Victory Schools Act, being chapter 389, Statutes of Nevada 2015, at page 2199, is hereby amended to read as follows:

Sec. 2. 1. The Department of Education shall designate a public school as a Victory school if, relative to other public schools, including charter schools, that are located in the school district in which the school is also located:

(a) A high percentage of pupils enrolled in the school live in households that have household incomes that are less than the federally designated level signifying poverty, based on the most recent data

compiled by the Bureau of the Census of the United States Department of Commerce; and

(b) The school received one of the two lowest possible ratings indicating underperformance of a public school, as determined by the Department pursuant to the statewide system of accountability for public schools, for the immediately preceding school year.

2. The Department shall designate each Victory school for the 2015-2016 Fiscal Year on or before June 1, 2015.

3. The Department shall transfer money from the Account for Programs for Innovation and the Prevention of Remediation created by NRS 387.1247 to each school district in which a Victory school is designated and each sponsor of a charter school that is designated as a Victory school on a per pupil basis. The amount distributed per pupil must be determined by dividing the amount of money appropriated to the Account by the 2015 Legislature for Victory schools by the total number of pupils who are enrolled in Victory schools statewide. After receiving money from the Account pursuant to this subsection:

(a) A school district shall distribute the money to each Victory school in the school district on a per pupil basis.

(b) A sponsor of a charter school shall distribute the money to each Victory school that it sponsors on a per pupil basis.

4. The board of trustees of each school district in which a Victory school is located and the governing body of each charter school that is designated as a Victory school shall, as soon as practicable after the school is designated as a Victory school, conduct an assessment of the needs of pupils that attend the school. The assessment must include soliciting input from the community served by the Victory school and identify any barriers to improving pupil achievement and school performance and strategies to meet the needs of pupils at the school.

5. Except as otherwise provided in subsection 7, on or before August 15, 2015, the board of trustees of each school district in which a Victory school is designated for the 2015-2016 Fiscal Year and the governing body of each charter school that is designated as a Victory school for the 2015-2016 Fiscal Year shall submit to the Department a comprehensive plan for meeting the educational needs of pupils enrolled in each Victory school. The board of trustees of each school district in which a Victory school is designated and the governing body of each charter school that is designated as a Victory school shall select at least one person who is familiar with the public schools in the school district or with the charter school, respectively, to assist with the development of the plan. The plan must:

(a) Include appropriate means to determine the effectiveness of the plan;

(b) Be based on the assessment of the needs of the pupils who attend the school conducted pursuant to subsection 4;

(c) Analyze available data concerning pupil achievement and school performance, including, without limitation, data collected and maintained in the statewide system of accountability for public schools and other pupil achievement data collected and maintained by the school district or charter school;

(d) Include a description of the criteria used to select entities to provide programs and services to pupils enrolled in the Victory school;

(e) Include a description of the manner in which the school district or governing body will collaborate with selected entities so that academic programs and services and nonacademic programs and services, including, without limitation, transportation services, may be offered without charge to support pupils and their families within the region in which the school is located;

(f) Take into account the number and types of pupils who attend the school and the locations where such pupils reside;

(g) Provide for the coordination of the existing or planned engagement of other persons who provide services in the region in which the school is located;

(h) Coordinate all funding available to each school that is subject to the plan;

(i) Provide for the coordination of all available resources to each school that is subject to the plan, including, without limitation, instructional materials and textbooks;

(j) Identify, for each school or group of schools subject to the plan, which of the measures described in subsection 8 will be implemented; and

(k) Identify the person or persons selected pursuant to this subsection who assisted with the development of the plan.

6. The Department shall review each plan submitted pursuant to subsection 5 to determine whether, or the extent to which, the plan complies with the requirements of this section and either approve or request revisions to the plan.

7. If the board of trustees of a school district in which a Victory school is designated or the governing body of a charter school that is designated as a Victory school does not submit a comprehensive plan for meeting the educational needs of pupils enrolled in each Victory school on or before August 15, 2015, as required pursuant to subsection 5, the board of trustees of the school district or the governing body of the charter school, as applicable, may submit to the Department a letter of intent to meet the educational needs of pupils enrolled in each Victory school. The letter must include, without limitation:

(a) An initial assessment of the needs of the pupils who attend the school which is conducted pursuant to subsection 4;

(b) An analysis of available data concerning pupil achievement and school performance, including, without limitation, data collected and

maintained in the statewide system of accountability for public schools and data collected and maintained by the school district or charter school; and

(c) A summary of activities that the board of trustees or governing body, as applicable, will take to ensure completion of the comprehensive plan required pursuant to subsection 5 by not later than September 15, 2015.

8. A Victory school shall use the majority of the money distributed pursuant to subsection 3 to provide one or more of the following:

(a) A prekindergarten program free of charge, if such a program is not paid for by another grant.

(b) An expansion of full-day kindergarten classes, if such classes have not otherwise been paid for through legislative appropriation.

(c) A summer academy or other instruction for pupils free of charge at times during the year when school is not in session.

(d) Additional instruction or other learning opportunities free of charge at times of day when school is not in session.

(e) Professional development for teachers and other educational personnel concerning instructional practices and strategies that have proven to be an effective means to increase pupil achievement in populations of pupils similar to those served by the school.

(f) Incentives for hiring and retaining teachers and other licensed educational personnel who provide any of the programs or services set forth in this subsection from the list prescribed by the State Board of Education pursuant to subsection 14.

(g) Employment of paraprofessionals, other educational personnel and other persons who provide any of the programs or services set forth in this subsection.

(h) Reading skills centers.

9. A Victory school may use any money distributed pursuant to subsection 3 that is not used for the purposes described in subsection 8 to:

(a) Provide evidence-based social, psychological or health care services to pupils and their families, including, without limitation, wrap-around services;

(b) Provide programs and services designed to engage parents and families;

(c) Provide programs to improve school climate and culture;

(d) Provide evidence-based programs and services specifically designed to meet the needs of pupils who attend the school, as determined using the assessment conducted pursuant to subsection 4; or

(e) Any combination thereof.

10. A Victory school shall not use any money distributed pursuant to subsection 3 for a purpose not described in subsection 8 or 9.

11. Any programs offered at a Victory school pursuant to subsection 8 or 9 must:

(a) Be designed to meet the needs of pupils at the school, as determined using the assessment conducted pursuant to subsection 4 and to improve pupil achievement and school performance, as determined using the measures prescribed by the State Board of Education; and

(b) Be based on scientific research concerning effective practices to increase the achievement of pupils who live in poverty.

12. Each plan to improve the achievement of pupils enrolled in a Victory school that is prepared by the principal of the school pursuant to NRS 385A.650 must describe how the school will use the money distributed pursuant to subsection 3 to meet the needs of pupils who attend the school, as determined using the assessment described in subsection 4 and the requirements of this section.

13. The Department shall contract with an independent evaluator to evaluate the effectiveness of programs and services provided pursuant to this section. The evaluation must include, without limitation, consideration of the achievement of pupils who have participated in such programs and received such services. When complete, the evaluation must be provided contemporaneously to the Department and the Legislative Committee on Education.

14. The State Board of Education shall prescribe a list of recruitment and retention incentives that are available to the school districts and sponsors of charter schools that receive a distribution of money pursuant to this section to offer to teachers and other licensed educational personnel.

15. The State Board shall require a Victory school to take corrective action if pupil achievement and school performance at the school are unsatisfactory, as determined by the State Board. If unsatisfactory pupil achievement and school performance continue, the State Board may direct the Department to withhold any additional money that would otherwise be distributed pursuant to this section.

16. On or before November 30, 2016, and November 30, 2017, the board of trustees of each school district in which a Victory school is designated and the governing body of each charter school that is designated as a Victory school shall submit to the Department and to the Legislative Committee on Education a report, which must include, without limitation:

(a) An identification of schools to which money was distributed pursuant to subsection 3 for the previous fiscal year;

(b) The amount of money distributed to each such school;

(c) A description of the programs or services for which the money was used;

(d) The number of pupils who participated in such programs or received such services;

(e) The average expenditure per pupil for each program or service that was funded; and

(f) Recommendations concerning the manner in which the average expenditure per pupil reported pursuant to paragraph (e) may be used to determine formulas for allocating money from the State Distributive School Account in the State General Fund.

17. The Legislative Committee on Education shall consider the evaluations of the independent evaluator received pursuant to subsection 13 and the reports received pursuant to subsection 16 and advise the State Board regarding any action the Committee determines appropriate for the State Board to take based upon that information. The Committee shall also make any recommendations it deems appropriate concerning Victory schools to the next regular session of the Legislature which may include, without limitation, recommendations for legislation.

18. The money distributed pursuant to subsection 3:

(a) Must be accounted for separately from any other money received by Victory schools and used only for the purposes specified in this section;

(b) May not be used to settle or arbitrate disputes between a recognized organization representing employees of a school district or the governing body of a charter school and the school district or governing body or to settle any negotiations; and

(c) May not be used to adjust the district-wide schedules of salaries and benefits of the employees of a school district.

19. Upon request of the Legislative Commission, a Victory school to which money is distributed pursuant to subsection 3 shall make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of such money.

20. As used in this section:

(a) “Community” includes any person or governmental entity who resides or has a significant presence in the geographic area in which a school is located or who interacts with pupils and personnel at a school, and may include, without limitation, parents, businesses, nonprofit organizations, faith-based organizations, community groups, teachers, administrators and governmental entities.

(b) “Evidence-based programs and services” means practices, interventions and services that have been proven, through scientifically based research, as defined in 20 U.S.C. § 7801(37), ***as that section existed on June 8, 2015***, to be effective in improving outcomes for pupils when implemented with fidelity.

(c) “Victory school” means a school that is so designated by the Department pursuant to subsection 1.

(d) “Wrap-around services” means supplemental services provided to a pupil with special needs or the family of such a pupil that are not otherwise covered by any federal or state program of assistance.

Sec. 83. NRS 385A.660 is hereby repealed.

Sec. 84. 1. This section and sections 1 to 77, inclusive, 81, 82 and 83 of this act become effective on July 1, 2017.

2. Sections 28 and 29 of this act expire by limitation on June 30, 2019.

3. Sections 78, 79 and 80 of this act become effective on July 1, 2019.

TEXT OF REPEALED SECTION

385A.660 Process for approval of plan.

1. If a Title I school is rated as underperforming pursuant to the statewide system of accountability for public schools, the superintendent of schools of the school district or the governing body, as applicable, shall carry out a process for peer review of the plan to improve the achievement of the pupils enrolled in the school prepared pursuant to NRS 385A.650 or the revised plan, as applicable, in accordance with 20 U.S.C. § 6316(b)(3)(E) and the regulations adopted pursuant thereto. Not later than 45 days after receipt of the plan, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan, as applicable, if it meets the requirements of 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto and the requirements of NRS 385A.650. The superintendent of schools of the school district or the governing body, as applicable, may condition approval of the plan or the revised plan, as applicable, in the manner set forth in 20 U.S.C. § 6316(b)(3)(B) and the regulations adopted pursuant thereto. The State Board shall prescribe the requirements for the process of peer review, including, without limitation, the qualifications of persons who may serve as peer reviewers.

2. If a school is rated as meeting the annual measurable objectives and performance targets established pursuant to the statewide system of accountability for public schools, or if a school that is not a Title I school is rated as underperforming pursuant to the statewide accountability system for public schools, not later than 45 days after receipt of the plan or the revised plan, as applicable, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan if it meets the requirements of NRS 385A.650.

Assemblyman Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 21.

Bill read second time.

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

Amendment No. 557.

AN ACT relating to elections; providing certain remedies and penalties in a preelection challenge to the qualifications of a candidate; revising the forms for declarations of candidacy, acceptances of candidacy and declarations of residency; requiring certain proofs of identity and residency when filing for candidacy; clarifying the deadlines for filing written challenges of the qualifications of candidates and determining if probable cause exists to support such challenges; requiring, under certain circumstances, that a candidate, committee for political action, committee sponsored by a political party and committee for the recall of a public officer open and maintain a separate account in ~~in a financial institution located in this State;~~ **certain financial institutions;** making changes to the definition of “actual residence” for purposes of candidacy; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, **several different statutes provide that if a court finds that a candidate fails to meet certain qualifications required for office: (1) the candidate is disqualified from taking office; and (2) the name of the candidate must not appear on the ballot, except that if the candidate’s name cannot be removed from the ballot because the statutory deadline for changing the ballot has passed, a sign must be posted at each polling place where the candidate’s name will appear on the ballot informing voters that the candidate is disqualified from taking office. (NRS 293.177, 293.182, 293C.185, 293C.186) Existing law also sets forth the same remedies if a candidate files a declaration or acceptance of candidacy which contains a false statement. (NRS 293.184, 293C.1865) Finally, under existing law,** there are different types of preelection court actions that may be brought to challenge a candidate on grounds that the candidate fails to meet any qualification required for ~~the~~ office. (NRS 281.050, 293.182, 293C.186 ~~§ Section 11~~ ; *DeStefano v. Berkus*, 121 Nev. 627, 628-31 (2005); *Child v. Lomax*, 124 Nev. 600, 604-05 (2008))

To ensure consistency in this existing law, this bill revises and clarifies the remedies that are available when a candidate fails to meet any qualification required for office or files a declaration or acceptance of candidacy which contains a false statement. Sections 1.3, 1.5, 3 and 5-7.5 of this bill reorganize existing law so that the remedies available in preelection court actions are set forth clearly in section 1.3, which provides that in any preelection action where the court finds that a candidate fails to meet any qualification required for ~~the~~ office: (1) the candidate is disqualified from taking office; ~~and~~ (2) the name of the candidate must not appear on the ballot, except that if the candidate’s name cannot be removed from the ballot because the statutory deadline for changing the ballot has passed, a sign must be posted at each polling place where the candidate’s name will appear on the ballot informing voters that the candidate is disqualified from taking office; and (3) the court may order

the candidate to pay the attorney's fees and costs of the party who brought the action, ~~including~~ **other than** the Attorney General or a district attorney or city attorney. **Section 1.5 provides that the amount of any attorney's fees and costs awarded must be determined under the provisions of existing law governing attorney's fees and costs and the Nevada Rules of Civil Procedure.**

Under existing constitutional law, Section 6 of Article 4 of the Nevada Constitution invests each House of the Legislature with certain plenary and exclusive constitutional powers which may be exercised only by that House and which cannot be usurped, infringed or impaired by the other House or by any other branch of Nevada's State Government. (*Heller v. Legislature*, 120 Nev. 456 (2004); *Commission on Ethics v. Hardy*, 125 Nev. 285 (2009); *Mason's Manual of Legislative Procedure* §§ 560-564 (2010)) To provide assistance to the reader of the statutes who may be unfamiliar with the existing constitutional law, section 1.7 of this bill reiterates well-established principles of constitutional law that any statutes relating to the qualifications, elections and returns of members or members-elect of the Legislature do not apply to the extent that they conflict or are otherwise inconsistent with any provision of Section 6 of Article 4 of the Nevada Constitution.

Existing law: (1) requires a candidate to file a declaration or acceptance of candidacy before his or her name may appear on a ballot; and (2) provides that a candidate who knowingly and willfully files a declaration or acceptance of candidacy which contains a false statement regarding residency is guilty of a gross misdemeanor. (NRS 293.1755, 293.177, 293C.185, 293C.200) Existing law also requires a candidate for election to the Legislature to file a declaration of residency with his or her declaration or acceptance of candidacy. (NRS 293.181) ~~(Sections 1-4)~~ **To ensure consistency in this existing law, sections 2-4, 6 and 8 of this bill use uniform language to provide that a candidate who knowingly and willfully files a declaration of candidacy, acceptance of candidacy or declaration of residency which contains a false statement is guilty of a gross misdemeanor.**

Existing law specifies the forms for a declaration or acceptance of candidacy and a declaration of residency and requires certain information to be included on the forms. Existing law also requires a candidate to present the filing officer with one type of acceptable identification or documentation as proof of the candidate's identity and residency when the candidate files a declaration or acceptance of candidacy. (NRS 293.177, 293.181, 293C.185)

Sections 3, 4 and 6 revise the forms for a declaration or acceptance of candidacy and a declaration of residency to include a statement that the candidate understands that knowingly and willfully filing such a document which contains a false statement is a crime punishable as a gross misdemeanor and also subjects the candidate to a civil action disqualifying the candidate from taking office and making the candidate liable upon order of the court to pay the attorney's fees and costs of the party who brings the

action. **Sections 3 and 6** also require the candidate to present the filing officer with two types of acceptable identification and documentation as proof of the candidate's identity and residency. ~~Sections 5 and 7 of this bill clarify the~~ **However, in certain limited circumstances, sections 3 and 6 allow the candidate to present the filing officer with alternative proof of the candidate's residency when a street address has not been assigned to the candidate's residence or when the rural or remote location of the candidate's residence makes it impracticable to present any of the traditional types of documentation as proof of residency.**

Existing law establishes deadlines for filing **certain** written challenges ~~for~~ **to** the qualifications of candidates and **for** determining ~~if~~ **whether** probable cause exists to support such challenges ~~it~~, **but the deadlines are not consistent. (NRS 293.182, 293C.186) Sections 5 and 7 remedy the inconsistencies in the deadlines to make the deadlines uniform for all such challenges.**

Existing law defines the term "actual residence" to mean the place where a candidate is legally domiciled and maintains a permanent habitation, and when a candidate maintains more than one place of permanent habitation, the place designated by the candidate as his or her principal permanent habitation is deemed to be the candidate's actual residence. (NRS 281.050) The Nevada Supreme Court has held that the place designated by the candidate as his or her principal permanent habitation must be the place where the candidate actually resides and is legally domiciled in order for the candidate to be eligible to the office. (*Williams v. Clark County Dist. Att'y*, 118 Nev. 473, 484-86 (2002); *Chachas v. Miller*, 120 Nev. 51, 53-56 (2004)) **Section 10** of this bill amends existing **statutory** law to reflect the **holdings from the Supreme Court's holding. Court and also to adopt and codify the legal principles from its cases that are used for determining whether a place of permanent habitation is the place where a person actually resides and is legally domiciled.**

Existing law requires a candidate to open and maintain a separate account in a financial institution for the deposit of campaign contributions once the candidate receives minimum contributions of \$100. (NRS 294A.130) **Section 9** of this bill requires that the separate account be in a financial institution located in ~~this State~~ **the United States.** **Section 9** also requires every committee for political action, committee sponsored by a political party and committee for the recall of a public officer that receives minimum contributions the sum of which, in the aggregate, is \$1,000 or more, to open a separate account in a financial institution located in ~~this State~~ **the United States.** **Section 11** of this bill provides that every candidate, every committee for political action and committee for the recall of a public officer that is registered with the Secretary of State on July 1, 2017, and every committee sponsored by a political party that exists on July 1, 2017, must comply with the requirements of **section 9** on or before June 30, 2018.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto ~~the new section to read as follows:~~ the provisions set forth as sections 1.3, 1.5 and 1.7 of this act.

Sec. 1.3. 1. In addition to any other remedy or penalty provided by law, but except as otherwise provided in section 1.7 of this act, if a court of competent jurisdiction finds in any preelection action that a person who is a candidate for any office fails to meet any qualification required for the office pursuant to the Constitution or laws of this State:

(a) The name of the person must not appear on any ballot for the election for which the person filed a declaration of candidacy or acceptance of candidacy, except that if the statutory deadline for making changes to the ballot has passed, the provisions of subsection 2 apply;

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

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

2. If the name of a person who is disqualified from entering upon the duties of an office pursuant to subsection 1 appears on a ballot for the election because the statutory deadline for making changes to the ballot has passed, the appropriate election officers shall post a sign at each polling place where the person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of the office.

3. The provisions of this section apply to any preelection action brought to challenge a person who is a candidate for any office on the grounds that the person fails to meet any qualification required for the office pursuant to the Constitution or laws of this State, including, without limitation, any action brought pursuant to NRS 281.050, 293.182 or 293C.186 or any action brought for:

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

Sec. 1.5. If any provision of this chapter provides for the payment of reasonable attorney's fees or costs, the reasonable attorney's fees or costs must be determined in accordance with chapter 18 of NRS and the Nevada Rules of Civil Procedure.

Sec. 1.7. 1. The provisions of this chapter or any other provision of law relating to the qualifications, elections and returns of members or members-elect of the Legislature do not apply to the extent that they

conflict or are otherwise inconsistent with any provision of Section 6 of Article 4 of the Nevada Constitution, including, without limitation, any provision relating to the jurisdiction and power of each House of the Legislature to judge of the qualifications, elections and returns of its members, punish its members for disorderly conduct or expel or remove its members from office.

2. Each House of the Legislature has plenary and exclusive jurisdiction and power concerning any matter relating to any provision of Section 6 of Article 4 of the Nevada Constitution, and a member or member-elect of the Legislature cannot be disqualified from entering upon, taking, holding or exercising any powers or duties of the office unless disqualified by his or her own House.

3. A person becomes a member-elect of the Legislature on the day next after his or her election pursuant to Sections 3 and 4 of Article 4 of the Nevada Constitution and, on and after that date:

(a) Each House of the Legislature has plenary and exclusive jurisdiction and power with regard to the member-elect concerning any matter relating to any provision of Section 6 of Article 4 of the Nevada Constitution; and

(b) No action may be brought or maintained against the member-elect or the House concerning any matter relating to any provision of Section 6 of Article 4 of the Nevada Constitution.

4. If there is a conflict between any other provision of law and the provisions of this section, the provisions of this section control.

Sec. 2. NRS 293.1755 is hereby amended to read as follows:

293.1755 1. In addition to any other requirement provided by law, no person may be a candidate for any office unless, for at least the 30 days immediately preceding the date of the close of filing of declarations of candidacy or acceptances of candidacy for the office which the person seeks, the person has, in accordance with NRS 281.050, actually, as opposed to constructively, resided in the State, district, county, township or other area prescribed by law to which the office pertains and, if elected, over which he or she will have jurisdiction or will represent.

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

3. The provisions of this section do not apply to candidates for ~~the~~ :

(a) Any federal office.

(b) The office of district attorney.

Sec. 3. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165 ~~it~~ **and 293.166**, 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 ~~for~~ **and not** later than 5 p.m. on the second Friday after the first Monday in January; and

(b) For all other candidates, the first Monday in March of the year in which the election is to be held ~~for~~ **and not** later than 5 p.m. on the second Friday after the first Monday in March.

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

(a) For partisan office:

Declaration of Candidacy of for the
Office of

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the Party nomination for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am registered as a member of the Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since December 31 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; ***that I understand that knowingly and willfully filing a declaration of candidacy or***

acceptance of candidacy which contains a false statement is a crime punishable as a gross misdemeanor and also subjects me to a civil action disqualifying me from entering upon the duties of the office and making me liable upon order of the court to pay the reasonable attorney's fees and costs of the party who brings the action; and that I understand that my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

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

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

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

(b) For nonpartisan office:

Declaration of Candidacy of for the
Office of

State of Nevada

County of

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

Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; ***that I understand that knowingly and willfully filing a declaration of candidacy or acceptance of candidacy which contains a false statement is a crime punishable as a gross misdemeanor and also subjects me to a civil action disqualifying me from entering upon the duties of the office and making me liable upon order of the court to pay the reasonable attorney's fees and costs of the party who brings the action; and that I understand that*** my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

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

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

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

3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if ~~[-] the candidate fails to comply with the following [-] provisions of this subsection or, if applicable, the provisions of subsection 4:~~

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

(b) ~~The~~ **Except as otherwise provided in subsection 4, the** candidate ~~does not~~ shall present to the filing officer:

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

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

4. **If the candidate executes an oath or affirmation under penalty of perjury stating that the candidate is unable to present to the filing officer the proof of residency required by subsection 3 because a street address has**

not been assigned to the candidate's residence or because the rural or remote location of the candidate's residence makes it impracticable to present the proof of residency required by subsection 3, the candidate shall present to the filing officer:

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

(b) Alternative proof of the candidate's residential address that the filing officer determines is sufficient to verify where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050. The Secretary of State may adopt regulations establishing the forms of alternative proof of the candidate's residential address that the filing officer may accept to verify where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050.

5. 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. ~~1~~ or 4. Such a copy:

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

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

~~5~~ 6. 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~~ 7. 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~~ 8. The receipt of information by the Attorney General or district attorney pursuant to subsection ~~6~~ 7 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. ~~If the ballots are printed before a court of competent jurisdiction makes a determination that a~~

~~candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.~~

~~8.]~~ **to which the provisions of section 1.3 of this act apply.**

9. Any person who knowingly and willfully files a declaration of candidacy or acceptance of candidacy which contains a false statement in violation of this section is guilty of a gross misdemeanor.

Sec. 4. NRS 293.181 is hereby amended to read as follows:

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

I, the undersigned, do swear or affirm under penalty of perjury that I have been a citizen resident of this State as required by NRS 218A.200 ; ***that I understand that knowingly and willfully filing a declaration of residency which contains a false statement is a crime punishable as a gross misdemeanor and also subjects me to a civil action disqualifying me from entering upon the duties of the office and making me liable upon order of the court to pay the reasonable attorney's fees and costs of the party who brings the action;*** and ***that I*** have actually, as opposed to constructively, resided at the following residence or residences since November 1 of the preceding year:

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

(Attach additional sheet or sheets of residences as necessary)

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

3. Any person who knowingly and willfully files a declaration of residency which contains a false statement in violation of this section is guilty of a gross misdemeanor.

Sec. 5. NRS 293.182 is hereby amended to read as follows:

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

2. A challenge filed pursuant to subsection 1 must:

- (a) Indicate each qualification the person fails to meet;
- (b) Have attached all documentation and evidence supporting the challenge; and
- (c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

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

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

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

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

~~— (a) The name of the person must not appear on any ballot for the election for the office for which the person filed the declaration of candidacy or acceptance of candidacy; and~~

~~— (b) The~~ **, the** person is ~~disqualified from entering upon the duties of the office for which he or she filed the declaration of candidacy or acceptance of candidacy.~~ **subject to the provisions of section ~~##~~ 1.3 of this act.**

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

Sec. 5.5. NRS 293.184 is hereby amended to read as follows:

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

(a) ~~Except as otherwise provided in NRS 293.165 and 293.166, the~~ **The** name of the person must not appear on any ballot for the election for which the person filed the declaration of candidacy or acceptance of candidacy ~~the~~ **, except that if the statutory deadline for making changes to the ballot has passed, the provisions of subsection 2 apply;** and

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

2. If the name of a person who is disqualified from entering upon the duties of an office pursuant to subsection 1 appears on a ballot for the election ~~is disqualified~~ because the **statutory** deadline ~~set forth in NRS 293.165 and 293.166~~ for making changes to the ballot has passed, the ~~Secretary of State and county clerk must~~ **appropriate election officers shall** post a sign at each polling place where the person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of **the** office.

3. The provisions of this section may be enforced in any preelection action to which the provisions of section 1.3 of this act apply.

Sec. 6. NRS 293C.185 is hereby amended to read as follows:

293C.185 1. Except as otherwise provided in NRS 293C.115 and 293C.190, a name may not be printed on a ballot to be used at a primary city election unless the person named has filed a declaration of candidacy or an acceptance of candidacy and has paid the fee established by the governing body of the city not earlier than 70 days before the primary city election and not later than 5 p.m. on the 60th day before the primary city election.

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

Declaration of Candidacy of for the
Office of

State of Nevada

City of.....

For the purpose of having my name placed on the official ballot as a candidate for the office of, I, ..., the undersigned do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the city, township or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a candidate at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; ***that I understand that knowingly and willfully filing a declaration of candidacy or acceptance of candidacy which contains a false statement is a crime punishable as a gross misdemeanor and also subjects me to a civil action disqualifying me from entering upon the duties of the office and making me liable upon order of the court to pay the reasonable attorney's fees and costs of the party who brings the action;*** and ***that I understand that*** my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

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

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

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

3. The address of a candidate that must be included in the declaration or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if ~~the~~ **the candidate fails to comply with the following provisions of this subsection or, if applicable, the provisions of subsection 4:**

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

(b) ~~The~~ **Except as otherwise provided in subsection 4, the** candidate ~~does not~~ **shall** present to the filing officer:

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

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

4. **If the candidate executes an oath or affirmation under penalty of perjury stating that the candidate is unable to present to the filing officer the proof of residency required by subsection 3 because a street address has not been assigned to the candidate's residence or because the rural or remote location of the candidate's residence makes it impracticable to present the proof of residency required by subsection 3, the candidate shall present to the filing officer:**

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

(b) Alternative proof of the candidate's residential address that the filing officer determines is sufficient to verify where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050. The Secretary of State may adopt regulations establishing the forms of alternative proof of the candidate's residential address that the filing officer may accept to verify where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050.

5. 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. ~~or 4.~~ Such a copy:

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

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

~~5.~~ 6. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the city clerk as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293C.186. Service of such process must first be attempted at the appropriate

address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the city clerk duplicate copies of the process. The city clerk shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the city clerk a different address for that purpose, in which case the city clerk shall mail the copy to the last address so designated.

~~16.1~~ 7. If the city clerk receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the city clerk:

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

(b) Shall transmit the credible evidence and the findings from such investigation to the city attorney.

~~17.1~~ 8. The receipt of information by the city attorney pursuant to subsection ~~16.1~~ 7 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293C.186. ~~1. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the city clerk must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.~~

~~8.1~~ to which the provisions of section 1.3 of this act apply.

9. Any person who knowingly and willfully files a declaration of candidacy or acceptance of candidacy which contains a false statement in violation of this section is guilty of a gross misdemeanor.

Sec. 7. NRS 293C.186 is hereby amended to read as follows:

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

2. A challenge filed pursuant to subsection 1 must:

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

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

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

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

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

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

~~—(a) The name of the person must not appear on any ballot for the election for the office for which the person filed the declaration of candidacy or acceptance of candidacy; and~~

~~—(b) The person is disqualified from entering upon the duties of the office for which he or she filed the declaration of candidacy or acceptance of candidacy.~~ **subject to the provisions of section ~~44~~ 1.3 of this act.**

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

Sec. 7.5. NRS 293C.1865 is hereby amended to read as follows:

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

(a) ~~Except as otherwise provided in NRS 293.165 or 293.166, the~~ **The** name of the person must not appear on any ballot for the election for which the person filed the declaration of candidacy or acceptance of candidacy ~~it~~ **, except that if the statutory deadline for making changes to the ballot has passed, the provisions of subsection 2 apply;** and

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

2. If the name of a person who is disqualified from entering upon the duties of an office pursuant to subsection 1 appears on a ballot for the election ~~is disqualified~~ because the **statutory** deadline ~~set forth in NRS~~

~~293.165 and 293.166~~ for making changes to the ballot has passed, the ~~Secretary of State and city clerk must~~ **appropriate election officers shall** post a sign at each polling place where the person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of ~~the~~ office.

3. The provisions of this section may be enforced in any preelection action to which the provisions of section 1.3 of this act apply.

Sec. 8. NRS 293C.200 is hereby amended to read as follows:

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

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

Sec. 9. NRS 294A.130 is hereby amended to read as follows:

294A.130 1. Every candidate shall, not later than 1 week after receiving minimum contributions of \$100, open and maintain a separate account in a financial institution **located in ~~this State~~ the United States** for the deposit of any contributions received. The candidate shall not commingle the money in the account with money collected for other purposes.

2. The candidate may close the separate account if the candidate:

- (a) Was a candidate in a special election, after that election;
- (b) Lost in the primary election, after the primary election; or
- (c) Won the primary election, after the general election,

➔ and as soon as all payments of money committed have been made.

3. Every committee for political action, committee sponsored by a political party and committee for the recall of a public officer shall, not later than 1 week after receiving contributions the sum of which, in the aggregate, is \$1,000 or more, open and maintain a separate account in a financial institution located in ~~this State~~ the United States for the deposit of any contributions received. The committee for political action, committee sponsored by a political party or committee for the recall of a public officer shall not commingle the money in the account with money collected for other purposes.

Sec. 10. NRS 281.050 is hereby amended to read as follows:

281.050 1. The residence of a person with reference to **his or her** eligibility to **any** office is the person's actual residence within the State, ~~for~~ county, ~~for~~ district, **ward, subdistrict or any other unit prescribed by law,**

as the case may be, during all the period for which residence is claimed by the person. ~~###~~

2. Except as otherwise provided in subsections 3 and 4, if any person absents himself or herself from the jurisdiction of that person's **actual** residence with the intention in good faith to return without delay and continue such **actual** residence, the period of absence must not be considered in determining the question of residence.

~~###~~ **3.** If a person who has filed ~~as a candidate~~ **a declaration of candidacy or acceptance of candidacy** for **any** elective office moves the person's **actual** residence out of the State, county, district, ward, subdistrict or any other unit prescribed by law ~~for which the person is a candidate and~~, **as the case may be**, in which the person is required actually, as opposed to constructively, to reside ~~in order for the person to be eligible to the office~~, a vacancy is created thereby and the appropriate action for filling the vacancy must be taken. ~~###~~

4. Once a person's actual residence is fixed, the person shall be deemed to have moved the person's **actual** residence for the purposes of this section if:

(a) The person has acted affirmatively ~~to remove~~ **and has actually removed** himself or herself from ~~one place, and~~ **the place of permanent habitation where the person actually resided and was legally domiciled;**

(b) **The person has an intention to abandon the place of permanent habitation where the person actually resided and was legally domiciled; and**

~~###~~ (c) The person has an intention to remain in another place ~~###~~

~~3. The~~ **of permanent habitation where the person actually resides and is legally domiciled.**

5. Except as otherwise provided in this subsection and section 1.7 of this act, the district court has jurisdiction to determine the question of residence in ~~an~~ **any preelection** action for declaratory judgment ~~###~~

~~4. If,~~ **brought against a person who has filed a declaration of candidacy or acceptance of candidacy for any elective office. If the question of residence relates to whether an incumbent meets any qualification concerning residence required for the term of office in which the incumbent is presently serving, the district court does not have jurisdiction to determine the question of residence in an action for declaratory judgment brought by a person pursuant to this section but has jurisdiction to determine the question of residence only in an action to declare the office vacant that is authorized by NRS 283.040 and brought by the Attorney General or the appropriate district attorney pursuant to that section.**

6. Except as otherwise provided in section 1.7 of this act, if in any preelection action for declaratory judgment, the district court finds that a person who has filed a declaration of candidacy or acceptance of candidacy for any elective office fails to meet any qualification concerning

residence required for the office pursuant to the Constitution or laws of this State, the person is subject to the provisions of section ~~44~~ 1.3 of this act.

~~54~~ 7. For the purposes of this section, in determining whether a place of permanent habitation is the place where a person actually resides and is legally domiciled:

(a) It is the public policy of this State to avoid sham residences and to ensure that the person actually, as opposed to constructively, resides in the area prescribed by law for the office so the person has an actual connection with the constituents who reside in the area and has particular knowledge of their concerns.

(b) The person may have more than one residence but only one legal domicile, and the person's legal domicile requires both the fact of actual living in the place and the intention to remain there as a permanent residence. If the person temporarily leaves the person's legal domicile, or leaves for a particular purpose, and does not take up a permanent residence in another place, then the person's legal domicile has not changed. Once the person's legal domicile is fixed, the fact of actual living in another place, the intention to remain in the other place and the intention to abandon the former legal domicile must all exist before the person's legal domicile can change.

(c) Evidence of the person's legal domicile includes, without limitation:

(1) The place where the person lives the majority of the time and the length of time the person has lived in that place.

(2) The place where the person lives with the person's spouse or domestic partner, if any.

(3) The place where the person lives with the person's children, dependents or relatives, if any.

(4) The place where the person lives with any other individual whose relationship with the person is substantially similar to a relationship with a spouse, domestic partner, child, dependent or relative.

(5) The place where the person's dogs, cats or other pets, if any, live.

(6) The place listed as the person's residential address on the voter registration card issued to the person pursuant to NRS 293.517.

(7) The place listed as the person's residential address on any driver's license or identification card issued to the person by the Department of Motor Vehicles, any passport or military identification card issued to the person by the United States or any other form of identification issued to the person by a governmental agency.

(8) The place listed as the person's residential address on any registration for a motor vehicle issued to the person by the Department of Motor Vehicles or any registration for another type of vehicle or mode of transportation, including, without limitation, any aircraft, vessels or watercraft, issued to the person by a governmental agency.

(9) The place listed as the person's residential address on any applications for issuance or renewal of any license, certificate, registration, permit or similar type of authorization issued to the person by a governmental agency which has the authority to regulate an occupation or profession.

(10) The place listed as the person's residential address on any document which the person is authorized or required by law to file or record with a governmental agency, including, without limitation, any deed, declaration of homestead or other record of real or personal property, any applications for services, privileges or benefits or any tax documents, forms or returns, but excluding the person's declaration of candidacy or acceptance of candidacy.

(11) The place listed as the person's residential address on any type of check, payment, benefit or reimbursement issued to the person by a governmental agency or by any type of company that provides insurance, workers' compensation, health care or medical benefits or any self-insured employer or third-party administrator.

(12) The place listed as the person's residential address on the person's paycheck, paystub or employment records.

(13) The place listed as the person's residential address on the person's bank statements, insurance statements, mortgage statements, loan statements, financial accounts, credit card accounts, utility accounts or other billing statements or accounts.

(14) The place where the person receives mail or deliveries from the United States Postal Service or commercial carriers.

(d) The evidence listed in paragraph (c) is intended to be illustrative and is not intended to be exhaustive or exclusive. The presence or absence of any particular type of evidence listed in paragraph (c) is not, by itself, determinative of the person's legal domicile, but such a determination must be based upon all the facts and circumstances of the person's particular case.

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

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

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

Sec. 11. 1. Every person who is a candidate on July 1, 2017, every committee for political action and committee for the recall of a public officer that is registered with the Secretary of State pursuant to NRS 294A.230 or 294A.250, as applicable, on July 1, 2017, and every committee sponsored by a political party that exists on July 1, 2017, shall comply with the requirements of NRS 294A.130, as amended by section 9 of this act, on or before June 30, 2018. If any such candidate or committee does not comply with the requirements of NRS 294A.130, as amended by section 9 of this act, on or before June 30, 2018, the Secretary of State may take action against the candidate or committee pursuant to NRS 294A.410 or 294A.420.

2. As soon as practicable after July 1, 2017, the Secretary of State shall notify each committee for political action and committee for the recall of a public officer that is registered with the Secretary of State pursuant to NRS 294A.230 or 294A.250, as applicable, on July 1, 2017, of:

(a) The requirements of NRS 294A.130, as amended by section 9 of this act; and

(b) The requirements of subsection 1.

3. As used in this section:

(a) “Candidate” has the meaning ascribed to it in NRS 294A.005.

(b) “Committee for political action” has the meaning ascribed to it in NRS 294A.0055.

(c) “Committee for the recall of a public officer” has the meaning ascribed to it in NRS 294A.006.

(d) “Committee sponsored by a political party” has the meaning ascribed to it in NRS 294A.0065.

Sec. 12. This act becomes effective:

1. Upon passage and approval for the purpose of performing any preparatory administrative tasks necessary to carry out the provisions of this act; and

2. On July 1, 2017, for all other purposes.

Assemblywoman Diaz moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 34.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 617.

SUMMARY—Revises provisions relating to ~~state lands;~~ government land. (BDR 26-179)

AN ACT relating to ~~state lands;~~ government land; reducing the number of independent appraisals of state land required before such land may be offered for sale or lease; revising certain restrictions on the performance of an appraisal of certain government land by an appraiser; revising

provisions relating to the ~~use of money in the~~ Revolving Account for Land Management; removing an exemption from procedural requirements for the sale or lease of state land for a lease of residential property with a term of 1 year or less; revising provisions relating to the requirement that the Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources develop and make certain information useful to land use planning available to cities and counties; revising provisions relating to the lease of state land for less than fair market value to certain persons who intend to locate or expand a business in this State; repealing obsolete provisions regarding the Lincoln County Pilot Land Development and Disposal Law; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Division of State Lands of the State Department of Conservation and Natural Resources must acquire and hold in the name of the State all land and interests in land owned or required by the State, with certain exceptions. (NRS 321.001) The Administrator of the Division is, ex officio, the State Land Registrar. (NRS 321.010)

Existing law requires, with certain exceptions, the State Land Registrar to obtain two independent appraisals of any state land before offering the land for sale or lease. (NRS 321.007) **Section 1** of this bill ~~changes that requirement so~~ decreases to one the number of independent appraisals that the State Land Registrar must obtain ~~just one independent appraisal~~ before offering state land for sale or lease.

Existing law also prohibits an appraiser from appraising state land if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the land or an adjoining property. Section 1 expands the prohibited degree of consanguinity or affinity of the appraiser's relative to the third degree of consanguinity or affinity.

Existing law creates the Revolving Account for Land Management as a special account in the State General Fund. Money in the Account must be used to pay the expenses relating to the management of land held by the Division of State Lands, including, without limitation, expenses for appraisals and surveys, construction of fences and barriers for vehicles and the cleanup and maintenance of the land. (NRS 321.067) **Section 2** of this bill authorizes money in the Account also to be used to pay expenses relating to the acquisition of or interests in land. **Section 2** also provides that the expenses for which money in the Account may be used may include land surveys, required assessments of the land, including surveys of the biological, environmental and cultural conditions and resources of the land, and any required mitigation of the land.

Existing law authorizes the State Land Registrar to request an allocation to the Revolving Account from the Contingency Account in the State General

Fund if the balance in the Revolving Account is below \$5,000. **Section 2** of this bill raises that amount to \$20,000.

Existing law provides procedural requirements for the sale or lease of state land and exempts from those requirements any lease of residential property with a term of 1 year or less. (NRS 321.335) **Section 3** of this bill removes that exemption.

Existing law requires the Administrator of the Division of State Lands to: (1) administer the activities of the State Land Use Planning Agency; and (2) develop and distribute information that is useful to land use planning. Existing law also gives priority to the activities of the State Land Use Planning Agency in the provision of technical assistance in areas of this State where such assistance is requested. (NRS 321.710) Section 3.5 of this bill limits the entities to which priority in the provision of technical assistance must be given to counties and cities.

Existing law requires the Administrator of the Division of State Lands to develop and make available to cities and counties certain **specified** information useful to land use planning. (NRS 321.720) **Section 4** of this bill removes the requirement that the Administrator develop and make available to cities and counties: (1) ~~[(a) a continuously revised inventory of the land and natural resources of the State; (2)]~~ statewide data relating to population densities and trends, economic and environmental characteristics and trends, and directions and extent of urban and rural growth; ~~[(3)]~~ **(2)** projections of the nature and quantity of land needed and suitable for various purposes; and ~~[(4)]~~ **(3)** a continuously revised inventory of the environmental, geological and physical conditions which influence the desirability of various uses of land. **Section 4 also requires the Administrator, to the extent practicable, to compile the information developed and make the compilation available to counties and cities.**

Existing law authorizes, if certain requirements are fulfilled, the lease of state land for less than the fair market value of the land for the first year of the lease if the lessee intends to locate or expand a business in this State. (NRS 322.061) **Section 5** of this bill removes a number of the requirements that must be fulfilled, including requirements relating to the number of employees of the business, the capital investment in this State by the business, the average hourly wage paid by the business to employees in this State and the benefits provided by the business.

Existing law prohibits an appraiser who appraises any real property that is offered for sale or lease by a board of county commissioners or the governing body of an incorporated city from conducting the appraisal if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the real property or an adjoining property. (NRS 244.2795, 268.059) Sections 6 and 7 of this bill expand the prohibited degree of consanguinity or affinity of the person from the first degree of consanguinity or affinity to

the third degree of consanguinity or affinity and, in certain circumstances, the second degree of consanguinity or affinity.

Section ~~6~~ 9 of this bill repeals obsolete provisions relating to the Lincoln County Pilot Land Development and Disposal Law. (NRS 321.540-321.590)

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

Section 1. NRS 321.007 is hereby amended to read as follows:

321.007 1. Except as otherwise provided in subsection 5, NRS 321.008, 322.061, 322.063, 322.065 or 322.075, except as otherwise required by federal law, except for land that is sold or leased to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for land that is sold or leased to a state or local governmental entity, except for a lease which is part of a contract entered into pursuant to chapter 333 of NRS and except for land that is sold or leased pursuant to an agreement entered into pursuant to NRS 277.080 to 277.170, inclusive, when offering any land for sale or lease, the State Land Registrar shall:

(a) ~~{Except as otherwise provided in this paragraph, obtain two}~~ **Obtain an** independent ~~{appraisals}~~ **appraisal** of the land before selling or leasing it. ~~{If the Interim Finance Committee grants its approval after discussion of the fair market value of the land, one independent appraisal of the land is sufficient before selling or leasing it.}~~ The appraisal ~~{for appraisals, as applicable,}~~ must have been prepared not more than 6 months before the date on which the land is offered for sale or lease.

(b) Notwithstanding the provisions of chapter 333 of NRS, select ~~{the one}~~ **an** independent appraiser ~~{for two independent appraisers, as applicable,}~~ from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of ~~{each}~~ **an** appraiser selected pursuant to paragraph (b). The determination of the State Land Registrar as to the qualifications of an appraiser is conclusive.

2. The State Land Registrar shall adopt regulations for the procedures for creating or amending a list of appraisers qualified to conduct appraisals of land offered for sale or lease by the State Land Registrar. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the land that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income of the appraiser that may constitute a conflict of interest and any relationship of the appraiser with the owner of the land or the owner of an adjoining property.

4. An appraiser shall not perform an appraisal on any land offered for sale or lease by the State Land Registrar if the appraiser or a person related to the appraiser within the ~~{first}~~ **third** degree of consanguinity or affinity has an interest in the land or an adjoining property.

5. If a lease of land is for residential property and the term of the lease is 1 year or less, the State Land Registrar shall obtain an analysis of the market value of similar rental properties prepared by a licensed real estate broker or salesperson when offering such a property for lease.

6. If land is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the land is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 2. NRS 321.067 is hereby amended to read as follows:

321.067 1. The Revolving Account for Land Management is hereby created as a special account in the State General Fund.

2. The State Land Registrar shall use the money in the **Revolving** Account to pay the expenses related to the management of land held by the Division ~~and~~ **and the acquisition of or interests in land**, including, without limitation, expenses for:

(a) Appraisals and **land** surveys;

(b) **Required environmental assessments of the land, including, without limitation, surveys of the biological, environmental and cultural conditions and resources of the land;**

(c) Construction of fences and barriers for vehicles; ~~and~~

~~—(e)—~~ (d) The cleanup and maintenance of the land ~~and~~; **and**

(e) **Any mitigation required of the land.**

3. The State Land Registrar shall:

(a) Approve any disbursement from the Revolving Account; and

(b) Maintain records of any such disbursement.

4. The State Land Registrar shall deposit into the Revolving Account money received by the Division as a donation or as a reimbursement for or advance payment of an expense paid out of the Revolving Account.

5. The balance of the Revolving Account must be carried forward at the end of each fiscal year.

6. If the balance in the account is below ~~the \$5,000,~~ **\$20,000**, the State Land Registrar may request an allocation from the Contingency Account in the State General Fund pursuant to NRS 353.266, 353.268 and 353.269.

Sec. 3. NRS 321.335 is hereby amended to read as follows:

321.335 1. Except as otherwise provided in NRS 321.008, 321.125, 322.061, 322.063, 322.065 or 322.075, except as otherwise required by federal law, except for land that is sold or leased to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for land that is sold or leased to a state or local governmental entity, except for a lease which is part of a contract entered into pursuant to chapter 333 of NRS and except for an agreement entered into pursuant to the provisions of NRS 277.080 to 277.170, inclusive, ~~for a lease of residential property with a term of 1 year or less,~~ after April 1, 1957, all sales or leases of any lands that the Division is required to hold pursuant to NRS 321.001, including lands subject to

contracts of sale that have been forfeited, are governed by the provisions of this section.

2. Whenever the State Land Registrar deems it to be in the best interests of the State of Nevada that any lands owned by the State and not used or set apart for public purposes be sold or leased, the State Land Registrar may, with the approval of the State Board of Examiners and the Interim Finance Committee, cause those lands to be sold or leased upon sealed bids, or oral offer after the opening of sealed bids for cash or pursuant to a contract of sale or lease, at a price not less than the highest appraised value for the lands plus the costs of appraisal and publication of notice of sale or lease.

3. Before offering any land for sale or lease, the State Land Registrar shall comply with the provisions of NRS 321.007.

4. After complying with the provisions of NRS 321.007, the State Land Registrar shall cause a notice of sale or lease to be published once a week for 4 consecutive weeks in a newspaper of general circulation published in the county where the land to be sold or leased is situated, and in such other newspapers as the State Land Registrar deems appropriate. If there is no newspaper published in the county where the land to be sold or leased is situated, the notice must be so published in a newspaper published in this State having a general circulation in the county where the land is situated.

5. The notice must contain:

- (a) A description of the land to be sold or leased;
- (b) A statement of the terms of sale or lease;
- (c) A statement that the land will be sold pursuant to subsection 6; and
- (d) The place where the sealed bids will be accepted, the first and last days on which the sealed bids will be accepted, and the time when and place where the sealed bids will be opened and oral offers submitted pursuant to subsection 6 will be accepted.

6. At the time and place fixed in the notice published pursuant to subsection 4, all sealed bids which have been received must, in public session, be opened, examined and declared by the State Land Registrar. Of the proposals submitted which conform to all terms and conditions specified in the notice published pursuant to subsection 4 and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral offer is accepted or the State Land Registrar rejects all bids and offers. Before finally accepting any written bid, the State Land Registrar shall call for oral offers. If, upon the call for oral offers, any responsible person offers to buy or lease the land upon the terms and conditions specified in the notice, for a price exceeding by at least 5 percent the highest written bid, then the highest oral offer which is made by a responsible person must be finally accepted.

7. The State Land Registrar may reject any bid or oral offer to purchase or lease submitted pursuant to subsection 6, if the State Land Registrar deems the bid or offer to be:

- (a) Contrary to the public interest.

- (b) For a lesser amount than is reasonable for the land involved.
- (c) On lands which it may be more beneficial for the State to reserve.
- (d) On lands which are requested by the State of Nevada or any department, agency or institution thereof.

8. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of sale specified in the notice of sale, the State Land Registrar shall convey title by quitclaim or cause a patent to be issued as provided in NRS 321.320 and 321.330.

9. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of lease specified in the notice of lease, the State Land Registrar shall enter into a lease agreement with the person submitting the accepted bid or oral offer pursuant to the terms of lease specified in the notice of lease.

10. The State Land Registrar may require any person requesting that state land be sold pursuant to the provisions of this section to deposit a sufficient amount of money to pay the costs to be incurred by the State Land Registrar in acting upon the application, including the costs of publication and the expenses of appraisal. This deposit must be refunded whenever the person making the deposit is not the successful bidder. The costs of acting upon the application, including the costs of publication and the expenses of appraisal, must be borne by the successful bidder.

11. If land that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the land, the State Land Registrar may offer the land for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the land, the State Land Registrar must ~~[-as applicable,]~~ obtain a new appraisal ~~[for new appraisals]~~ of the land pursuant to the provisions of NRS 321.007 before offering the land for sale or lease a second time. If land that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the land, the State Land Registrar may list the land for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the land or an adjoining property.

Sec. 3.5. NRS 321.710 is hereby amended to read as follows:

321.710 1. The Administrator shall administer the activities of the State Land Use Planning Agency. The Administrator has authority and responsibility for the development and distribution of information useful to land use planning.

2. The activities of the State Land Use Planning Agency which have priority are:

- (a) Provision of technical assistance to a county or city in areas where such assistance is requested;
- (b) Activities relating to federal lands in this State; and

(c) Investigation and review of proposals for designation of areas of critical environmental concern and the development of standards and plans therefor.

3. In addition to the assistant provided by subsection 3 of NRS 321.010 the Administrator may appoint, subject to the availability of money, such professional, technical, administrative, clerical and other persons as the Administrator may require for assistance in performing his or her land use planning duties.

Sec. 4. NRS 321.720 is hereby amended to read as follows:

321.720 1. The Administrator shall develop and make available to cities and counties information useful to land use planning, including:

~~1-1~~ (a) Preparation and continuing revision of a statewide inventory of the land and natural resources of the State;

~~2.~~ 2. Compilation and continuing revision of data, on a statewide basis, related to population densities and trends, economic characteristics and projections, environmental conditions and trends, and directions and extent of urban and rural growth;

~~3.~~ Projections of the nature and quantity of land needed and suitable for:

~~(a)~~ Recreation and esthetic appreciation;

~~(b)~~ Conservation and preservation of natural resources, agriculture, mineral development and forestry;

~~(c)~~ Industry and commerce, including the development, generation and transmission of energy;

~~(d)~~ Transportation;

~~(e)~~ Urban development, including the revitalization of existing communities, the development of new towns, and the economic diversification of existing communities which possess a narrow economic base;

~~(f)~~ Rural development, taking into consideration future demands for and limitations upon products of the land; and

~~(g)~~ Health, educational, and other state and local governmental services;

~~4.~~ Preparation and continuing revision of an inventory of environmental, geological and physical conditions, including types of soil, which influence the desirability of various uses of land;

~~5-1~~ (b) Preparation and continuing revision of an inventory of state, local government and private needs and priorities concerning the acquisition and use of federal lands within the State;

~~6-2~~ (c) Preparation and continuing revision of an inventory of public and private institutional and financial resources available for land use planning and management within the State and of state and local programs and activities which have a land use impact of more than local concern;

~~7-3~~ (d) Provision, where appropriate, of technical assistance and training programs for state and local agency personnel concerned with the development and implementation of state and local land use programs;

~~{8.-4.-}~~ **(e)** Coordination and exchange of land use planning information and data among state agencies and local governments, with the Federal Government, among the several states and interstate agencies, and with members of the public, including conducting of public hearings, preparation of reports and soliciting of comments on reports concerning information useful to land use planning;

~~{9.-5.-}~~ **(f)** Coordination of planning for state and local acquisition and use of federal lands within the State, except that in the case of a plan which utilizes both federal and private lands the governing body of the area where private lands are to be utilized has final authority to approve the proposal;

~~{10.-6.-}~~ **(g)** Provision of assistance to counties to develop programs to increase the responsibility of local governments for the management of lands in the State of Nevada that are under federal management; and

~~{11.-7.-}~~ **(h)** Consideration of, and consultation with, the relevant states on the interstate aspects of land use issues of more than local concern.

2. To the extent practicable, the Administrator shall:

(a) Compile any information developed pursuant to subsection 1; and

(b) Make the compilation available to cities and counties.

Sec. 5. NRS 322.061 is hereby amended to read as follows:

322.061 1. The Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio State Land Registrar, may lease state land pursuant to NRS 322.060 for less than the fair market value of the state land for the first year of the lease, including, without limitation, without the payment of rent for the first year of the lease, to a person who intends to locate or expand a business in this State if ~~if~~ ~~except as otherwise provided in subsection 5,~~ the business meets the requirements of subsection 4.

2. Before state land may be leased pursuant to this section, the following persons must approve the lease and establish the recommended amount of rent to be received for the state land:

(a) The Administrator of the Division of State Lands, as ex officio State Land Registrar;

(b) The Administrator of the State Public Works Division of the Department of Administration; and

(c) The Executive Director of the Office of Economic Development.

3. Any lease entered into pursuant to this section must be for a term of at least 10 years.

4. ~~{Except as otherwise provided in subsection 5, the}~~ **The** lease or agreement may not include a discount to the business for the first year unless:

(a) The business is consistent with:

(1) The State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Executive Director of the Office to implement the State Plan for Economic Development.

(b) The business is registered pursuant to the laws of this State or the person who intends to locate or expand the business in this State commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

~~[(c) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:~~

~~— (1) The business will have 75 or more full time employees on the payroll of the business by the fourth quarter that it is in operation.~~

~~— (2) Establishing the business will require the business to make a capital investment of at least \$1,000,000 in this State.~~

~~— (3) The average hourly wage that will be paid by the new business to its new employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:~~

~~— (I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and~~

~~— (II) The benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Office.~~

~~— (d) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:~~

~~— (1) The business will have 15 or more full time employees on the payroll of the business by the fourth quarter that it is in operation.~~

~~— (2) Establishing the business will require the business to make a capital investment of at least \$250,000 in this State.~~

~~— (3) The average hourly wage that will be paid by the new business to its new employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:~~

~~— (I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and~~

~~— (II) The benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Office.~~

~~— (e) If the business is an existing business, the business meets at least two of the following requirements:~~

~~— (1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.~~

~~— (2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible~~

~~property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:~~

~~—— (I) County assessor of the county in which the business will expand, if the business is locally assessed; or~~

~~—— (II) The Department of Taxation, if the business is centrally assessed.~~

~~—— (3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:~~

~~—— (I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and~~

~~—— (II) The benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Office.~~

~~—— (f) In lieu of meeting the requirements of paragraph (c), (d) or (e), if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:~~

~~—— (1) The business will have 10 or more full time employees on the payroll of the business by the fourth quarter that it is in operation.~~

~~—— (2) Establishing the business will require the business to make a capital investment of at least \$500,000 in this State.~~

~~—— (3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:~~

~~—— (I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and~~

~~—— (II) The benefits the business provides to its employees in this State will meet with minimum requirements established by the Office.~~

~~— 5. The Executive Director of the Office of Economic Development may waive the requirements of subsection 4 for good cause shown if the lease is for state land of less than 25,000 square feet.]~~

Sec. 6. NRS 244.2795 is hereby amended to read as follows:

244.2795 1. Except as otherwise provided in NRS 244.189, 244.276, 244.279, 244.2815, 244.2825, 244.2833, 244.2835, 244.284, 244.287, 244.290, 278.479 to 278.4965, inclusive, and subsection 3 of NRS 496.080, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on or before October 1, 2004,

except if the board of county commissioners is entering into a joint development agreement for real property owned by the county to which the board of county commissioners is a party, except for a lease of residential property with a term of 1 year or less, except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for the sale or lease of real property to the State or another governmental entity and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election or special election, the board of county commissioners shall, when offering any real property for sale or lease:

(a) Except as otherwise provided in this paragraph, obtain two independent appraisals of the real property before selling or leasing it. If the board of county commissioners holds a public hearing on the matter of the fair market value of the real property, one independent appraisal of the real property is sufficient before selling or leasing it. The appraisal or appraisals, as applicable, must have been prepared not more than 6 months before the date on which the real property is offered for sale or lease.

(b) Select the one independent appraiser or two independent appraisers, as applicable, from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of each appraiser selected pursuant to paragraph (b). The determination of the board of county commissioners as to the qualifications of the appraiser is conclusive.

2. The board of county commissioners shall adopt by ordinance the procedures for creating or amending a list of appraisers qualified to conduct appraisals of real property offered for sale or lease by the board. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the real property that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income that may constitute a conflict of interest and any relationship with the real property owner or the owner of an adjoining real property.

4. An appraiser shall not perform an appraisal on any real property for sale or lease by the board of county commissioners if ~~the~~:

~~(a) The appraiser for a person related to the appraiser within the first degree of consanguinity or affinity, has an interest in the real property or an adjoining property.~~

(b) The real property is located in a county whose population is 45,000 or more and any person who is related to the appraiser has an interest in the real property or an adjoining property and the relationship between the appraiser and the person is within the third degree of consanguinity or affinity; or

(c) The real property is located in a county whose population is less than 45,000 and any person who is related to the appraiser has an interest in the

real property or an adjoining property and the relationship between the appraiser and the person is within the second degree of consanguinity or affinity.

5. If real property is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 7. NRS 268.059 is hereby amended to read as follows:

268.059 1. Except as otherwise provided in NRS 268.048 to 268.058, inclusive, 268.064, 278.479 to 278.4965, inclusive, and subsection 4 of NRS 496.080, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on October 1, 2004, except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less, except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for the sale or lease of real property to the State or another governmental entity and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election, primary or general city election or special election, the governing body shall, when offering any real property for sale or lease:

(a) Except as otherwise provided in this paragraph, obtain two independent appraisals of the real property before selling or leasing it. If the governing body holds a public hearing on the matter of the fair market value of the real property, one independent appraisal of the real property is sufficient before selling or leasing it. The appraisal or appraisals, as applicable, must be based on the zoning of the real property as set forth in the master plan for the city and must have been prepared not more than 6 months before the date on which real property is offered for sale or lease.

(b) Select the one independent appraiser or two independent appraisers, as applicable, from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of each appraiser selected pursuant to paragraph (b). The determination of the governing body as to the qualifications of the appraiser is conclusive.

2. The governing body shall adopt by ordinance the procedures for creating or amending a list of appraisers qualified to conduct appraisals of real property offered for sale or lease by the governing body. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the real property that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income of the appraiser that may constitute a conflict of interest and any relationship of the appraiser with the property owner or the owner of an adjoining property.

4. An appraiser shall not perform an appraisal on any real property offered for sale or lease by the governing body if ~~the~~ :

~~(a) The appraiser for a person related to the appraiser within the first degree of consanguinity or affinity~~ has an interest in the real property or an adjoining property. ~~It~~ :

(b) The real property is located in a city in a county whose population is 45,000 or more and any person who is related to the appraiser has an interest in the real property or an adjoining property and the relationship between the appraiser and the person is within the third degree of consanguinity or affinity; or

(c) The real property is located in a city in a county whose population is less than 45,000 and any person who is related to the appraiser has an interest in the real property or an adjoining property and the relationship between the appraiser and the person is within the second degree of consanguinity or affinity.

5. If real property is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 8. The amendatory provisions of NRS 244.2795, 268.059 and 321.007, as amended by sections 6, 7 and 1, respectively, of this act do not apply to an appraisal specified in those sections which is conducted before July 1, 2017.

~~{Sec. 6.}~~ **Sec. 9.** NRS 321.540, 321.550, 321.560, 321.570, 321.580 and 321.590 are hereby repealed.

~~{Sec. 7.}~~ **Sec. 10.** This act becomes effective on July 1, 2017.

LEADLINES OF REPEALED SECTIONS

321.540 Short title.

321.550 "Department" defined.

321.560 Acquisition of lands by State Department of Conservation and Natural Resources authorized.

321.570 Powers of State Department of Conservation and Natural Resources concerning development of Lincoln County lands; sale of lands.

321.580 Lincoln County Pilot Land Development and Disposal Fund: Creation; use.

321.590 Lincoln County Pilot Land Development and Disposal Fund: Receipts to be credited; reimbursement of State General Fund.

Assemblywoman Swank moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 45.

Bill read second time.

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

Amendment No. 521.

AN ACT relating to public office; ~~defining the term “voter registration drive”; establishing the deadline for a major political party to file a certificate of nomination for the offices of President and Vice President of the United States;~~ requiring a nongovernmental entity that sends a notice relating to voter registration to include certain information in the notice; ~~authorizing the Secretary of State to adopt by regulation qualifications to assist in a voter registration drive; amending the deadline for a minor political party to file a certificate of nomination for the offices of President and Vice President of the United States;~~ updating citations in Nevada Revised Statutes to certain provisions of federal law; ~~setting forth the duties of persons who participate in a voter registration drive;~~ **revising the deadlines for registering to vote by mail or computer for a primary, primary city, general city or general election; providing that the county and city clerks are not required to distribute sample ballots for an election to certain persons; requiring a candidate to include the ending balance in his or her campaign account on reports of campaign contributions;** revising the campaign finance reporting requirements for certain candidates, persons, committees and parties relating to a special election to recall a public officer; ~~authorizing the Secretary of State to adopt by regulation qualifications for a person to circulate a petition for initiative or referendum;~~ **revising the categories of campaign expenses and expenditures on campaign finance reports;** setting forth the requirements to withdraw a petition for initiative or referendum; ~~requiring a person who intends to circulate a petition for initiative or referendum to submit certain information to the Secretary of State;~~ extending, under certain circumstances, the deadline for submitting for verification certain petitions for initiative; clarifying that a copy of a petition of candidacy of an independent candidate for the office of President of the United States must be filed with the Secretary of State before the petition is circulated for signatures; ~~authorizing the Secretary of State to investigate and impose civil penalties for certain violations of law relating to financial disclosure statements; requiring a financial disclosure statement to be signed under an oath to God or penalty of perjury; providing penalties;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 2 of this bill defines a "voter registration drive" as an effort undertaken to: (1) distribute applications to register to vote; or (2) assist persons to complete or submit applications to register to vote or update or correct their voter registration information. Section 5 of this bill authorizes the Secretary of State to adopt by regulation qualifications for a person to assist in a voter registration drive.~~

~~Existing law prohibits a person who assists other persons in registering to vote from: (1) delegating duties to another person; (2) refusing to register a person to vote on account of that person's political party affiliation; (3) registering persons who are not qualified electors or who fail to provide proof of identification and residence; or (4) failing to deliver to county clerks by certain deadlines completed applications to register to vote. (NRS 293.505) Section 14 of this bill provides that such acts are also prohibited of persons who assist in voter registration drives.]~~

Section ~~[4]~~ 1 of this bill requires a nongovernmental entity that sends a notice to a person indicating the person is not or may not be registered to vote or requesting the person to register to vote to indicate on the notice that it is not official elections mail from the Secretary of State or a county or city clerk.

~~[Existing law requires a minor political party that wishes to place candidates for President and Vice President of the United States on the ballot to file with the Secretary of State a certificate of nomination for these offices not later than the last Tuesday in August. (NRS 293.1725) Section 7 of this bill moves that deadline to the first Tuesday in August preceding the general election. Section 3 of this bill applies the same deadline to major political parties, and section 23 of this bill makes a conforming change.]~~

Existing law relating to elections cites to various provisions of federal law, including the Voting Rights Act of 1965 (52 U.S.C. §§ 10101 to 10301 et seq.), the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. §§ 20301 et seq.), the Military and Overseas Voter Empowerment Act (52 U.S.C. §§ 20302 et seq.) and the Help America Vote Act (52 U.S.C. §§ 15482 et seq.). (NRS 293.208, 293.2699, 293.309, 293.4685, 293.502, 293.504, 293.505, 293C.305, 293D.050, 293D.110, 293D.200, 293D.230, 293D.300, 293D.320, 293D.410, 293D.530) **Sections 8-13 ~~and 15-23~~ , 15 and 16-23** of this bill update the citations to these federal laws.

Existing federal law requires that each state ensure that an eligible voter who submits an application to register to vote by mail be registered to vote in an election for federal office if the voter registration form is postmarked not later than 30 days before the date of the election. (52 U.S.C. § 20507) Under existing Nevada law, an application to register to vote by mail must be postmarked or received by the county clerk not later than the fifth Saturday preceding a primary election, primary city election, general election or general city election. (NRS 293.5235, 293.560, 293C.527) Sections 14.6 and 15.5 of this bill provide that the last

day to register to vote by mail is the fourth Tuesday preceding the primary election, primary city election, general election or general city election.

Existing law provides that the last day to register to vote by computer is the third Tuesday preceding any primary or general election. (NRS 293.560, 293C.527) Sections 14.6 and 15.5 provide, with limited exception, that the last day to register to vote by computer is the Thursday before the period for early voting begins.

Existing law requires county and city clerks to distribute sample ballots before the period for early voting begins. (NRS 293.565, 293C.530) Sections 14.8 and 15.7 of this bill provide a limited exception to this requirement so that the clerks are not required to distribute sample ballots for an election to persons who register to vote less than 20 days before the election. Section 8.5 of this bill makes a conforming change.

Existing law sets forth campaign finance reporting requirements for candidates and certain persons and committees that accept contributions and make expenditures related to a special election to recall a public officer. (NRS 294A.120, 294A.140, 294A.200, 294A.210) ~~Sections 24-27~~ **24 and 25-27** of this bill set forth the reporting requirements that apply where no such special election is held because the petition for recall is not submitted for verification or is submitted for verification but is legally insufficient.

~~[Section 29 of this bill authorizes the Secretary of State to adopt by regulation qualifications for a person to circulate a petition for initiative or referendum.]~~

Existing law sets forth campaign finance reporting requirements for candidates to report campaign contributions. (NRS 294A.120, 294A.125) Sections 24 and 24.5 of this bill require a candidate to include in his or her campaign finance reports the balance in the candidate's campaign account at the end of the reporting period.

Existing law sets forth the categories of campaign expenses and expenditures for use in reports of campaign expenses or expenditures. (NRS 294A.365) Section 27.2 of this bill adds a category for interest, credit card fees, debit card fees or penalty fees incurred in relation to campaign expenses or expenditures paid for by a credit card or debit card. Section 27.2 also requires that each report of campaign expenses or expenditures must itemize each transaction and identify the business or other entity from whom the purchase was made if the purchase was paid for with a credit card or debit card.

Existing law requires a copy of a petition for initiative or referendum to be placed on file with the Secretary of State before it may be circulated for signatures. (NRS 295.015) **Section 31** of this bill requires that the person who intends to circulate the petition must also submit to the Secretary of State a form that includes: (1) the person's name and signature; (2) the name of any committee for political action formed by the person to advocate the

passage of the initiative or referendum; and (3) the names of persons who are authorized to withdraw the petition or submit a revised petition. **Section 30** of this bill provides that a petition may be withdrawn if one of those authorized persons submits a notice of withdrawal to the Secretary of State.

Existing law provides that if a petition for initiative proposes a statute or an amendment to a statute, the petition must be submitted for verification not later than the second Tuesday in November of an even-numbered year. (NRS 295.056) **Section 32** of this bill provides that if the second Tuesday in November of an even-numbered year is the day of the general election, that deadline is instead the next working day after the election.

Existing law requires that if a person desires to be an independent candidate for President of the United States, the person must circulate a nominating petition and obtain a certain number of signatures. Existing law also requires that a copy of that petition be filed with the Secretary of State. (NRS 298.109) **Section 34** of this bill clarifies that the copy must be filed with the Secretary of State before the petition is circulated for signatures.

~~[Existing law requires certain candidates and public officers to submit financial disclosure statements to the Secretary of State. (NRS 281.556-281.581) Section 37 of this bill requires that a financial disclosure statement be signed by the candidate or public officer under an oath to God or penalty of perjury. Section 35 of this bill authorizes the Secretary of State to conduct investigations and impose civil penalties on candidates and public officers who do not comply with the statutory requirements applicable to financial disclosure statements.]~~

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto ~~[the provisions set forth as sections 2 to 5, inclusive, of this act.]~~ a new section to read as follows:

Any nongovernmental entity that sends a notice to a person:

1. Indicating that the person is not or may not be registered to vote in this State; or

2. Requesting that the person register to vote in this State,

↪ must indicate clearly on the notice that it is not official elections mail from the Secretary of State or a county or city clerk.

Sec. 2. ~~["Voter registration drive" means an effort undertaken by a person to:~~

~~1. Distribute applications to register to vote; or~~

~~2. Assist~~

~~(a) Electors to complete or submit applications to register to vote; or~~

~~(b) Registered voters to update or correct their existing voter registration information.] (Deleted by amendment.)~~

Sec. 3. ~~[A major political party that wishes to place candidates for the offices of President and Vice President of the United States on the ballot~~

~~for the general election must file with the Secretary of State a certificate of nomination for these offices not later than the first Tuesday in August preceding the general election.] (Deleted by amendment.)~~

Sec. 4. ~~[Any nongovernmental entity that sends a notice to a person:~~
~~1. Indicating that the person is not or may not be registered to vote in this State; or~~
~~2. Requesting that the person register to vote in this State,~~
~~→ must indicate clearly on the notice that it is not official elections mail from the Secretary of State or a county or city clerk.] (Deleted by amendment.)~~

Sec. 5. ~~[The Secretary of State may adopt by regulation qualifications for a person to assist in a voter registration drive.] (Deleted by amendment.)~~

Sec. 6. ~~[NRS 293.010 is hereby amended to read as follows:~~
~~293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 7. ~~[NRS 293.1725 is hereby amended to read as follows:~~
~~293.1725 1. Except as otherwise provided in subsection 4, a minor political party that wishes to place its candidates for partisan office on the ballot for a general election and:~~
~~(a) Is entitled to do so pursuant to paragraph (a) or (b) of subsection 2 of NRS 293.1715; or~~

~~(b) Files or will file a petition pursuant to paragraph (c) of subsection 2 of NRS 293.1715,~~

~~→ must file with the Secretary of State a list of its candidates for partisan office not earlier than the first Monday in March preceding the election nor later than 5 p.m. on the second Friday after the first Monday in March. The list must be signed by the person so authorized in the certificate of existence of the minor political party before a notary public or other person authorized to take acknowledgments. The list may be amended not later than 5 p.m. on the second Friday after the first Monday in March.~~

~~2. The Secretary of State shall immediately forward a certified copy of the list of candidates for partisan office of each minor political party to the filing officer with whom each candidate must file his or her declaration of candidacy.~~

~~3. Each candidate on the list must file his or her declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the date on which the list of candidates for partisan office of the minor political party is filed with the Secretary of State nor later than 5 p.m. on the second Friday after the first Monday in March.~~

~~4. A minor political party that wishes to place candidates for the offices of President and Vice President of the United States on the ballot and has qualified to place the names of its candidates for partisan office on the ballot~~

~~for the general election pursuant to subsection 2 of NRS 293.1715 must file with the Secretary of State a certificate of nomination for these offices not later than the [last] first Tuesday in August [.] preceding the general election.] (Deleted by amendment.)~~

Sec. 8. 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 of any year whose last digit is 6 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]~~ **52 U.S.C. §§ 10101 and 10301** 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. 8.5. NRS 293.2546 is hereby amended to read as follows:

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

1. To receive and cast a ballot that:

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

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

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

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

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

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

6. To request assistance in voting, if necessary.

7. To a sample ballot which is accurate, informative and delivered in a timely manner ~~as provided by law.~~ **as provided by law.**

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

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

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

11. To have complaints about elections and election contests resolved fairly, accurately and efficiently.

Sec. 9. NRS 293.2699 is hereby amended to read as follows:

293.2699 1. Each voting system used by a county or city shall provide voting materials in English and other languages in compliance with the provisions of ~~42 U.S.C. § 1973aa-1a.~~ **52 U.S.C. § 10503.**

2. As used in this section, the term “voting materials” has the meaning ascribed to it in ~~42 U.S.C. § 1973aa-1a.~~ **52 U.S.C. § 10503.**

Sec. 10. NRS 293.309 is hereby amended to read as follows:

293.309 1. The county clerk of each county shall prepare an absent ballot for the use of registered voters who have requested absent ballots. The county clerk shall make reasonable accommodations for the use of the absent ballot by a person who is elderly or disabled, including, without limitation, by providing, upon request, the absent ballot in 12-point type to a person who is elderly or disabled.

2. The ballot must be prepared and ready for distribution to a registered voter who:

(a) Resides within the State, not later than 20 days before the election in which it is to be used;

(b) Except as otherwise provided in paragraph (c), resides outside the State, not later than 40 days before a primary or general election, if possible; or

(c) Requested an absent ballot pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, ~~42 U.S.C. §§ 1973ff~~ **52 U.S.C. §§ 20301** et seq., not later than 45 days before the election.

3. Any legal action which would prevent the ballot from being issued pursuant to subsection 2 is moot and of no effect.

Sec. 11. NRS 293.4685 is hereby amended to read as follows:

293.4685 1. The Secretary of State shall:

(a) Provide information regarding voter registration and absentee voting by Armed Forces personnel and overseas voters;

(b) Within 90 days after the date of each general election and general city election in which electors voted for federal offices, submit to the Election Assistance Commission established pursuant to ~~42 U.S.C. § 15321~~ **52 U.S.C. § 20921** a report of the combined number of absentee ballots transmitted to absent Armed Forces personnel and overseas voters for the election and the combined number of such ballots that were returned by such voters and cast in the election;

(c) Make each report submitted pursuant to paragraph (b) available to the public; and

(d) Adopt any regulations which are necessary to comply with the provisions of the Help America Vote Act of 2002, Public Law 107-252, and which are not inconsistent with the provisions of this chapter to the extent the provisions of this chapter are consistent with the Help America Vote Act of 2002, Public Law 107-252.

2. Each county and city clerk shall provide such information as is requested by the Secretary of State to comply with the provisions of this section.

Sec. 12. NRS 293.502 is hereby amended to read as follows:

293.502 1. An elector:

(a) Who complies with the requirements for registration set forth in the Uniformed and Overseas Citizens Absentee Voting Act, ~~42 U.S.C. §§ 1973ff~~ **52 U.S.C. §§ 20301** et seq.;

(b) Who, not more than 60 days before an election:

(1) Is discharged from the Armed Forces of the United States or is the spouse or dependent of an elector who is discharged from the Armed Forces; or

(2) Is separated from employment outside the territorial limits of the United States or is the spouse or dependent of an elector who is separated from employment outside the territorial limits of the United States;

(c) Who presents evidence of the discharge from the Armed Forces or separation from employment described in paragraph (b) to the county clerk; and

(d) Is not registered to vote at the close of registration for that election, ➡ must be allowed to register to vote in the election.

2. Such an elector must:

(a) Register in person; and

(b) Vote in the office of the county clerk unless the elector is otherwise entitled to vote an absent ballot pursuant to federal law.

3. The Secretary of State shall adopt regulations to carry out a program of registration for such electors.

Sec. 13. NRS 293.504 is hereby amended to read as follows:

293.504 1. The following offices shall serve as voter registration agencies:

(a) Such offices that provide public assistance as are designated by the Secretary of State;

(b) Each office that receives money from the State of Nevada to provide services to persons with disabilities in this State;

(c) The offices of the Department of Motor Vehicles;

(d) The offices of the city and county clerks;

(e) Such other county and municipal facilities as a county clerk or city clerk may designate pursuant to NRS 293.5035 or 293C.520, as applicable;

(f) Recruitment offices of the United States Armed Forces; and

(g) Such other offices as the Secretary of State deems appropriate.

2. Each voter registration agency shall:

(a) Post in a conspicuous place, in at least 12-point type, instructions for registering to vote;

(b) Except as otherwise provided in subsection 3, distribute applications to register to vote which may be returned by mail with any application for services or assistance from the agency or submitted for any other purpose and with each application for recertification, renewal or change of address submitted to the agency that relates to such services, assistance or other purpose;

(c) Provide the same amount of assistance to an applicant in completing an application to register to vote as the agency provides to a person completing any other forms for the agency; and

(d) Accept completed applications to register to vote.

3. A voter registration agency is not required to provide an application to register to vote pursuant to paragraph (b) of subsection 2 to a person who applies for or receives services or assistance from the agency or submits an application for any other purpose if the person declines to register to vote and submits to the agency a written form that meets the requirements of ~~42 U.S.C. § 1973gg-5(a)(6)~~ **52 U.S.C. § 20506(a)(6)**. No information related to the declination to register to vote may be used for any purpose other than voter registration.

4. Except as otherwise provided in this subsection and NRS 293.524, any application to register to vote accepted by a voter registration agency must be transmitted to the county clerk not later than 10 days after the application is accepted. The applications must be forwarded daily during the 2 weeks immediately preceding the ~~the fifth Sunday preceding an election,~~ **last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable.** The county clerk shall accept any application to register to vote which is obtained from a voter registration agency pursuant to this section and completed by the ~~the fifth Sunday preceding an election,~~ **last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable,** if the county clerk receives the application not later than 5 days after that date.

5. The Secretary of State shall cooperate with the Secretary of Defense to develop and carry out procedures to enable persons in this State to apply to register to vote at recruitment offices of the United States Armed Forces.

Sec. 14. NRS 293.505 is hereby amended to read as follows:

293.505 1. All justices of the peace, except those located in county seats, are ex officio field registrars to carry out the provisions of this chapter.

2. The county clerk shall appoint at least one registered voter to serve as a field registrar of voters who, except as otherwise provided in NRS 293.5055, shall register voters within the county for which the field registrar is appointed. Except as otherwise provided in subsection 1, a candidate for any office may not be appointed or serve as a field registrar. A field registrar serves at the pleasure of the county clerk and shall perform such duties as the county clerk may direct. The county clerk shall not knowingly appoint any person as a field registrar who has been convicted of a felony involving theft or fraud. The Secretary of State may bring an action against a county clerk to collect a civil penalty of not more than \$5,000 for each person who is appointed as a field registrar in violation of this subsection. Any civil penalty collected pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.

3. A field registrar shall demand of any person who applies for registration all information required by the application to register to vote and shall administer all oaths required by this chapter.

4. When a field registrar has in his or her possession five or more completed applications to register to vote, the field registrar shall forward them to the county clerk, but in no case may the field registrar hold any number of them for more than 10 days.

5. Each field registrar shall forward to the county clerk all completed applications in his or her possession immediately after the ~~the fifth Sunday preceding an election,~~ **last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable.** Within 5 days after the ~~the fifth Sunday preceding any general election or general city election,~~ **last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable,** a field registrar shall return all unused applications in his or her possession to the

county clerk. If all of the unused applications are not returned to the county clerk, the field registrar shall account for the unreturned applications.

6. Each field registrar shall submit to the county clerk a list of the serial numbers of the completed applications to register to vote and the names of the electors on those applications. The serial numbers must be listed in numerical order.

7. Each field registrar shall post notices sent to him or her by the county clerk for posting in accordance with the election laws of this State.

8. A field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 ~~for as part of a voter registration drive~~ shall not:

- (a) Delegate any of his or her duties to another person; or
- (b) Refuse to register a person on account of that person's political party affiliation.

9. A person shall not hold himself or herself out to be or attempt to exercise the duties of a field registrar unless the person has been so appointed.

10. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

- (a) Solicit a vote for or against a particular question or candidate;
- (b) Speak to a voter on the subject of marking his or her ballot for or against a particular question or candidate; or
- (c) Distribute any petition or other material concerning a candidate or question which will be on the ballot for the ensuing election,

↪ while registering an elector.

11. When the county clerk receives applications to register to vote from a field registrar, the county clerk shall issue a receipt to the field registrar. The receipt must include:

- (a) The number of persons registered; and
- (b) The political party of the persons registered.

12. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 ~~for as part of a voter registration drive~~ shall not:

- (a) Knowingly register a person who is not a qualified elector or a person who has filed a false or misleading application to register to vote; or
- (b) Register a person who fails to provide satisfactory proof of identification and the address at which the person actually resides.

13. A county clerk, field registrar, employee of a voter registration agency, person assisting a voter pursuant to subsection 13 of NRS 293.5235 ~~for as part of a voter registration drive~~ or any other person providing a form for the application to register to vote to an elector for the purpose of registering to vote:

- (a) If the person who assists an elector with completing the form for the application to register to vote retains the form, shall enter his or her name on

the duplicate copy or receipt retained by the voter upon completion of the form; and

(b) Shall not alter, deface or destroy an application to register to vote that has been signed by an elector except to correct information contained in the application after receiving notice from the elector that a change in or addition to the information is required.

14. ~~A person who as part of a voter registration drive accepts a completed application to register to vote from an elector during the 2 weeks immediately preceding the fifth Sunday preceding an election shall:~~

~~(a) Deliver the completed application in person to the county clerk not later than the fifth Sunday preceding the election; or~~

~~(b) Mail the completed application to the county clerk not later than the fifth Sunday preceding the election as indicated by the date of the postmark dated by the post office on the envelope in which it is was mailed.~~

~~15.~~ If a field registrar violates any of the provisions of this section, the county clerk shall immediately suspend the field registrar and notify the district attorney of the county in which the violation occurred.

~~15.~~ ~~16.~~ A person who violates any of the provisions of subsection 8, 9, 10, 12 ~~11~~ or 13 ~~for 14~~ is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 14.2. NRS 293.5237 is hereby amended to read as follows:

293.5237 Any time before the ~~fifth Sunday preceding an election,~~ last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable, a person who because of illness, disability or for other good cause shown requires assistance to complete an application to register to vote may request the county clerk in writing or by telephone to register the person at the person's residence. Upon request, the county clerk shall direct the appropriate field registrar to go to the home of such a person to register the person to vote.

Sec. 14.4. NRS 293.524 is hereby amended to read as follows:

293.524 1. The Department of Motor Vehicles shall provide an application to register to vote to each person who applies for the issuance or renewal of any type of driver's license or identification card issued by the Department.

2. The county clerk shall use the applications to register to vote which are signed and completed pursuant to subsection 1 to register applicants to vote or to correct information in the registrar of voters' register. An application that is not signed must not be used to register or correct the registration of the applicant.

3. For the purposes of this section, each employee specifically authorized to do so by the Director of the Department may oversee the completion of an application. The authorized employee shall check the application for completeness and verify the information required by the application. Each application must include a duplicate copy or receipt to be retained by the applicant upon completion of the form. The Department shall, except as

otherwise provided in this subsection, forward each application on a weekly basis to the county clerk or, if applicable, to the registrar of voters of the county in which the applicant resides. The applications must be forwarded daily during the 2 weeks immediately preceding the ~~fifth Sunday preceding an election.~~ **last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable.**

4. The county clerk shall accept any application to register to vote which is obtained from the Department of Motor Vehicles pursuant to this section and completed by the ~~fifth Sunday preceding an election.~~ **last day to register to vote by mail pursuant to NRS 293.560 or 293C.527, as applicable,** if the county clerk receives the application not later than 5 days after that date. Upon receipt of an application, the county clerk or field registrar of voters shall determine whether the application is complete. If the county clerk or field registrar of voters determines that the application is complete, he or she shall notify the applicant and the applicant shall be deemed to be registered as of the date of the submission of the application. If the county clerk or field registrar of voters determines that the application is not complete, he or she shall notify the applicant of the additional information required. The applicant shall be deemed to be registered as of the date of the initial submission of the application if the additional information is provided within 15 days after the notice for the additional information is mailed. If the applicant has not provided the additional information within 15 days after the notice for the additional information is mailed, the incomplete application is void. Any notification required by this subsection must be given by mail at the mailing address on the application not more than 7 working days after the determination is made concerning whether the application is complete.

5. The county clerk shall use any form submitted to the Department to correct information on a driver's license or identification card to correct information in the registrar of voters' register, unless the person indicates on the form that the correction is not to be used for the purposes of voter registration. The Department shall forward each such form to the county clerk or, if applicable, to the registrar of voters of the county in which the person resides in the same manner provided by subsection 3 for applications to register to vote.

6. Upon receipt of a form to correct information, the county clerk shall compare the information to that contained in the registrar of voters' register. If the person is a registered voter, the county clerk shall correct the information to reflect any changes indicated on the form. After making any changes, the county clerk shall notify the person by mail that the records have been corrected.

7. The Secretary of State shall, with the approval of the Director, adopt regulations to:

(a) Establish any procedure necessary to provide an elector who applies to register to vote pursuant to this section the opportunity to do so;

(b) Prescribe the contents of any forms or applications which the Department is required to distribute pursuant to this section; and

(c) Provide for the transfer of the completed applications of registration from the Department to the appropriate county clerk for inclusion in the rosters and registrar of voters' register.

Sec. 14.6. NRS 293.560 is hereby amended to read as follows:

293.560 1. Except as otherwise provided in NRS 293.502, 293D.230 and 293D.300, ~~registration must close on~~ :

(a) For a primary or general election, or a recall or special election that is held on the same day as a primary or general election, the last day to register to vote:

(1) By mail is the fourth Tuesday preceding the primary or general election.

(2) By appearing in person at the office of the county clerk or, if open, a county facility designated pursuant to NRS 293.5035, is the third Tuesday preceding ~~any~~ the primary or general election. ~~and on~~

(3) By computer, if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register voters, is the Thursday preceding the first day of the period for early voting.

(b) If a recall or special election is not held on the same day as a primary or general election, the last day to register to vote for the recall or special election by any means is the third Saturday preceding ~~any~~ the recall or special election. ~~except that if a recall or special election is held on the same day as a primary or general election, registration must close on the third Tuesday preceding the day of the elections.~~

2. For a primary or special election, the office of the county clerk must be open until 7 p.m. during the last 2 days on which ~~registration is open.~~ **a person may register to vote in person.** In a county whose population is less than 100,000, the office of the county clerk may close at 5 p.m. during the last 2 days ~~before registration closes.~~ **a person may register to vote in person** if approved by the board of county commissioners.

3. For a general election:

(a) In a county whose population is less than 100,000, the office of the county clerk must be open until 7 p.m. during the last 2 days on which ~~registration is open.~~ **a person may register to vote in person.** The office of the county clerk may close at 5 p.m. if approved by the board of county commissioners.

(b) In a county whose population is 100,000 or more, the office of the county clerk must be open during the last 4 days on which ~~registration is open.~~ **a person may register to vote in person,** according to the following schedule:

(1) On weekdays until 9 p.m.; and

(2) A minimum of 8 hours on Saturdays, Sundays and legal holidays.

4. Except for a special election held pursuant to chapter 306 or 350 of NRS:

(a) The county clerk of each county shall cause a notice signed by him or her to be published in a newspaper having a general circulation in the county indicating:

(1) The day and time that registration will be closed; and

(2) If the county clerk has designated a county facility pursuant to NRS 293.5035, the location of that facility.

➔ If no such newspaper is published in the county, the publication may be made in a newspaper of general circulation published in the nearest county in this State.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

5. The offices of the county clerk, a county facility designated pursuant to NRS 293.5035 and other ex officio registrars may remain open on the last Friday in October in each even-numbered year.

~~6. [For the period beginning on the fifth Sunday preceding any primary or general election and ending on the third Tuesday preceding any primary or general election, an elector may register to vote only:~~

~~—(a) By appearing in person at the office of the county clerk or, if open, a county facility designated pursuant to NRS 293.5035; or~~

~~—(b) By computer, if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register voters.~~

~~—7.1~~ A county facility designated pursuant to NRS 293.5035 may be open during the periods described in this section for such hours of operation as the county clerk may determine, as set forth in subsection 3 of NRS 293.5035.

Sec. 14.8. NRS 293.565 is hereby amended to read as follows:

293.565 1. Except as otherwise provided in subsection 3, sample ballots must include:

(a) If applicable, the statement required by NRS 293.267;

(b) The fiscal note or description of anticipated financial effect, as provided pursuant to NRS 218D.810, 293.250, 293.481, 295.015, 295.095 or 295.230 for each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(c) An explanation, as provided pursuant to NRS 218D.810, 293.250, 293.481, 295.121 or 295.230, of each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(d) Arguments for and against each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question, and rebuttals to each argument, as provided pursuant to NRS 218D.810, 293.250, 293.252 or 295.121; and

(e) The full text of each proposed constitutional amendment.

2. If, pursuant to the provisions of NRS 293.2565, the word “Incumbent” must appear on the ballot next to the name of the candidate who is the

incumbent, the word "Incumbent" must appear on the sample ballot next to the name of the candidate who is the incumbent.

3. Sample ballots that are mailed to registered voters may be printed without the full text of each proposed constitutional amendment if:

(a) The cost of printing the sample ballots would be significantly reduced if the full text of each proposed constitutional amendment were not included;

(b) The county clerk ensures that a sample ballot that includes the full text of each proposed constitutional amendment is provided at no charge to each registered voter who requests such a sample ballot; and

(c) The sample ballots provided to each polling place include the full text of each proposed constitutional amendment.

4. A county clerk may establish a system for distributing sample ballots by electronic means to each registered voter who elects to receive a sample ballot by electronic means. Such a system may include, without limitation, electronic mail or electronic access through an Internet website. If a county clerk establishes such a system and a registered voter elects to receive a sample ballot by electronic means, the county clerk shall distribute the sample ballot to the registered voter by electronic means pursuant to the procedures and requirements set forth by regulations adopted by the Secretary of State.

5. If a registered voter does not elect to receive a sample ballot by electronic means pursuant to subsection 4, the county clerk shall distribute the sample ballot to the registered voter by mail.

6. ~~Before~~ **Except as otherwise provided in subsection 7, before** the period for early voting for any election begins, the county clerk shall distribute to each registered voter in the county by mail or electronic means, as applicable, the sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place. If the location of the polling place has changed since the last election:

(a) The county clerk shall mail a notice of the change to each registered voter in the county not sooner than 10 days before distributing the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE
HAS CHANGED SINCE THE LAST ELECTION

7. **If a person registers to vote less than 20 days before the date of an election, the county clerk is not required to distribute to the person the sample ballot for that election by mail or electronic means.**

8. Except as otherwise provided in subsection ~~8.1~~ **9**, a sample ballot required to be distributed pursuant to this section must:

(a) Be prepared in at least 12-point type; and

(b) Include on the front page, in a separate box created by bold lines, a notice prepared in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN
LARGE TYPE, CALL (Insert appropriate telephone number)

~~10.1~~ **9.** A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

~~10.1~~ **10.** The sample ballot distributed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be prepared in at least 14-point type, or larger when practicable.

~~10.1~~ **11.** If a person requests a sample ballot in large type, the county clerk shall ensure that all future sample ballots distributed to that person from the county are in large type.

~~11.1~~ **12.** The county clerk shall include in each sample ballot a statement indicating that the county clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the county clerk has provided pursuant to subsection 4 of NRS 293.2955 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the county clerk shall include in the sample ballot a statement indicating:

- (a) The addresses of such centralized voting locations;
- (b) The types of specially equipped voting devices available at such centralized voting locations; and
- (c) That a voter who is elderly or disabled may cast his or her ballot at such a centralized voting location rather than at his or her regularly designated polling place.

~~12.1~~ **13.** The cost of distributing sample ballots for any election other than a primary or general election must be borne by the political subdivision holding the election.

Sec. 15. NRS 293C.305 is hereby amended to read as follows:

293C.305 1. The city clerk shall prepare an absent ballot for the use of registered voters who have requested absent ballots. The city clerk shall make reasonable accommodations for the use of the absent ballot by a person who is elderly or disabled, including, without limitation, by providing, upon request, the absent ballot in 12-point type to a person who is elderly or disabled.

2. The ballot must be prepared and ready for distribution to a registered voter who:

- (a) Except as otherwise provided in paragraph (b), resides within or outside this State, not later than 20 days before the election in which it will be used.

(b) Requested an absent ballot pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, ~~[42 U.S.C. §§ 1973ff]~~ **52 U.S.C. §§ 20301** et seq., not later than 45 days before the election.

3. Any legal action that would prevent the ballot from being issued pursuant to subsection 2 is moot and of no effect.

Sec. 15.5. NRS 293C.527 is hereby amended to read as follows:

293C.527 1. Except as otherwise provided in NRS 293.502, 293D.230 and 293D.300, ~~[registration must close on]~~ :

(a) For a primary city election or general city election, or a recall or special election that is held on the same day as a primary city election or general city election, the last day to register to vote:

(1) By mail is the fourth Tuesday preceding the primary city election or general city election.

(2) By appearing in person at the office of the city clerk or, if open, a municipal facility designated pursuant to NRS 293C.520, is the third Tuesday preceding ~~[any]~~ **the** primary city election or general city election. ~~[and on]~~

(3) By computer, if the county clerk of the county in which the city is located has established a system pursuant to NRS 293.506 for using a computer to register voters and:

(I) 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, is the Thursday preceding the first day of the period for early voting.

(II) The governing body of the city has not provided for early voting by personal appearance pursuant to paragraph (b) of subsection 2 of NRS 293C.110, is the third Tuesday preceding any primary city election or general city election.

(b) If a recall or special election is not held on the same day as a primary city election or general city election, the last day to register to vote for the recall or special election by any means is the third Saturday preceding ~~[any]~~ **the** recall or special election. ~~[except that if a recall or special election is held on the same day as a primary city election or general city election, registration must close on the third Tuesday preceding the day of the elections.]~~

2. For a primary city election or special city election, the office of the city clerk must be open until 7 p.m. during the last 2 days on which ~~[registration is open.]~~ **a person may register to vote in person.** In a city whose population is less than 25,000, the office of the city clerk may close at 5 p.m. if approved by the governing body of the city.

3. For a general election:

(a) In a city whose population is less than 25,000, the office of the city clerk must be open until 7 p.m. during the last 2 days on which ~~[registration is open.]~~ **a person may register to vote in person.** The office of the city clerk may close at 5 p.m. if approved by the governing body of the city.

(b) In a city whose population is 25,000 or more, the office of the city clerk must be open during the last 4 days on which ~~registration is open,~~ **a person may register to vote in person,** according to the following schedule:

- (1) On weekdays until 9 p.m.; and
- (2) A minimum of 8 hours on Saturdays, Sundays and legal holidays.

4. Except for a special election held pursuant to chapter 306 or 350 of NRS:

(a) The city clerk of each city shall cause a notice signed by him or her to be published in a newspaper having a general circulation in the city indicating:

- (1) The day and time that registration will be closed; and
- (2) If the city clerk has designated a municipal facility pursuant to NRS 293C.520, the location of that facility.

➔ If no newspaper is of general circulation in that city, the publication may be made in a newspaper of general circulation in the nearest city in this State.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

5. ~~For the period beginning on the fifth Sunday preceding any primary city election or general city election and ending on the third Tuesday preceding any primary city election or general city election, an elector may register to vote only:~~

~~(a) By appearing in person at the office of the city clerk or, if open, a municipal facility designated pursuant to NRS 293C.520; or~~

~~(b) By computer, if the county clerk of the county in which the city is located has established a system pursuant to NRS 293.506 for using a computer to register voters.~~

~~6.~~ A municipal facility designated pursuant to NRS 293C.520 may be open during the periods described in this section for such hours of operation as the city clerk may determine, as set forth in subsection 3 of NRS 293C.520.

Sec. 15.7. NRS 293C.530 is hereby amended to read as follows:

293C.530 1. A city clerk may establish a system for distributing sample ballots by electronic means to each registered voter who elects to receive a sample ballot by electronic means. Such a system may include, without limitation, electronic mail or electronic access through an Internet website. If a city clerk establishes such a system and a registered voter elects to receive a sample ballot by electronic means, the city clerk shall distribute the sample ballot to the registered voter by electronic means pursuant to the procedures and requirements set forth by regulations adopted by the Secretary of State.

2. If a registered voter does not elect to receive a sample ballot by electronic means pursuant to subsection 1, the city clerk shall distribute the sample ballot to the registered voter by mail.

3. ~~Before~~ **Except as otherwise provided in subsection 4, before** the period for early voting for any election begins, the city clerk shall distribute

to each registered voter in the city by mail or electronic means, as applicable, the sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place. If the location of the polling place has changed since the last election:

- (a) The city clerk shall mail a notice of the change to each registered voter in the city not sooner than 10 days before distributing the sample ballots; or
- (b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE
HAS CHANGED SINCE THE LAST ELECTION

4. **If a person registers to vote less than 20 days before the date of an election, the city clerk is not required to distribute to the person the sample ballot for that election by mail or electronic means.**

~~5.~~ **5.** Except as otherwise provided in subsection ~~6.~~ **7.** a sample ballot required to be distributed pursuant to this section must:

- (a) Be prepared in at least 12-point type;
- (b) Include the description of the anticipated financial effect and explanation of each citywide measure and advisory question, including arguments for and against the measure or question, as required pursuant to NRS 295.205 or 295.217; and
- (c) Include on the front page, in a separate box created by bold lines, a notice prepared in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN
LARGE TYPE, CALL (Insert appropriate telephone number)

~~5.~~ **6.** The word “Incumbent” must appear on the sample ballot next to the name of the candidate who is the incumbent, if required pursuant to NRS 293.2565.

~~6.~~ **7.** A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

~~7.~~ **8.** The sample ballot distributed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be prepared in at least 14-point type, or larger when practicable.

~~8.~~ **9.** If a person requests a sample ballot in large type, the city clerk shall ensure that all future sample ballots distributed to that person from the city are in large type.

~~9.~~ **10.** The city clerk shall include in each sample ballot a statement indicating that the city clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place and provide reasonable assistance to the voter in casting

his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the city clerk has provided pursuant to subsection 4 of NRS 293C.281 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the city clerk shall include in the sample ballot a statement indicating:

- (a) The addresses of such centralized voting locations;
- (b) The types of specially equipped voting devices available at such centralized voting locations; and
- (c) That a voter who is elderly or disabled may cast his or her ballot at such a centralized voting location rather than at the voter's regularly designated polling place.

~~10.1~~ **11.** The cost of distributing sample ballots for a city election must be borne by the city holding the election.

Sec. 16. NRS 293D.050 is hereby amended to read as follows:

293D.050 "Military-overseas ballot" means:

1. A federal write-in absentee ballot described in section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, ~~42 U.S.C. § 1973ff-2;~~ **52 U.S.C. § 20303;**

2. A ballot specifically prepared or distributed for use by a covered voter in accordance with this chapter; or

3. Any other ballot cast by a covered voter in accordance with this chapter.

Sec. 17. NRS 293D.110 is hereby amended to read as follows:

293D.110 In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that have enacted the Uniformed and Overseas Citizens Absentee Voting Act, ~~42 U.S.C. § 1973ff~~ **52 U.S.C. §§ 20301** et seq.

Sec. 18. NRS 293D.200 is hereby amended to read as follows:

293D.200 1. The Secretary of State shall make available to covered voters information regarding voter registration procedures for covered voters and procedures for casting military-overseas ballots.

2. The Secretary of State shall establish a system of approved electronic transmission through which covered voters may apply for, receive and send documents and other information pursuant to this chapter. The system of approved electronic transmission must include, without limitation, a method by which a covered voter may provide his or her digital signature or electronic signature on any document or other material that is necessary for the covered voter to register to vote, apply for a military-overseas ballot or cast a military-overseas ballot pursuant to this chapter.

3. The Secretary of State shall develop standardized absentee-voting materials, including, without limitation, privacy and transmission envelopes and their electronic equivalents, authentication materials and voting instructions, to be used with the military-overseas ballot of a covered voter

authorized to vote in any jurisdiction in this State and, to the extent reasonably possible, shall do so in coordination with other states.

4. The Secretary of State shall prescribe the form and content of a declaration for use by a covered voter to swear or affirm specific representations pertaining to the covered voter's identity, eligibility to vote, status as a covered voter and timely and proper completion of a military-overseas ballot. The declaration must be based on the declaration prescribed to accompany a federal write-in absentee ballot under section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, ~~[42 U.S.C. § 1973ff-2,]~~ **52 U.S.C. § 20303**, as modified to be consistent with this chapter. The Secretary of State shall ensure that a form for the execution of the declaration, including an indication of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.

5. The Secretary of State shall prescribe by regulation the duties of a local elections official upon receipt of a military-overseas ballot, including, without limitation, the procedures to be used by a local elections official in accepting, handling and counting a military-overseas ballot.

Sec. 19. NRS 293D.230 is hereby amended to read as follows:

293D.230 1. In addition to any other method of registering to vote set forth in chapter 293 of NRS, a covered voter may use a federal postcard application, as prescribed under section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, ~~[42 U.S.C. § 1973ff(b)(2),]~~ **52 U.S.C. § 20301(b)(2)**, or the application's electronic equivalent, to apply to register to vote.

2. A covered voter may use the declaration accompanying the federal write-in absentee ballot, as prescribed under section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, ~~[42 U.S.C. § 1973ff-2,]~~ **52 U.S.C. § 20303**, to apply to register to vote simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the seventh day before the election. If the declaration is received after the seventh day before the election, it must be treated as an application to register to vote for subsequent elections.

3. The Secretary of State shall ensure that the system of approved electronic transmission described in subsection 2 of NRS 293D.200 is capable of accepting:

(a) Both a federal postcard application and any other approved electronic registration application sent to the appropriate local elections official; and

(b) A digital signature or an electronic signature of a covered voter on the documents described in paragraph (a).

4. The covered voter may use the system of approved electronic transmission or any other method set forth in chapter 293 of NRS to register to vote.

Sec. 20. NRS 293D.300 is hereby amended to read as follows:

293D.300 1. A covered voter who is registered to vote in this State may apply for a military-overseas ballot by submitting a federal postcard application, as prescribed under section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, ~~[42 U.S.C. § 1973ff(b)(2),]~~ **52 U.S.C. § 20301(b)(2)**, or the application's electronic equivalent, pursuant to this section.

2. A covered voter who is not registered to vote in this State may use the federal postcard application or the application's electronic equivalent simultaneously to apply to register to vote pursuant to NRS 293D.230 and to apply for a military-overseas ballot.

3. The Secretary of State shall ensure that the system of approved electronic transmission described in subsection 2 of NRS 293D.200 is capable of accepting the submission of:

(a) Both a federal postcard application and any other approved electronic military-overseas ballot application sent to the appropriate local elections official; and

(b) A digital signature or an electronic signature of a covered voter on the documents described in paragraph (a).

4. A covered voter may use approved electronic transmission or any other method approved by the Secretary of State to apply for a military-overseas ballot.

5. A covered voter may use the declaration accompanying the federal write-in absentee ballot, as prescribed under section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, ~~[42 U.S.C. § 1973ff 2,]~~ **52 U.S.C. § 20303**, as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate local elections official by the seventh day before the election.

6. To receive the benefits of this chapter, a covered voter must inform the appropriate local elections official that he or she is a covered voter. Methods of informing the appropriate local elections official that a person is a covered voter include, without limitation:

(a) The use of a federal postcard application or federal write-in absentee ballot;

(b) The use of an overseas address on an approved voting registration application or ballot application; and

(c) The inclusion on an application to register to vote or an application for a military-overseas ballot of other information sufficient to identify that the person is a covered voter.

7. This chapter does not prohibit a covered voter from applying for an absent ballot pursuant to the provisions of NRS 293.315 or voting in person.

Sec. 21. NRS 293D.320 is hereby amended to read as follows:

293D.320 1. For all covered elections for which this State has not received a waiver pursuant to section 579 of the Military and Overseas Voter

Empowerment Act, ~~[42 U.S.C. § 1973ff-1(g)(2),]~~ **52 U.S.C. § 20302(g)(2)**, not later than 45 days before the election or, if the 45th day before the election is a weekend or holiday, not later than the business day preceding the 45th day, the local elections official in each jurisdiction charged with distributing military-overseas ballots and balloting materials shall transmit military-overseas ballots and balloting materials to all covered voters who by that date submit a valid application for military-overseas ballots.

2. A covered voter who requests that a military-overseas ballot and balloting materials be sent to the covered voter by approved electronic transmission may choose to receive the military-overseas ballot and balloting materials by:

- (a) Facsimile transmission;
- (b) Electronic mail delivery; or
- (c) The system of approved electronic transmission that is established by the Secretary of State pursuant to subsection 2 of NRS 293D.200.

➡ The local elections official in each jurisdiction shall transmit the military-overseas ballot and balloting materials to the covered voter using the means of approved electronic transmission chosen by the covered voter.

3. If an application for a military-overseas ballot from a covered voter arrives after the jurisdiction begins transmitting ballots and balloting materials to other voters, the local elections official shall transmit the military-overseas ballot and balloting materials to the covered voter not later than 2 business days after the application arrives.

Sec. 22. NRS 293D.410 is hereby amended to read as follows:

293D.410 1. Except as otherwise provided in subsection 2, a covered voter may use the federal write-in absentee ballot, in accordance with section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, ~~[42 U.S.C. § 1973ff-2,]~~ **52 U.S.C. § 20303**, to vote for all offices and ballot measures in an election.

2. If the covered voter indicates on the federal write-in absentee ballot that he or she is residing overseas indefinitely, the covered voter may only use the federal write-in absentee ballot to vote for federal offices.

Sec. 23. NRS 293D.530 is hereby amended to read as follows:

293D.530 If a covered voter's mistake or omission in the completion of a document under this chapter does not prevent determining whether a covered voter is eligible to vote, the mistake or omission does not invalidate the document. Failure to satisfy a nonessential requirement, including, without limitation, using paper or envelopes of a specified size or weight, does not invalidate any document submitted under this chapter. In any write-in ballot authorized by this chapter, if the intention of the covered voter is discernable under this State's uniform definition of what constitutes a vote, as required by the Help America Vote Act of 2002, ~~[42 U.S.C. § 15481(a)(6),]~~ **52 U.S.C. § 21081(a)(6)**, an abbreviation, misspelling or other minor variation in the form of the name of a candidate or a political party must be accepted as a valid vote.

Sec. 24. 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) ~~+~~; and
- (d) The balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period.**

↪ 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 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 **paragraphs (a), (b) and (c) of subsection 1 received during the period ~~+~~ and the balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period.**

3. Except as otherwise provided in subsections 4 , ~~and~~ 5 ***and*** 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 paragraphs (a), (b) and (c) of subsection 1 received during the period ~~1-1~~ and the balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period.

4. Except as otherwise provided in ~~subsection~~ **subsections 5 and 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 paragraphs (a), (b) and (c) of subsection 1 received during the period ~~1-1~~ and the balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period.

5. *Except as otherwise provided in subsection 6, if a petition for recall is not submitted to the filing officer before the expiration of the notice of intent pursuant to the provisions of chapter 306 of NRS or is otherwise legally insufficient when submitted to the filing officer pursuant to the provisions of that chapter, 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 expiration of the notice of intent, for the period from the filing of the notice of intent through the date that the notice of intent expires or the petition is determined to be legally insufficient, report each contribution described in paragraphs (a), (b) and (c) of subsection 1 ~~1-1~~ and the balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the period. The provisions of this subsection apply to the candidate for office at a special election if the petition for recall:*

(a) *Is not submitted to the filing officer as required by chapter 306 of NRS;*

(b) *Is submitted to the filing officer without any valid signatures or with fewer than the necessary number of valid signatures required by chapter 306 of NRS; or*

(c) *Is otherwise legally insufficient or efforts to obtain the necessary number of valid signatures required by chapter 306 of NRS are suspended or discontinued.*

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 paragraphs (a), (b) and (c) of subsection 1 received during the period ~~and the balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of 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.

Sec. 24.5. NRS 294A.125 is hereby amended to read as follows:

294A.125 1. In addition to complying with the requirements set forth in NRS 294A.120 and 294A.200, a candidate who receives contributions in any year before the year in which the general election in which the candidate intends to seek election to public office is held shall, for:

(a) The year in which the candidate receives contributions in excess of \$10,000, list:

(1) Each of the contributions received and the expenditures in excess of \$100 made in that year; ~~and~~

(2) The total of all contributions received and expenditures which are \$100 or less ~~and~~; and

(3) The balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the reporting period.

(b) Each year after the year in which the candidate received contributions in excess of \$10,000, until the year of the general election in which the candidate intends to seek election to public office is held, list:

(1) Each of the contributions received and the expenditures in excess of \$100 made in that year; ~~and~~

(2) The total of all contributions received and expenditures which are \$100 or less ~~and~~; and

(3) The balance in the account maintained by the candidate pursuant to NRS 294A.130 on the ending date of the reporting period.

2. The name and address of the contributor and the date on which the contribution was received must be included on the list for each contribution in excess of \$100 and contributions that a contributor has made cumulatively in excess of that amount.

3. Except as otherwise provided in NRS 294A.3733, the report must be filed electronically with the Secretary of State.

4. A report shall be deemed to be filed on the date it was received by the Secretary of State.

Sec. 25. 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 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. Except as otherwise provided in subsections 5 , ~~and~~ 6 **and** 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. Except as otherwise provided in ~~subsection~~ **subsections 6 and 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. *Except as otherwise provided in subsection 7, if a petition for recall is not submitted to the filing officer before the expiration of the notice of intent pursuant to the provisions of chapter 306 of NRS or is otherwise legally insufficient when submitted to the filing officer pursuant to the provisions of that chapter, 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 30 days after the expiration of the notice of intent, for the period from the filing of the notice of intent through the date that the notice of intent expires or the petition is determined to be legally insufficient, report each contribution in excess of \$1,000 received and contributions received which cumulatively exceed \$1,000. The provisions of this subsection apply to the person, committee and political party if the petition for recall:*

(a) Is not submitted to the filing officer as required by chapter 306 of NRS;

(b) Is submitted to the filing officer without any valid signatures or with fewer than the necessary number of valid signatures required by chapter 306 of NRS; or

(c) Is otherwise legally insufficient or efforts to obtain the necessary number of valid signatures required by chapter 306 of NRS are suspended or discontinued.

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.

Sec. 26. 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 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. Except as otherwise provided in subsections 5 , ~~and~~ 6 **and** 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. Except as otherwise provided in ~~subsection~~ **subsections 6 and 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. *Except as otherwise provided in subsection 7, if a petition for recall is not submitted to the filing officer before the expiration of the notice of intent pursuant to the provisions of chapter 306 of NRS or is otherwise legally insufficient when submitted to the filing officer pursuant to the provisions of that chapter, 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 expiration of the notice of intent, for the period from the filing of the notice of intent through the date that the notice of intent expires or the petition is determined to be legally insufficient, report each of the campaign expenses described in subsection 1 incurred during the period. The provisions of this subsection apply to the candidate for office at a special election if the petition for recall:*

(a) Is not submitted to the filing officer as required by chapter 306 of NRS;

(b) Is submitted to the filing officer without any valid signatures or with fewer than the necessary number of valid signatures required by chapter 306 of NRS; or

(c) Is otherwise legally insufficient or efforts to obtain the necessary number of valid signatures required by chapter 306 of NRS are suspended or discontinued.

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.

Sec. 27. 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 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. Except as otherwise provided in subsections 5 , ~~and~~ 6 **and** 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. Except as otherwise provided in ~~subsection~~ **subsections 6 and 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. *Except as otherwise provided in subsection 7, if a petition for recall is not submitted to the filing officer before the expiration of the notice of intent pursuant to the provisions of chapter 306 of NRS or is otherwise legally insufficient when submitted to the filing officer pursuant to the provisions of that chapter, 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 30 days after the expiration of the notice of intent, for the period from the filing of the notice of intent through the date that the notice of intent expires or the petition is determined to be legally insufficient, report each of the campaign expenses described in subsection 1 incurred during the period. The provisions of this subsection apply to the person, committee and political party if the petition for recall:*

(a) *Is not submitted to the filing officer as required by chapter 306 of NRS;*

(b) *Is submitted to the filing officer without any valid signatures or with fewer than the necessary number of valid signatures required by chapter 306 of NRS; or*

(c) Is otherwise legally insufficient or efforts to obtain the necessary number of valid signatures required by chapter 306 of NRS are suspended or discontinued.

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 **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 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.

Sec. 27.2. NRS 294A.365 is hereby amended to read as follows:

294A.365 1. Each report required pursuant to NRS 294A.210, 294A.220 and 294A.280 must consist of a list of each expenditure in excess of \$100 or \$1,000, as is appropriate, that was made during the periods for reporting. Each report required pursuant to NRS 294A.125 and 294A.200 must consist of a list of each campaign expense in excess of \$100 that was incurred during the periods for reporting. The list in each report must state the category and amount of the campaign expense or expenditure and the date on which the campaign expense was incurred or the expenditure was made.

2. The categories of campaign expense or expenditure for use on the report of campaign expenses or expenditures are:

- (a) Office expenses;
- (b) Expenses related to volunteers;

- (c) Expenses related to travel;
- (d) Expenses related to advertising;
- (e) Expenses related to paid staff;
- (f) Expenses related to consultants;
- (g) Expenses related to polling;
- (h) Expenses related to special events;
- (i) Expenses related to a legal defense fund;
- (j) Except as otherwise provided in NRS 294A.362, goods and services provided in kind for which money would otherwise have been paid;
- (k) Contributions made to another candidate, a nonprofit corporation that is registered or required to be registered pursuant to NRS 294A.225, a committee for political action that is registered or required to be registered pursuant to NRS 294A.230 or a committee for the recall of a public officer that is registered or required to be registered pursuant to NRS 294A.250;
- (l) Fees for filing declarations of candidacy or acceptances of candidacy;
- (m) Repayments or forgiveness of loans;
- (n) The disposal of unspent contributions pursuant to NRS 294A.160;

~~and~~

(o) Interest, credit card fees, debit card fees or penalty fees incurred in relation to campaign expenses or expenditures paid for by a credit card or debit card; and

~~(p)~~ Other miscellaneous expenses.

3. Each report of campaign expenses or expenditures described in subsection 1 must ~~list~~ :

(a) List the disposition of any unspent contributions using the categories set forth in subsection 3 of NRS 294A.160 or subsection 3 of NRS 294A.286, as applicable ~~;~~ and

(b) For any campaign expense or expenditure that is paid for using a credit card or debit card, itemize each transaction and identify the business or other entity from whom the purchase of the campaign expense or expenditure was made.

Sec. 28. ~~Chapter 295 of NRS is hereby amended by adding thereto the provisions set forth as sections 29 and 30 of this act.~~ (Deleted by amendment.)

Sec. 29. ~~The Secretary of State may adopt by regulation qualifications for a person to circulate a petition for initiative or referendum.~~ (Deleted by amendment.)

Sec. 30. Chapter 295 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A petition for initiative or referendum may be withdrawn if a person authorized pursuant to NRS 295.015 to withdraw the petition submits a notice of withdrawal to the Secretary of State on a form prescribed by the Secretary of State.

2. Once a petition for initiative or referendum is withdrawn pursuant to subsection 1, no further action may be taken on that petition.

Sec. 31. NRS 295.015 is hereby amended to read as follows:

295.015 1. Before a petition for initiative or referendum may be presented to the registered voters for their signatures, ***the person who intends to circulate the petition must:***

(a) File a copy of the petition for initiative or referendum, including the description required pursuant to NRS 295.009, ~~must be placed on file~~ with the Secretary of State.

(b) Submit to the Secretary of State on a form prescribed by the Secretary of State:

(1) The name and signature of the person.

(2) If the person has formed a committee for political action for the purposes of advocating the passage of the initiative or referendum, the name of that committee for political action.

(3) The names of not more than three persons who are authorized to withdraw the petition or submit an amended petition.

2. If a petition for initiative or referendum or a description of the effect of an initiative or referendum required pursuant to NRS 295.009 is amended after the petition is placed on file with the Secretary of State pursuant to subsection 1:

(a) The revised petition must be placed on file with the Secretary of State before it is presented to the registered voters for their signatures;

(b) Any signatures that were collected on the original petition before it was amended are not valid; and

(c) The requirements for submission of the petition to each county clerk set forth in NRS 295.056 apply to the revised petition.

3. Upon receipt of a petition for initiative or referendum placed on file pursuant to subsection 1 or 2:

(a) The Secretary of State shall consult with the Fiscal Analysis Division of the Legislative Counsel Bureau to determine if the initiative or referendum may have any anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters. If the Fiscal Analysis Division determines that the initiative or referendum may have an anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters, the Division must prepare a fiscal note that includes an explanation of any such effect.

(b) The Secretary of State shall consult with the Legislative Counsel regarding the petition for initiative or referendum. The Legislative Counsel may provide technical suggestions regarding the petition for initiative or referendum.

4. Not later than 10 business days after the Secretary of State receives a petition for initiative or referendum filed pursuant to subsection 1 or 2, the Secretary of State shall post a copy of the petition, including the description required pursuant to NRS 295.009, any fiscal note prepared pursuant to subsection 3 and any suggestions made by the Legislative Counsel pursuant to subsection 3, on the Secretary of State's Internet website.

Sec. 32. NRS 295.056 is hereby amended to read as follows:

295.056 1. Before a petition for initiative or referendum is filed with the Secretary of State, the petitioners must submit to each county clerk for verification pursuant to NRS 293.1276 to 293.1279, inclusive, the document or documents which were circulated for signature within the clerk's county. The clerks shall give the person submitting a document or documents a receipt stating the number of documents and pages and the person's statement of the number of signatures contained therein.

2. If a petition for initiative proposes a statute or an amendment to a statute, the document or documents must be submitted not later than :

(a) ***Except as otherwise provided in paragraph (b),*** the second Tuesday in November of an even-numbered year.

(b) ***If the second Tuesday in November of an even-numbered year is the day of the general election, the next working day after the general election.***

3. If a petition for initiative proposes an amendment to the Constitution, the document or documents must be submitted not later than the third Tuesday in June of an even-numbered year.

4. If the petition is for referendum, the document or documents must be submitted not later than the third Tuesday in June of an even-numbered year.

5. All documents which are submitted to a county clerk for verification must be submitted at the same time. If documents concerning the same petition are submitted for verification to more than one county clerk, the documents must be submitted to each county clerk on the same day. At the time that the petition is submitted to a county clerk for verification, the petitioners may designate a contact person who is authorized by the petitioners to address questions or issues relating to the petition.

Sec. 33. ~~NRS 298.035 is hereby amended to read as follows:~~

~~298.035 1. Each major political party shall, at the state convention of the major political party held in that year, select from the qualified electors who are legally registered members of the major political party:~~

~~(a) A nominee to the position of presidential elector; and~~

~~(b) An alternate to the nominee for presidential elector,~~

~~for each position of presidential elector required by law.~~

~~2. Each minor political party shall choose from the qualified electors who are legally registered members of the minor political party:~~

~~(a) A nominee to the position of presidential elector; and~~

~~(b) An alternate to the nominee for presidential elector,~~

~~for each position of presidential elector required by law. The person who is authorized to file the list of candidates for partisan office of the minor political party with the Secretary of State pursuant to NRS 293.1725 shall, not later than the [last] first Tuesday in August [,] preceding the general election, submit to the Secretary of State the list of nominees for presidential elector and alternates.~~

~~3. Each independent candidate nominated for the office of President pursuant to NRS 298.109 shall, at the time of filing the petition as required~~

~~pursuant to subsection 1 of NRS 298.109, or within 10 days thereafter, choose from the qualified electors:~~

~~— (a) A nominee to the position of presidential elector; and~~

~~— (b) An alternate to the nominee for presidential elector;~~

~~→ for each position of presidential elector required by law.] **(Deleted by amendment.)**~~

Sec. 34. NRS 298.109 is hereby amended to read as follows:

298.109 1. A person who desires to be an independent candidate for the office of President of the United States must, not later than 5 p.m. on the second Friday in August in each year in which a presidential election is to be held, pay a filing fee of \$250 and file with the Secretary of State a declaration of candidacy and a petition of candidacy, in which the person must also designate a nominee for Vice President. The petition must be signed by a number of registered voters equal to not less than 1 percent of the total number of votes cast at the last preceding general election for candidates for the offices of Representative in Congress and must request that the names of the proposed candidates be placed on the ballot at the general election that year. The candidate shall file a copy of the petition the person intends to circulate for signatures with the Secretary of State ~~[-] before the petition may be circulated for signatures.~~

2. The petition may consist of more than one document. Each document 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 in a county must be submitted to that county clerk for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last day to file the petition of candidacy with the Secretary of State pursuant to subsection 1. Each person signing shall add to his or her signature the address of the place at which he or she resides, the date that he or she signs and the name of the county wherein he or she is registered to vote. Each document of the petition must also contain the affidavit of the person who circulated the document that all signatures thereon are genuine to the best of the person's knowledge and belief and were signed in his or her presence by persons registered to vote in that county.

3. If the candidacy of any person who seeks to qualify pursuant to this section is challenged, all affidavits and documents in support of the challenge must be filed with the First Judicial District Court not later than 5 p.m. on the fourth Tuesday in August. Any judicial proceeding relating to the challenge must be set for hearing not later than 5 days after the fourth Tuesday in August.

4. The county clerk shall not disqualify the signature of a voter who fails to provide all the information required by this section if the voter is registered in the county named on the document.

Sec. 35. ~~[Chapter 281 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Except as otherwise provided in NRS 281.581, if it appears that a violation of any provision of this section and NRS 281.556 to 281.581, inclusive, has occurred, the Secretary of State may conduct an investigation concerning the alleged violation and cause the appropriate proceedings to be instituted in the First Judicial District Court.~~

~~2. A person who believes that a violation of any provision of this section and NRS 281.556 to 281.581, inclusive, has occurred may notify the Secretary of State, in writing, of the alleged violation. The notice must be signed by the person alleging the violation and include:~~

~~(a) The full name and address of the person alleging the violation;~~

~~(b) A clear and concise statement of facts sufficient to establish that the alleged violation occurred;~~

~~(c) Any evidence substantiating the alleged violation;~~

~~(d) A certification by the person alleging the violation that the facts alleged in the notice are true to the best knowledge and belief of that person; and~~

~~(e) Any other information in support of the alleged violation.~~

~~3. As soon as practicable after receiving a notice of an alleged violation pursuant to subsection 2, the Secretary of State shall provide a copy of the notice and any accompanying information to the person, if any, alleged in the notice to have committed the violation.~~

~~4. If the Secretary of State determines, based on a notice of an alleged violation received pursuant to subsection 2, that reasonable suspicion exists that a violation of this chapter has occurred, the Secretary of State may conduct an investigation of the alleged violation.~~

~~5. If a notice of an alleged violation is received pursuant to subsection 2 not later than 180 days after the submission of the financial disclosure statement to which the notice pertains, the Secretary of State, when conducting an investigation of the alleged violation pursuant to subsection 4, may subpoena witnesses and require by subpoena the production of any books, papers, correspondence, memoranda, agreements or other documents or records that the Secretary of State or a designated officer or employee of the Secretary of State determines are relevant or material to the investigation and are in the possession of:~~

~~(a) Any person alleged in the notice to have committed the violation; or~~

~~(b) If the notice does not include the name of a person alleged to have committed the violation, any person whom the Secretary of State or a designated officer or employee of the Secretary of State has reasonable cause to believe produced or disseminated the materials that are the subject of the notice.~~

~~6. If a person fails to testify or produce any documents or records in accordance with a subpoena issued pursuant to subsection 5, the Secretary of State or designated officer or employee may apply to the court for an~~

~~order compelling compliance. A request for an order of compliance may be addressed to:~~

~~— (a) The district court in and for the county where service may be obtained on the person refusing to testify or produce the documents or records, if the person is subject to service of process in this State; or~~

~~— (b) A court of another state having jurisdiction over the person refusing to testify or produce the documents or records, if the person is not subject to service of process in this State.~~

~~— 7. Except as otherwise provided in this section and NRS 281.581, a person who violates an applicable provision of this section and NRS 281.556 to 281.581, inclusive, is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.~~

~~— 8. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. When considering whether to waive a civil penalty that would otherwise be imposed pursuant to subsection 7, the Secretary of State may consider, without limitation:~~

~~— (a) The seriousness of the violation, including, without limitation, the nature, circumstances and extent of the violation;~~

~~— (b) Any history of violations committed by the person against whom the civil penalty would otherwise be imposed;~~

~~— (c) Any mitigating factors, including, without limitation, whether the person against whom the civil penalty would otherwise be imposed reported the violation, corrected the violation in a timely manner, attempted to correct the violation or cooperated with the Secretary of State in resolving the situation that led to the violation;~~

~~— (d) Whether the violation was inadvertent;~~

~~— (e) Any knowledge or experience the person has with the provisions of this section and NRS 281.556 to 281.581, inclusive; and~~

~~— (f) Any other factor that the Secretary of State deems to be relevant.~~

~~— 9. If the Secretary of State waives a civil penalty pursuant to subsection 8, the Secretary of State shall:~~

~~— (a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute good cause for the waiver; and~~

~~— (b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.~~

~~— 10. The remedies and penalties provided by this section and NRS 281.556 to 281.581, inclusive, are cumulative, do not abrogate and are in addition to any other remedies and penalties that may exist at law or in equity, including, without limitation, any criminal penalty that may be~~

~~imposed pursuant to NRS 199.120, 199.145 or 239.330, (Deleted by amendment.)~~

Sec. 36. ~~[NRS 281.556 is hereby amended to read as follows:
281.556 As used in NRS 281.556 to 281.581, inclusive, and section 35 of this act, unless the context otherwise requires, the words and terms defined in NRS 281.558 to 281.5587, inclusive, have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 37. ~~[NRS 281.571 is hereby amended to read as follows:
281.571 1. Each financial disclosure statement must contain the following information concerning the public officer or candidate:
[1.] (a) The public officer's or candidate's length of residence in the State of Nevada and the district in which the public officer or candidate is registered to vote.
[2.] (b) Each source of the public officer's or candidate's income, or that of any member of the public officer's or candidate's household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but if that is the case, a general source such as "professional services" must be disclosed.
[3.] (c) A list of the specific location and particular use of real estate, other than a personal residence:
[(a)] (1) In which the public officer or candidate or a member of the public officer's or candidate's household has a legal or beneficial interest;
[(b)] (2) Whose fair market value is \$2,500 or more; and
[(c)] (3) That is located in this State or an adjacent state.
[4.] (d) The name of each creditor to whom the public officer or candidate or a member of the public officer's or candidate's household owes \$5,000 or more, except for:
[(a)] (1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c) of subsection [3.] 1; and
[(b)] (2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.
[5.] (e) If the public officer or candidate has undertaken or attended any educational or informational meetings, events or trips during the immediately preceding calendar year or other period for which the public officer or candidate is filing the financial disclosure statement, a list of all such meetings, events or trips, including:
[(a)] (1) The purpose and location of the meeting, event or trip and the name of the organization conducting, sponsoring, hosting or requesting the meeting, event or trip;
[(b)] (2) The identity of each interested person providing anything of value to the public officer or candidate or a member of the public officer's or candidate's household to undertake or attend the meeting, event or trip; and~~

~~— [(c)] (3) The aggregate value of everything provided by those interested persons to the public officer or candidate or a member of the public officer's or candidate's household to undertake or attend the meeting, event or trip.~~

~~— [6.] (f) If the public officer or candidate has received any gifts in excess of an aggregate value of \$200 from a donor during the immediately preceding calendar year or other period for which the public officer or candidate is filing the financial disclosure statement, a list of all such gifts, including the identity of the donor and the value of each gift.~~

~~— [7.] (g) A list of each business entity with which the public officer or candidate or a member of the public officer's or candidate's household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.~~

~~— [8.] (h) A list of all public offices presently held by the public officer or candidate for which this financial disclosure statement is required.~~

~~— 2. A financial disclosure statement must be signed by the public officer or candidate under an oath to God or penalty of perjury. The public officer or candidate who signs the affidavit under an oath to God is subject to the same penalties as if the public officer or candidate had signed the affidavit under penalty of perjury. (Deleted by amendment.)~~

Sec. 38. ~~[NRS 281.5745 is hereby amended to read as follows:~~

~~— 281.5745 The Secretary of State may adopt regulations necessary to carry out the provisions of NRS 281.556 to 281.581, inclusive [.] , and section 35 of this act.] (Deleted by amendment.)~~

Sec. 39. ~~[1.] This [section and sections 1, 3, 4, 7 to 13, inclusive, 15 to 28, inclusive, and 30 to 38, inclusive, of this] act [become] becomes effective on July 1, 2017.~~

~~{2. Sections 2, 5, 6, 14 and 29 of this act become effective on:~~

~~— (a) July 1, 2017, for purposes of adopting any regulations and performing any other preparatory tasks necessary to carry out the provisions of this act; and~~

~~— (b) January 1, 2018, for all other purposes.]~~

Assemblywoman Diaz moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 9:25 p.m.

ASSEMBLY IN SESSION

At 9:29 p.m.
Mr. Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Bustamante Adams moved to reconsider the action whereby the Assembly adopted Amendment No. 538 to Assembly Bill No. 83.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 83 be placed at the bottom of the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 80.

Bill read second time.

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

Amendment No. 506.

AN ACT relating to redevelopment; allowing certain cities to extend the date for termination of certain redevelopment plans under certain circumstances; ~~requiring such cities to set aside a portion of the revenues from taxes imposed on property in certain redevelopment areas to be used to improve and preserve existing public educational facilities;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a redevelopment plan adopted before January 1, 1991, by a redevelopment agency of a city whose population is 500,000 or more (currently the City of Las Vegas), and any amendments to the plan must terminate at the end of the fiscal year in which the principal and interest of the last maturing of the securities issued before that date concerning the redevelopment area are fully paid or, if certain conditions are met, 60 years after the date on which the original redevelopment plan was adopted, whichever is later. Any other redevelopment plan adopted before January 1, 1991, and any amendments to the plan also must terminate upon the retirement of the last maturing securities or up to 45 years after the date on which the original redevelopment plan was adopted, whichever is later. (NRS 279.438) **Section 1** of this bill authorizes a city whose population is 220,000 or more located in a county whose population is 100,000 or more but less than 700,000 (currently the City of Reno) to extend the date of termination of a redevelopment plan adopted before January 1, 1991, to the later of the retirement of the last maturing securities or 60 years after the date on which the original redevelopment plan was adopted, whichever is later. The

extension of the termination period from 45 years to 60 years is only available if the legislative body of the city adopts an extension of the redevelopment plan by ordinance. **The adoption of an extension of a redevelopment plan has no effect on the allocation of revenues among taxing authorities within the redevelopment area.**

~~{ Under existing law, if the redevelopment agency of a city whose population is 220,000 or more but less than 500,000 located in a county whose population is 700,000 or more (currently the City of Henderson) adopts an ordinance extending the date of termination of its redevelopment plan, 18 percent of the incremental revenues received from taxes on the taxable property located in the redevelopment area affected by the ordinance on or after the effective date of the ordinance are required to be set aside and used to improve and preserve existing public educational facilities which are located within the redevelopment area or which serve pupils who reside within the redevelopment area. Existing law also provides that the obligation to set aside such revenues is subordinate to any existing obligations of the agency. (NRS 279.6855) Section 2 of this bill extends the applicability of these provisions to any city whose population is 220,000 or more, regardless of the population of the county in which it is located (currently the cities of Henderson and Reno), but only if the city adopts an ordinance extending the date of termination of its redevelopment plan. }~~

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

Section 1. NRS 279.438 is hereby amended to read as follows:

279.438 1. A redevelopment plan adopted before January 1, 1991, and any amendments to the plan must terminate at the end of the fiscal year in which the principal and interest of the last maturing of the securities issued before that date concerning the redevelopment area are fully paid or:

(a) *With respect to a redevelopment plan adopted by the agency of a city whose population is 220,000 or more located in a county whose population is 100,000 or more but less than 700,000, if the legislative body adopts an extension of the redevelopment plan by ordinance, 60 years after the date on which the original redevelopment plan was adopted, whichever is later. **Such an extension of a redevelopment plan has no effect on the allocation of revenues among taxing authorities within such a redevelopment area.***

(b) With respect to a redevelopment plan adopted by the agency of a city whose population is 500,000 or more, if the requirements set forth in subsection 2 are met, 60 years after the date on which the original redevelopment plan was adopted, whichever is later.

~~{(b)}~~ (c) With respect to any other redevelopment plan, including a redevelopment plan adopted by an agency of a city ~~{whose population is 500,000 or more,}~~ ***specified in paragraph (a) or (b),*** if the requirements set forth in ~~{subsection 2}~~ ***paragraph (a) or (b)*** are not met, 45 years after the

date on which the original redevelopment plan was adopted, whichever is later.

2. A redevelopment plan adopted by an agency of a city whose population is 500,000 or more may terminate on the date prescribed by paragraph ~~[(a)]~~ **(b)** of subsection 1 only if the legislative body adopts an extension of the redevelopment plan by ordinance and, on the date on which the extension is adopted:

(a) The assessed value of the aggregate number of redevelopment projects in the redevelopment area is not less than the assessed value of the aggregate number of redevelopment projects in the year in which the redevelopment plan was adopted; and

(b) The assessed value of the redevelopment area is not less than 75 percent of the assessed value of the redevelopment area in the year in which the redevelopment plan was adopted.

Sec. 2. ~~[NRS 279.6855 is hereby amended to read as follows:~~

~~279.6855 1. Except as otherwise provided in this section, an agency of a city whose population is 220,000 or more but less than 500,000 [located in a county whose population is 700,000 or more] that adopts an ordinance pursuant to **paragraph (a) of subsection 1 of NRS 279.438 or subsection 4 of NRS 279.439** and which receives revenue pursuant to paragraph (b) of subsection 1 of NRS 279.676 from taxes on the taxable property located in the redevelopment area affected by the ordinance shall set aside not less than 18 percent of such revenue received on or after the effective date of the ordinance to improve and preserve existing public educational facilities which are located within the redevelopment area or which serve pupils who reside within the redevelopment area. The provisions of this subsection do not apply if such an agency is required pursuant to subsection 6 of NRS 279.676 to set aside not less than 18 percent of revenue received pursuant to paragraph (b) of subsection 1 of NRS 279.676 from taxes on the taxable property located in the redevelopment area affected by the ordinance adopted by the agency pursuant to subsection 5 of NRS 279.676 on or after the effective date of that ordinance to improve and preserve existing public educational facilities which are located within the redevelopment area or which serve pupils who reside within the redevelopment area. For each fiscal year, the agency shall prepare a written report concerning the amount of money expended for the purposes set forth in this subsection and shall, on or before November 30 of each year, submit a copy of the report to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission, if the report is received during an odd-numbered year, or to the next session of the Legislature, if the report is received during an even-numbered year.~~

~~2. The obligation of an agency pursuant to subsection 1 to set aside not less than 18 percent of the revenue allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 from taxes on the taxable property located in the redevelopment area affected by the ordinance~~

~~adopted by the agency pursuant to **paragraph (a) of subsection 1 of NRS 279.438 or subsection 4 of NRS 279.439** is subordinate to any existing obligations of the agency. As used in this subsection, “existing obligations” means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before the effective date of the ordinance adopted by the agency pursuant to **paragraph (a) of subsection 1 of NRS 279.438 or subsection 4 of NRS 279.439**, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency on or after the effective date of the ordinance adopted by the agency pursuant to **paragraph (a) of subsection 1 of NRS 279.438 or subsection 4 of NRS 279.439** shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.~~ **(Deleted by amendment.)**

Sec. 3. ~~{The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.}~~ **(Deleted by amendment.)**

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

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 104.

Bill read second time.

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

Amendment No. 516.

~~{CONTAINS UNFUNDED MANDATE (§§ 2, 10, 11, 35, 50, 72, 81, 82, 93, 99)}~~

(Not Requested by Affected Local Government)]

AN ACT relating to elections; ~~{establishing procedures by which a voter registration agency must, under certain circumstances, transmit information to preregister or register a person to vote or update a person’s voter registration information; requiring the Secretary of State to establish a system to allow a person, by computer, to preregister or register to vote, update preregistration or registration information, cancel his or her preregistration or registration and obtain certain information about polling places; providing for voter preregistration by certain persons who are at least 16 years of age but less than 18 years of age;}~~ **authorizing each county and city clerk to establish polling places where any registered voter of the county or city, respectively, may vote in person on the day of certain elections; authorizing , under certain circumstances, an elector to register to vote during the period for early voting and on the day of certain elections and setting forth the requirements for such registration; {requiring a provisional ballot to include all offices, candidates and measures upon which the person casting the provisional ballot is entitled to vote; requiring that provisional**

~~ballots be included in the unofficial election results that are reported on election night; making various other changes to provisions relating to provisional ballots; providing penalties;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 9 of this bill authorizes certain persons who are at least 16 years of age but less than 18 years of age to preregister to vote in this State. Sections 14, 17, 18, 20, 23-25, 36, 38, 41-45, 47-61, 63-69, 73, 74, 77-79, 87-89, 94, 96, 97 and 102-107 of this bill make conforming changes.~~

~~Existing law designates the offices of certain governmental entities, including the Department of Motor Vehicles, as voter registration agencies which are required to: (1) offer applications to register to vote to persons who apply for or receive certain services from the agency; (2) assist applicants in completing the applications; and (3) forward the applications to the county clerks. (NRS 293.504) Sections 2-7 and 108-113 of this bill establish procedures by which a person who applies for or receives services from a voter registration agency and who meets the qualifications to vote or preregister to vote in this State will have his or her information electronically sent to the Secretary of State and county clerks for the purpose of preregistering or registering the person to vote or updating his or her voter registration information, unless the person affirmatively declines to have his or her information transmitted. The procedures must be implemented by the Department of Motor Vehicles effective January 1, 2018, and by all other voter registration agencies effective January 1, 2019. Sections 14, 15, 20, 36, 45, 46, 55, 56, 61, 62, 64, 71 and 105-107 make conforming changes.~~

~~Existing law authorizes a county clerk, with the approval of the board of county commissioners, to establish a system for using a computer to register voters. (NRS 293.506) Section 8 of this bill requires the Secretary of State to establish a system to allow a person, by computer, to: (1) preregister or register to vote; (2) cancel his or her voter preregistration or registration; (3) update his or her voter preregistration or registration information; and (4) determine at what polling place or places he or she is entitled to vote. Section 8 also requires this system to be accessible to people with disabilities and available in languages other than English. Sections 13, 16, 18, 20, 27, 39, 50, 54, 55, 59, 60, 68, 70, 71, 85 and 98 of this bill make conforming changes.]~~

Existing law requires a county clerk to establish the boundaries of election precincts and authorizes election precincts to be combined into election districts. (NRS 293.205-293.207) Existing law prohibits a person from applying for or receiving a ballot at any election precinct or district other than the one at which the person is entitled to vote. (NRS 293.730) Section 9.2 of this bill authorizes a county clerk to establish one or more polling places in the county where any person entitled to vote in the county by personal appearance may do so on the day of a primary or general election. If any such polling place is established: (1) section 9.4 of this bill requires, with limited exception, the county clerk to publicize the

location of any such polling places; and (2) section 9.6 of this bill requires the county clerk to prepare a roster of eligible voters in the county for any such polling place. Section 9.8 of this bill sets forth the procedure for a person to vote in person at any such polling place. Sections 80.2-80.8 of this bill set forth corresponding provisions authorizing city clerks to establish polling places where any person who is entitled to vote in the city by personal appearance may do so on the day of the primary city or general city election. Sections 19, 21, 22, 23, 25, 26, 40, 72, 72.5, 75, 76, 86, 87, 89, 90, 98.5, 99 and 101 of this bill make conforming changes.

Under existing law, voter registration for any primary, primary city, general or general city election closes on the third Tuesday before the election. (NRS 293.560, 293C.527) Sections 10, 11, 81 and 82 of this bill ~~authorize~~ provide that if the board of county commissioners or the governing body of a city determines that the county or city clerk, as applicable, has certain resources, an elector ~~to~~ may register to vote for a primary, primary city, general or general city election: (1) during the period for early voting by personal appearance; and (2) on the day of the election. Under such circumstances sections 10, 11, 81 and 82 ~~do~~ require the county or city clerk ~~shall~~ to designate one or more polling places in the county or city as a site for registering to vote during early voting and on election day. To register to vote, an elector must appear at such a site, complete an application to register to vote and provide proof of his or her identity and residence. Upon completion of the application, the elector is deemed registered to vote and may vote in that election only at the polling place at which he or she registered to vote. Sections 12, 14, 15, ~~19-23,~~ 19, 21, 22, 23, 28, 35-37, 40, 55, 71, 72, 75, 76, 83, 84, 86, 87, 91-95 ~~and 98-100~~, 98, 99 and 100 of this bill make conforming changes.

~~[Existing law authorizes a person to cast a provisional ballot if the person completes a written affirmation and: (1) declares that he or she is registered to vote and is eligible to vote at the election in the jurisdiction but his or her name does not appear on the election register; (2) has registered to vote by mail or computer, has not voted in an election for federal office in this State and fails to provide certain identification to an election board officer at the polling place; or (3) declares that he or she is entitled to vote after the polling place would close as a result of certain court orders. A provisional ballot allows the person casting it to vote only for candidates for federal office. After the election, provisional ballots are kept separate from regular ballots and are only counted towards the result of the election under certain circumstances. (NRS 293.3081-293.3085) Sections 29-31 of this bill require provisional ballots to include all offices, candidates and ballot questions on which the person who is casting the provisional ballot is entitled to vote. Section 32 of this bill requires provisional ballots to be included in the unofficial results of the election that are reported on election night. Section 33 of this bill provides that if the number of provisional ballots may affect~~

~~the outcome of any race or ballot question, the county or city clerk must not include a provisional ballot in the canvass of the election unless the clerk makes certain determinations. Sections 33 and 34 of this bill make conforming changes.]~~

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. ~~{1. The Secretary of State, the Department of Motor Vehicles and each county clerk shall cooperatively establish a system by which voter registration information that is collected pursuant to section 4 of this act by the Department from a person who submits an application for the issuance or renewal of or change of address for any type of driver's license or identification card issued by the Department must be transmitted electronically to the Secretary of State and the county clerks for the purpose of preregistering or registering the person to vote or updating the preregistration information or voter registration information of the person.~~

~~2. The system established pursuant to subsection 1 must:~~

~~(a) Ensure the secure electronic storage of information collected pursuant to section 4 of this act, the secure transmission of such information to the Secretary of State and county clerks and the secure electronic storage of such information by the Secretary of State and county clerks;~~

~~(b) Provide for the destruction of records by the Department as required by subsection 2 of section 5 of this act; and~~

~~(c) Enable the county clerks to receive, view and collate the information into individual electronic documents pursuant to paragraph (c) of subsection 1 of section 6 of this act.} (Deleted by amendment.)~~

Sec. 3. ~~{1. The Department of Motor Vehicles shall follow the procedures described in this section and sections 4 and 5 of this act if a person applies to the Department for the issuance or renewal of or change of address for any type of driver's license or identification card issued by the Department.~~

~~2. Before concluding the person's transaction with the Department, the Department shall notify each person described in subsection 1:~~

~~(a) Of the qualifications to preregister to vote, as provided in section 9 of this act, or the qualifications to vote in this State, as provided in NRS 202.485;~~

~~(b) That, unless the person affirmatively declines in writing to apply to preregister or register to vote or have his or her voter registration information updated, as applicable;~~

~~(1) The person is deemed to have consented to the transmission of information to the Secretary of State and the county clerks for the purpose~~

~~of preregistering or registering the person to vote or updating the voter registration information of the person; and~~

~~— (2) The Department will transmit to the county clerk of the county in which the person resides all information required to preregister or register the person to vote pursuant to this chapter or to update the voter registration information of the person;~~

~~— (c) That:~~

~~— (1) Indicating a political party affiliation or indicating that the person is not affiliated with a political party is voluntary;~~

~~— (2) The person may indicate a political party affiliation on a paper or electronic form provided by the Department; and~~

~~— (3) The person will not be able to vote at a primary election or primary city election for candidates for partisan office of a major political party unless the person updates his or her voter registration information to indicate a major political party affiliation; and~~

~~— (d) Of the provisions of subsections 2 and 3 of section 7 of this act.~~

~~3. The failure or refusal of the person to acknowledge that he or she has received the notice required by subsection 2:~~

~~— (a) Is not a declination by the person to apply to preregister or register to vote or have his or her voter registration information updated; and~~

~~— (b) Shall not be deemed to affect any duty of the Department, the Secretary of State or any county clerk;~~

~~— (1) Relating to the application of the person to preregister or register to vote; or~~

~~— (2) To update the voter registration information of the person;~~

~~4. The Secretary of State:~~

~~— (a) Shall prescribe by regulation the form of the notice required by subsection 2 and the procedure for providing such notice; and~~

~~— (b) Shall not require the person to acknowledge that he or she has received the notice required by subsection 2.] (Deleted by amendment.)~~

Sec. 4. ~~1. Unless the person affirmatively declines in writing to apply to preregister or register to vote or have his or her voter registration information updated, as applicable, if a person applies to the Department of Motor Vehicles for the issuance or renewal of or change of address for a driver's license or identification card issued by the Department, the Department shall collect from the person:~~

~~— (a) A paper or electronic affirmation signed under penalty of perjury that the person is eligible to vote or preregister to vote, as applicable;~~

~~— (b) An electronic facsimile of the signature of the person, if the Department is capable of recording, storing and transmitting to the county clerk an electronic facsimile of the signature;~~

~~— (c) Any personal information which the person has not already provided to the Department and which is required for the person to preregister or register to vote or to update the voter registration information of the person, including:~~

~~(1) The first or given name and the surname of the person;~~
~~(2) The address at which the person actually resides as set forth in NRS 293.486 and, if different, the address at which the person may receive mail, including, without limitation, a post office box or general delivery;~~
~~(3) The date of birth of the person;~~
~~(4) Except as otherwise provided in subsection 2, one of the following:~~
~~(I) The number indicated on the person's current and valid driver's license or identification card issued by the Department of Motor Vehicles, if the person has such a driver's license or identification card; or~~
~~(II) The last four digits of the person's social security number, if the person does not have a driver's license or identification card issued by the Department and has a social security number; and~~
~~(5) The political affiliation, if any, indicated by the person; and~~
~~(d) The paper or electronic form, if any, completed by the person and indicating his or her political party affiliation.~~

~~2. If the person does not have the identification described in subparagraph (4) of paragraph (c) of subsection 1, the person must sign an affidavit stating that he or she does not have a current and valid driver's license or identification card issued by the Department or a social security number. Upon receipt of the affidavit, the county clerk shall issue an identification number to the person which must be the same number as the unique identifier assigned to the person for purposes of the statewide voter registration list.} (Deleted by amendment.)~~

Sec. 5. ~~{1. Except as otherwise provided in this subsection, the Department of Motor Vehicles shall electronically transmit to the Secretary of State and the appropriate county clerk the information and any electronic documents collected from a person pursuant to section 4 of this act;~~

~~(a) Except as otherwise provided in paragraph (b), not later than 5 working days after collecting the information; and~~
~~(b) During the 2 weeks immediately preceding the fifth Sunday preceding an election, not later than 1 working day after collecting the information.~~

~~2. The Department shall destroy any record containing information collected pursuant to section 4 of this act that is not otherwise collected by the Department in the normal course of business immediately after transmitting the information to the Secretary of State and county clerk pursuant to subsection 1.~~

~~3. The Department shall forward the following paper documents on a weekly basis to the appropriate county clerk, or daily during the 2 weeks immediately preceding the fifth Sunday preceding an election:~~

~~(a) Each signed affirmation collected pursuant to paragraph (a) of subsection 1 of section 4 of this act;~~
~~(b) Any completed form indicating a political party affiliation collected pursuant to paragraph (d) of subsection 1 of section 4 of this act; and~~

~~—(c) Any affidavit signed pursuant to subsection 2 of section 4 of this act.]
(Deleted by amendment.)~~

~~Sec. 6. 1. Unless the person affirmatively declines in writing to apply to preregister or register to vote or have his or her voter registration information updated, as applicable, if a person applies to the Department of Motor Vehicles for the issuance or renewal of or change of address for any type of driver's license or identification card issued by the Department:~~

~~—(a) The person shall be deemed an applicant to preregister or register to vote, as applicable.~~

~~—(b) Any action taken by the person pursuant to section 4 of this act shall be deemed an act of applying to preregister or register to vote, as applicable.~~

~~—(c) Upon receipt of the information collected from the person and transmitted to a county clerk by the Department of Motor Vehicles, the county clerk shall collate the information into an individual electronic document, which shall be deemed an application to preregister or register to vote, as applicable.~~

~~—(d) Unless the applicant is already preregistered or registered to vote, the date on which the person applies to preregister or register to vote pursuant to section 4 of this act shall be deemed the date on which the applicant preregistered or registered to vote, as applicable.~~

~~—2. If the county clerk determines that an application to register to vote is complete and that the applicant is eligible to vote pursuant to NRS 293.485, the name of the applicant must appear on the statewide voter registration list and the appropriate roster, and the person must be provided all sample ballots and any other voter information provided to registered voters. If the county clerk determines that the application is not complete, he or she shall notify the applicant that additional information is required in accordance with the provisions of NRS 293.524.~~

~~—3. For each applicant who applies to preregister or register to vote pursuant to section 4 of this act:~~

~~—(a) The electronic facsimile of the signature of the applicant shall be deemed to be the facsimile of the signature on the person's application to preregister or register to vote to be used to verify the signature of the voter in the manner set forth in NRS 293.277 if:~~

~~—(1) An electronic facsimile of the signature has been collected and transmitted to the county clerk of the county in which the applicant resides pursuant to sections 4 and 5 of this act, respectively; and~~

~~—(2) The county clerk is capable of receiving, storing and using the facsimile of the signature for that purpose; or~~

~~—(b) If the conditions described in paragraph (a) are not met, the signature of the applicant on the affirmation signed pursuant to paragraph (a) of subsection 1 of section 4 of this act shall be deemed to be the signature on the person's application to preregister or register to vote for~~

~~the purpose of making a facsimile thereof to be used to verify the signature of the voter in the manner set forth in NRS 203.277.~~

~~4. If an applicant is already preregistered or registered to vote, the county clerk shall use the voter registration information of the applicant transmitted by the Department of Motor Vehicles to update the applicant's preregistration information or to correct the statewide voter registration list pursuant to NRS 203.530, if necessary.} (Deleted by amendment.)~~

Sec. 7. ~~{1. A person who affirmatively declines in writing to apply to preregister or register to vote or have his or her voter registration information updated, as applicable, pursuant to section 4 of this act may apply to preregister or register to vote at the Department of Motor Vehicles pursuant to NRS 203.524.~~

~~2. Whether a person applies to preregister or register to vote or have his or her voter registration information updated, as applicable, pursuant to section 4 of this act must not affect the provision of services or assistance to the person by the Department, and the fact of a person applying to preregister or register to vote or have his or her voter registration information updated, as applicable, pursuant to section 4 of this act or declining to do so must not be disclosed to the public.~~

~~3. Any information collected pursuant to sections 2 to 7, inclusive, of this act must not be used for any purpose other than voter preregistration or registration.~~

~~4. Except as otherwise provided in this subsection, the Secretary of State shall adopt regulations necessary to carry out the provisions of sections 2 to 7, inclusive, of this act. The Secretary of State shall not require a person to provide any documentation in order to apply to preregister or register to vote or have his or her voter registration information updated, as applicable, pursuant to section 4 of this act that is not required by section 4 of this act or federal law, including, without limitation, documentation to provide the person's identity, citizenship or residence.} (Deleted by amendment.)~~

Sec. 8. ~~{1. The Secretary of State shall establish a system to allow persons to:~~

~~(a) Preregister and register to vote;~~

~~(b) Cancel his or her preregistration or voter registration;~~

~~(c) Update his or her preregistration or voter registration information, including, without limitation, the person's name, address and party affiliation; and~~

~~(d) Determine at what polling place or places he or she is entitled to vote;~~

~~→ by computer.~~

~~2. The Secretary of State shall ensure that the system established pursuant to subsection 1 is:~~

~~(a) Accessible to persons with disabilities; and~~

~~—(b) Available in languages other than English, including, without limitation, every language in which voting materials are required to be prepared in any county in the State pursuant to 52 U.S.C. § 10503.~~

~~—3. The system established pursuant to subsection 1 must comply with any procedures and requirements prescribed by the Secretary of State pursuant to NRS 293.250 and section 9 of this act.~~

~~—4. As used in this section, “voting materials” has the meaning ascribed to it in 52 U.S.C. § 10503.~~ (Deleted by amendment.)

Sec. 9. ~~{1. Every citizen of the United States who is at least 16 years of age but less than 18 years of age and has continuously resided in this State for 30 days or longer may preregister to vote by any of the means available for a person to register to vote pursuant to this title. A person eligible to preregister to vote is deemed to be preregistered to vote upon the submission of a completed application to preregister to vote.~~

~~—2. If a person preregisters to vote, he or she shall be deemed to be a registered voter on his or her 18th birthday unless:~~

~~—(a) The person’s preregistration has been cancelled as described in subsection 7; or~~

~~—(b) Except as otherwise provided in NRS 293D.210, on the person’s 18th birthday, he or she does not satisfy the voter eligibility requirements set forth in NRS 293.485.~~

~~—3. The county clerk shall issue to a person who is deemed to be registered to vote pursuant to subsection 2 a voter registration card as described in subsection 6 of NRS 293.517 as soon as practicable after the person is deemed to be registered to vote.~~

~~—4. On the date that a person who preregisters to vote is deemed to be registered to vote, his or her application to preregister to vote is deemed to be his or her application to register to vote.~~

~~—5. If a person preregistered to vote:~~

~~—(a) By mail or computer, he or she shall be deemed to have registered to vote by mail or computer, as applicable.~~

~~—(b) Pursuant to section 4 of this act, he or she shall be deemed to have registered to vote pursuant to section 4 of this act.~~

~~—(c) In person, he or she shall be deemed to have registered to vote in person.~~

~~—6. The preregistration information of a person may be updated by any of the means for updating the voter registration information of a person pursuant to this chapter.~~

~~—7. The preregistration to vote of a person may be cancelled by any of the means and for any of the reasons for cancelling voter registration pursuant to this chapter.~~

~~—8. Except as otherwise provided in this subsection, all preregistration information relating to a person is confidential and is not a public record. Once a person’s application to preregister to vote is deemed to be an application to register to vote, any voter registration information related to~~

~~the person must be disclosed pursuant to any law that requires voter registration information to be disclosed.~~

~~9. The Secretary of State shall adopt regulations providing for preregistration to vote. The regulations:~~

~~(a) Must include, without limitation, provisions to ensure that once a person is deemed to be a registered voter pursuant to subsection 2 the person is immediately issued a voter registration card and added to the statewide voter registration list and the registrar of voters' register; and~~

~~(b) Must not require a county clerk to provide to a person who preregisters to vote sample ballots or any other voter information provided to registered voters unless the person will be eligible to vote at the election for which the sample ballots or other information is provided. (Deleted by amendment.)~~

Sec. 9.2. 1. A county clerk may establish one or more polling places in the county where any person entitled to vote in the county by personal appearance may do so on the day of the primary election or general election.

2. Any person entitled to vote in the county by personal appearance may do so at any polling place established pursuant to subsection 1.

Sec. 9.4. 1. Except as otherwise provided in subsection 2, if a county clerk establishes one or more polling places pursuant to section 9.2 of this act, the county clerk must:

(a) Publish during the week before the election in a newspaper of general circulation a notice of the location of each such polling place.

(b) Post a list of the location of each such polling place on any bulletin board used for posting notice of meetings of the board of county commissioners. The list must be posted continuously for a period beginning not later than the fifth business day before the election and ending at 7 p.m. on the day of the election. The county clerk shall make copies of the list available to the public during the period of posting in reasonable quantities without charge.

2. The provisions of subsection 1 do not apply if every polling place in the county is a polling place where any person entitled to vote in the county by personal appearance may do so on the day of the primary election or general election.

3. No additional polling place may be established pursuant to section 9.2 of this act after the publication pursuant to this section, except in the case of an emergency and if approved by the Secretary of State.

Sec. 9.6. 1. For each polling place established pursuant to section 9.2 of this act, if any, the county clerk shall prepare a roster that contains, for every registered voter in the county, the voter's name, the address where he or she is registered to vote, his or her voter identification number, the voter's precinct or district number and the voter's signature.

2. The roster must be delivered or caused to be delivered by the county clerk to an election board officer of the proper polling place before the opening of the polls.

Sec. 9.8. 1. Except as otherwise provided in NRS 293.283, upon the appearance of a person to cast a ballot at a polling place established pursuant to section 9.2 of this act, the election board officer shall:

(a) Determine that the person is a registered voter in the county.

(b) Instruct the voter to sign the roster.

(c) Verify the signature of the voter in the manner set forth in NRS 293.277.

(d) Verify that the voter has not already voted in the current election.

2. If the signature of the voter does not match, the voter must be identified by:

(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter;

or

(c) Providing the election board officer with proof of identification as described in NRS 293.277 other than the card issued to the voter at the time he or she registered to vote.

3. If the signature of the voter has changed in comparison to the signature on the application to register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

4. The county clerk shall prescribe a procedure, approved by the Secretary of State, to verify that the voter has not already voted in the current election.

5. When a voter is entitled to cast a ballot and has identified himself or herself to the satisfaction of the election board officer, the voter is entitled to receive the appropriate ballot or ballots, but only for his or her own use at the polling place where he or she applies to vote.

6. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the election board officer shall:

(a) Prepare the mechanical recording device for the voter;

(b) Ensure that the voter's precinct or voting district and the form of the ballot are indicated on the voting receipt, if the county clerk uses voting receipts; and

(c) Allow the voter to cast a vote.

7. A voter applying to vote at a polling place established pursuant to section 9.2 of this act may be challenged pursuant to NRS 293.303.

Sec. 10. 1. ~~Each~~ If a board of county commissioners determines, in consultation with the county clerk, that the county clerk has the necessary technology and resources so that electors of the county may register to vote during the period for early voting by personal appearance in a way that ensures the integrity of the registration process and the election process,

~~the county clerk shall~~ must designate one or more permanent polling places for early voting by personal appearance in the county as a site for an elector of the county to register to vote.

2. An elector who is not registered to vote by the close of registration may register to vote during the period for early voting at any polling place designated pursuant to subsection 1 by the county clerk of the county where the elector resides.

3. To register to vote during the period for early voting, an elector must:

(a) Appear before the close of the polls at a polling place designated by the county clerk pursuant to subsection 1 as a site for registering to vote during the period for early voting;

(b) Complete the application to register to vote; and

(c) Provide proof of his or her identity and residence as described in subsections 4 and 5.

4. The following forms of identification may be used to identify an elector applying to register to vote pursuant to this section:

(a) A driver's license;

(b) An identification card issued by the Department of Motor Vehicles;

(c) A military identification card; or

(d) Any other form of identification issued by a governmental agency which contains the signature and a physical description or picture of the elector.

5. The following documents may be used to establish the residency of an elector if the current residential address of the elector, as indicated on his or her application to register to vote, is displayed on the document:

(a) Any form of identification set forth in subsection 4;

(b) A utility bill, including, without limitation, a bill for electric, gas, oil, water, sewer, septic, telephone, cellular telephone or cable television service;

(c) A bank or credit union statement;

(d) A paycheck;

(e) An income tax return;

(f) A statement concerning the mortgage, rental or lease of a residence;

(g) A motor vehicle registration;

(h) A property tax statement;

(i) Any other document issued by a governmental agency; or

(j) Any other official document which the county clerk, field registrar or other person designated by the county clerk to accept applications to register to vote pursuant to this section determines, in his or her discretion, to be a reliable indication of the true residential address of the elector.

6. An elector who registers to vote pursuant to this section shall be deemed to be registered upon the completion of an application to register to vote and the verification of his or her identity and residency.

7. An elector who registers to vote pursuant to this section:

(a) May vote during the period for early voting only at the polling place for early voting at which the elector registers to vote; and

(b) If the elector applies to vote at the polling place for early voting at which he or she registers to vote, must sign his or her name in the roster provided by the county clerk and designated for electors who register to vote pursuant to this section.

Sec. 11. 1. ~~Each~~ If a board of county commissioners determines, in consultation with the county clerk, that the county clerk has the necessary technology and resources so that electors of the county may register to vote on the day of a primary election or general election in a way that ensures the integrity of the registration process and the election process, the county clerk ~~shall~~ must:

(a) Designate one or more polling places in the county as a site for an elector of the county to register to vote on the day of a primary election or general election.

(b) Unless every polling place in the county is designated as a site for an elector of the county to register to vote on the day of a primary election or general election:

(1) Publish during the week before the election in a newspaper of general circulation a notice of the location of each polling place in the county that has been established pursuant to paragraph (a).

~~Each~~ (2) Post a list of the locations established pursuant to paragraph (a) on any bulletin board used for posting notice of meetings of the board of county commissioners. The list must be posted continuously for a period beginning not later than the fifth business day before the election and ending at 7 p.m. on the day of the election. The county clerk shall make copies of the list available to the public during the period of posting in a reasonable quantity without charge.

2. An elector who is not registered to vote by the close of registration may register to vote on the day of the primary election or general election at any polling place designated pursuant to subsection 1 by the county clerk of the county where the elector resides.

3. To register to vote on the day of the primary election or general election, an elector must:

(a) Appear before the close of the polls at a polling place designated by the county clerk pursuant to subsection 1 as a site for registering to vote on the day of the election;

(b) Complete the application to register to vote; and

(c) Provide proof of his or her identity and residence as described in subsections 4 and 5.

4. The following forms of identification may be used to identify an elector applying to register to vote pursuant to this section:

(a) A driver's license;

(b) An identification card issued by the Department of Motor Vehicles;

(c) A military identification card; or

(d) Any other form of identification issued by a governmental agency which contains the signature and a physical description or picture of the elector.

5. The following documents may be used to establish the residency of an elector if the current residential address of the elector, as indicated on his or her application to register to vote, is displayed on the document:

- (a) Any form of identification set forth in subsection 4;*
- (b) A utility bill, including, without limitation, a bill for electric, gas, oil, water, sewer, septic, telephone, cellular telephone or cable television service;*
- (c) A bank or credit union statement;*
- (d) A paycheck;*
- (e) An income tax return;*
- (f) A statement concerning the mortgage, rental or lease of a residence;*
- (g) A motor vehicle registration;*
- (h) A property tax statement;*
- (i) Any other document issued by a governmental agency; or*
- (j) Any other official document which the county clerk, field registrar or other person designated by the county clerk to accept applications to register to vote pursuant to this section determines, in his or her discretion, to be a reliable indication of the true residential address of the elector.*

6. An elector who registers to vote pursuant to this section shall be deemed to be registered upon the completion of an application to register to vote and the verification of his or her identity and residency.

7. An elector who registers to vote pursuant to this section:

- (a) May vote in the primary election or general election only at the polling place at which the elector registers to vote; and*
- (b) If the elector applies to vote at the polling place at which he or she registers to vote, except as otherwise provided in NRS 293.283, must sign his or her name in the roster designated for electors who register to vote pursuant to this section.*

Sec. 12. NRS 293.095 is hereby amended to read as follows:

293.095 "Roster" means the record in printed or electronic form furnished to election board officers which ~~contains a list of eligible voters and~~ is to be used for obtaining the signature of each person applying for a ballot ~~and~~ **and, except for a roster designated for electors who register to vote pursuant to section 10, 11, 81 or 82 of this act, contains a list of eligible voters.**

Sec. 13. ~~NRS 293.1273 is hereby amended to read as follows:~~

~~293.1273 [In any county where registrations are performed and records are kept by computer, a] A facsimile of a voter's signature that is created by a computer may be used if a verification or comparison of the signature is required by any provision of this title. [Deleted by amendment.]~~

Sec. 14. NRS 293.12757 is hereby amended to read as follows:

293.12757 A person may sign a petition required under the election laws of this State on or after the date the person is deemed to be registered to vote pursuant to NRS 293.517 or subsection 7 of NRS 293.5235 ~~1-1 or section 16, 9, 10, 11, 81 or 82 of this act.~~

Sec. 15. NRS 293.1277 is hereby amended to read as follows:

293.1277 1. If the Secretary of State finds that the total number of signatures submitted to all the county clerks is 100 percent or more of the number of registered voters needed to declare the petition sufficient, the Secretary of State shall immediately so notify the county clerks. After the notification, each of the county clerks shall determine the number of registered voters who have signed the documents submitted in the county clerk's county and, in the case of a petition for initiative or referendum proposing a constitutional amendment or statewide measure, shall tally the number of signatures for each petition district contained or fully contained within the county clerk's county. This determination must be completed within 9 days, excluding Saturdays, Sundays and holidays, after the notification pursuant to this subsection regarding a petition containing signatures which are required to be verified pursuant to NRS 293.128, 295.056, 298.109, 306.035 or 306.110, and within 3 days, excluding Saturdays, Sundays and holidays, after the notification pursuant to this subsection regarding a petition containing signatures which are required to be verified pursuant to NRS 293.172 or 293.200. For the purpose of verification pursuant to this section, the county clerk shall not include in his or her tally of total signatures any signature included in the incorrect petition district.

2. Except as otherwise provided in subsection 3, if more than 500 names have been signed on the documents submitted to a county clerk, the county clerk shall examine the signatures by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county clerk is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500 or 5 percent of the signatures, whichever is greater. If documents were submitted to the county clerk for more than one petition district wholly contained within that county, a separate random sample must be performed for each petition district.

3. If a petition district comprises more than one county and the petition is for an initiative or referendum proposing a constitutional amendment or a statewide measure, and if more than 500 names have been signed on the documents submitted for that petition district, the appropriate county clerks shall examine the signatures by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county clerks within the petition district is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500 or 5 percent of the signatures presented in the petition district, whichever is greater. The

Secretary of State shall determine the number of signatures that must be verified by each county clerk within the petition district.

4. In determining from the records of registration the number of registered voters who signed the documents, the county clerk may use the signatures contained in the file of applications to register to vote. If the county clerk uses that file, the county clerk shall ensure that every application in the file is examined, including any application in his or her possession which may not yet be entered into the county clerk's records. Except as otherwise provided in subsection 5, the county clerk shall rely only on the appearance of the signature and the address and date included with each signature in making his or her determination.

5. If:

(a) Pursuant to NRS 293.506, a county clerk establishes a system to allow persons to register to vote by computer; ~~for~~

(b) ***A person registers to vote pursuant to section ~~6,~~ 10, 11, 81 or 82 of this act; or***

(c) ~~*A person registers to vote using the system established by the Secretary of State pursuant to section 8 of this act; or*~~

~~—(d)—~~ (d) A person registers to vote pursuant to NRS 293D.230 and signs his or her application to register to vote using a digital signature or an electronic signature,

↳ the county clerk may rely on such other indicia as prescribed by the Secretary of State in making his or her determination.

6. In the case of a petition for initiative or referendum proposing a constitutional amendment or statewide measure, when the county clerk is determining the number of registered voters who signed the documents from each petition district contained fully or partially within the county clerk's county, he or she must use the statewide voter registration list available pursuant to NRS 293.675.

7. Except as otherwise provided in subsection 9, upon completing the examination, the county clerk shall immediately attach to the documents a certificate properly dated, showing the result of the examination, including the tally of signatures by petition district, if required, and transmit the documents with the certificate to the Secretary of State. In the case of a petition for initiative or referendum proposing a constitutional amendment or statewide measure, if a petition district comprises more than one county, the appropriate county clerks shall comply with the regulations adopted by the Secretary of State pursuant to this section to complete the certificate. A copy of this certificate must be filed in the clerk's office. When the county clerk transmits the certificate to the Secretary of State, the county clerk shall notify the Secretary of State of the number of requests to remove a name received by the county clerk pursuant to NRS 295.055 or 306.015.

8. A person who submits a petition to the county clerk which is required to be verified pursuant to NRS 293.128, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be allowed to witness the verification of the

signatures. A public officer who is the subject of a recall petition must also be allowed to witness the verification of the signatures on the petition.

9. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not transmit to the Secretary of State the documents containing the signatures of the registered voters.

10. The Secretary of State shall by regulation establish further procedures for carrying out the provisions of this section.

Sec. 16. ~~[NRS 293.235 is hereby amended to read as follows:~~

~~293.235 1. When it appears to the satisfaction of the county clerk that an absent ballot central counting board will expedite the work of tallying the absent ballot vote of the county, the county clerk [may] **shall** appoint such a board. [In counties which use a computer to maintain records of registered voters, the county clerk shall appoint the board.]~~

~~2. In counties where an absent ballot central counting board has been appointed, no central election board may be appointed. The absent ballot central counting board shall perform the duties of the central election board.]~~

(Deleted by amendment.)

Sec. 17. ~~[NRS 293.247 is hereby amended to read as follows:~~

~~293.247 1. The Secretary of State shall adopt regulations, not inconsistent with the election laws of this State, for the conduct of primary, general, special and district elections in all cities and counties. Permanent regulations of the Secretary of State that regulate the conduct of a primary, general, special or district election and are effective on or before the last business day of February immediately preceding a primary, general, special or district election govern the conduct of that election.~~

~~2. The Secretary of State shall prescribe the forms for a declaration of candidacy, certificate of candidacy, acceptance of candidacy and any petition which is filed pursuant to the general election laws of this State.~~

~~3. The regulations must prescribe:~~

~~(a) The manner of printing ballots and the number of ballots to be distributed to precincts and districts;~~

~~(b) The form and placement of instructions to voters;~~

~~(c) The disposition of election returns;~~

~~(d) The procedures to be used for canvasses, ties, recounts and contests, including, without limitation, the appropriate use of a paper record created when a voter casts a ballot on a mechanical voting system that directly records the votes electronically;~~

~~(e) The procedures to be used to ensure the security of the ballots from the time they are transferred from the polling place until they are stored pursuant to the provisions of NRS 293.391 or 293C.390;~~

~~(f) The procedures to be used to ensure the security and accuracy of computer programs and tapes used for elections;~~

~~—(g) The procedures to be used for the testing, use and auditing of a mechanical voting system which directly records the votes electronically and which creates a paper record when a voter casts a ballot on the system;~~

~~—(h) The acceptable standards for the sending and receiving of applications, forms and ballots, by approved electronic transmission, by the county clerks and the electors, [or] registered voters or other persons who are authorized to use approved electronic transmission pursuant to the provisions of this title;~~

~~—(i) The forms for applications to preregister and register to vote and any other forms necessary for the administration of this title; and~~

~~—(j) Such other matters as determined necessary by the Secretary of State.~~

~~4. The Secretary of State may provide interpretations and take other actions necessary for the effective administration of the statutes and regulations governing the conduct of primary, general, special and district elections in this State.~~

~~5. The Secretary of State shall prepare and distribute to each county and city clerk copies of:~~

~~—(a) Laws and regulations concerning elections in this State;~~

~~—(b) Interpretations issued by the Secretary of State's Office; and~~

~~—(c) Any Attorney General's opinions or any state or federal court decisions which affect state election laws or regulations whenever any of those opinions or decisions become known to the Secretary of State.]~~

(Deleted by amendment.)

Sec. 18. [NRS 293.250 is hereby amended to read as follows:

~~293.250 1. Except as otherwise provided in chapter 293D of NRS, the Secretary of State shall, in a manner consistent with the election laws of this State, prescribe:~~

~~—(a) The form of all ballots, absent ballots, diagrams, sample ballots, certificates, notices, declarations, applications to preregister and register to vote, lists, applications, registers, rosters, statements and abstracts required by the election laws of this State.~~

~~—(b) The procedures to be followed and the requirements of [a];~~

~~—(1) A system established pursuant to NRS 293.506 for using a computer to register voters and to keep records of registration.~~

~~—(2) The system established by the Secretary of State pursuant to section 8 of this act.~~

~~2. Except as otherwise provided in chapter 293D of NRS, the Secretary of State shall prescribe with respect to the matter to be printed on every kind of ballot:~~

~~—(a) The placement and listing of all offices, candidates and measures upon which voting is statewide, which must be uniform throughout the State.~~

~~—(b) The listing of all other candidates required to file with the Secretary of State, and the order of listing all offices, candidates and measures upon which voting is not statewide, from which each county or city clerk shall prepare appropriate ballot forms for use in any election in his or her county.~~

~~2. The Secretary of State shall place the condensation of each proposed constitutional amendment or statewide measure near the spaces or devices for indicating the voter's choice.~~

~~4. The fiscal note for, explanation of, arguments for and against, and rebuttals to such arguments of each proposed constitutional amendment or statewide measure must be included on all sample ballots.~~

~~5. The condensations and explanations for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the Secretary of State, upon consultation with the Attorney General. The arguments and rebuttals for or against constitutional amendments and statewide measures proposed by initiative or referendum must be prepared in the manner set forth in NRS 293.252. The fiscal notes for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the Secretary of State, upon consultation with the Fiscal Analysis Division of the Legislative Counsel Bureau. The condensations, explanations, arguments, rebuttals and fiscal notes must be in easily understood language and of reasonable length, and whenever feasible must be completed by August 1 of the year in which the general election is to be held. The explanations must include a digest. The digest must include a concise and clear summary of any existing laws directly related to the constitutional amendment or statewide measure and a summary of how the constitutional amendment or statewide measure adds to, changes or repeals such existing laws. For a constitutional amendment or statewide measure that creates, generates, increases or decreases any public revenue in any form, the first paragraph of the digest must include a statement that the constitutional amendment or statewide measure creates, generates, increases or decreases, as applicable, public revenue.~~

~~6. The names of candidates for township and legislative or special district offices must be printed only on the ballots furnished to voters of that township or district.~~

~~7. A county clerk:~~

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

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

Sec. 19. NRS 293.2546 is hereby amended to read as follows:

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

1. To receive and cast a ballot that:

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

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

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

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

4. To vote on election day if the voter is waiting in line **to vote or register to vote before 7 p.m.** at ~~this or her~~ a polling place **at which he or she is entitled** to vote ~~before 7 p.m.~~ **or register to vote** and the voter has not already cast a vote in that election.

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

6. To request assistance in voting, if necessary.

7. To a sample ballot which is accurate, informative and delivered in a timely manner ~~as provided by law.~~

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

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

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

11. To have complaints about elections and election contests resolved fairly, accurately and efficiently.

Sec. 20. ~~NRS 293.2725 is hereby amended to read as follows:~~

~~293.2725 1. Except as otherwise provided in subsection 2, in NRS 293.3081 and 293.3083 and in federal law, a person who registers to vote by mail or computer [to vote in this State] or a person who preregisters to vote by mail or computer and is subsequently deemed to be registered to vote, and who has not previously voted in an election for federal office in this State:~~

~~(a) May vote at a polling place only if the person presents to the election board officer at the polling place:~~

~~(1) A current and valid photo identification of the person, which shows his or her physical address; or~~

~~(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517; and~~

~~(b) May vote by mail only if the person provides to the county or city clerk:~~

~~(1) A copy of a current and valid photo identification of the person, which shows his or her physical address; or~~

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

~~➤ If there is a question as to the physical address of the person, the election board officer or clerk may request additional information.~~

~~2. The provisions of subsection 1 do not apply to a person who:~~

~~(a) Registers to vote by mail or computer, or preregisters to vote by mail or computer and is subsequently deemed to be registered to vote, and submits with an application to preregister or register to vote:~~

~~(1) A copy of a current and valid photo identification; or~~

~~(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517;~~

~~(b) Except as otherwise provided in subsection 3, registers to vote by mail or computer and submits with an application to register to vote a driver's license number or at least the last four digits of his or her social security number, if a state or local election official has matched that information with an existing identification record bearing the same number, name and date of birth as provided by the person in the application;~~

~~(c) Is entitled to vote an absent ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. §§ 20301 et seq.;~~

~~(d) Is provided the right to vote otherwise than in person under the Voting Accessibility for the Elderly and Handicapped Act, 52 U.S.C. §§ 20101 et seq.; or~~

~~(e) Is entitled to vote otherwise than in person under any other federal law.~~

~~3. The provisions of subsection 1 apply to a person described in paragraph (b) of subsection 2 if the voter registration card issued to the person pursuant to subsection 6 of NRS 293.517 is mailed by the county clerk to the person and returned to the county clerk by the United States Postal Service.} (Deleted by amendment.)~~

Sec. 21. NRS 293.273 is hereby amended to read as follows:

293.273 1. Except as otherwise provided in subsection 2 and NRS 293.305, at all elections held under the provisions of this title, the polls must open at 7 a.m. and close at 7 p.m.

2. ~~{Whenever}~~ Except as otherwise provided in this subsection, whenever at any election all the votes of the {a} polling place, as shown on the roster, ~~{not designated pursuant to section 11 of this act as a site for an elector of the county to register to vote on the day of the election}~~ have been cast, ~~{as shown by the roster,}~~ the election board officers shall close the polls, ~~{polling place,}~~ and the counting of votes must begin and continue without unnecessary delay until the count is completed. The provisions of this subsection do not apply to a polling place established pursuant to section 9.2 of this act or designated pursuant to section 10 or 11 of this act.

3. Upon opening the polls, one of the election board officers shall cause a proclamation to be made that all present may be aware of the fact that applications of registered voters to vote will be received.

4. No person other than election board officers engaged in receiving, preparing or depositing ballots may be permitted inside the guardrail during the time the polls are open, except by authority of the election board as necessary to keep order and carry out the provisions of this title.

Sec. 22. NRS 293.275 is hereby amended to read as follows:

293.275 No election board may perform its duty in serving registered voters at any polling place in any election provided for in this title, unless it has before it ~~the~~ the

~~1. The~~ roster or rosters for the polling place ~~;~~ and

~~2. If the polling place is designated pursuant to section 11 of this act as a site for an elector of the county to register to vote on the day of the primary or general election, the roster designated for electors who register to vote pursuant to section 11 of this act.~~

Sec. 23. NRS 293.277 is hereby amended to read as follows:

293.277 1. Except as otherwise provided in NRS 293.283 and 293.541, if a person's name appears in the roster , ~~for~~ if the person provides an affirmation pursuant to NRS 293.525 ~~;~~ or if the person registered to vote on the day of the primary or general election pursuant to section 11 of this act, the person is entitled to vote and must sign his or her name in the **correct** roster when he or she applies to vote. The signature must be compared by an election board officer with the signature or a facsimile thereof on the person's application to register to vote or one of the forms of identification listed in subsection 2.

2. Except as otherwise provided in NRS 293.2725, the forms of identification which may be used individually to identify a voter at the polling place are:

(a) The card issued to the voter at the time he or she registered to vote ; ~~for was deemed to be registered to vote;~~

(b) A driver's license;

(c) An identification card issued by the Department of Motor Vehicles;

(d) A military identification card; or

(e) Any other form of identification issued by a governmental agency which contains the voter's signature and physical description or picture.

3. The county clerk shall prescribe a procedure, approved by the Secretary of State, to verify that the voter has not already voted in the current election.

Sec. 24. ~~[NRS 293.283 is hereby amended to read as follows:~~

~~293.283 1. If, because of physical limitations, a registered voter is unable to sign his or her name in the roster as required by NRS 293.277, the voter must be identified by:~~

~~(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;~~

~~(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or~~

~~(c) Providing the election board officer with proof of identification as described in NRS 293.277 other than the card issued to the voter at the time he or she registered to vote. **[] or was deemed to be registered to vote.**~~

~~2. If the identity of the voter is verified, the election board officer shall indicate in the roster "Identified" by the voter's name. **[] (Deleted by amendment.)**~~

Sec. 25. NRS 293.285 is hereby amended to read as follows:

293.285 1. Except as otherwise provided in NRS 293.283, a registered voter applying to vote shall state his or her name to the election board officer in charge of the roster, and the officer shall immediately announce the name, instruct the voter to sign the roster ~~and~~ **[] and verify that the registered voter has not already voted in the current election.**

2. If the signature does not match, the voter must be identified by:

(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or

(c) Providing the election board officer with proof of identification as described in NRS 293.277 other than the card issued to the voter at the time he or she registered to vote ~~or was deemed to be registered to vote.~~

3. If the signature of the voter has changed in comparison to the signature on the application to ~~preregister or~~ register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

Sec. 26. 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 or when the registered voter 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 ~~this or her~~ a polling place ~~[]~~ **[] at which he or she is entitled to vote.**

Sec. 27. ~~[NRS 293.3025 is hereby amended to read as follows:~~

~~293.3025 The Secretary of State and each county and city clerk shall ensure that a copy of each of the following is posted in a conspicuous place at each polling place on election day:~~

- ~~1. A sample ballot;~~
- ~~2. Information concerning the date and hours of operation of the polling place;~~
- ~~3. Instructions for voting and casting a ballot, including a provisional ballot;~~
- ~~4. Instructions concerning the identification required for persons who registered by mail or computer and are first-time voters for federal office in this State;~~
- ~~5. Information concerning the accessibility of polling places to persons with disabilities;~~
- ~~6. General information concerning federal and state laws which prohibit acts of fraud and misrepresentation; and~~
- ~~7. Information concerning the eligibility of a candidate, a ballot question or any other matter appearing on the ballot as a result of a judicial determination or by operation of law, if any.] (Deleted by amendment.)~~

Sec. 28. NRS 293.305 is hereby amended to read as follows:

293.305 1. If at the hour of closing the polls there are any ~~[registered]~~ :

(a) *Registered* voters waiting to vote ~~[;]~~ ; or

(b) *If the polling place has been designated pursuant to section 11 of this act as a site for an elector of the county to register to vote on the day of the election, persons waiting to register to vote,*

↪ the doors of the polling place must be closed after all such ~~[voters]~~ *persons* have been admitted to the polling place. Voting must continue until those ~~[voters]~~ *persons* have voted.

2. The deputy sheriff shall allow other persons to enter the polling place after the doors have been closed for the purpose of observing or any other legitimate purpose if there is room within the polling place and such admittance will not interfere unduly with the voting ~~[;]~~ *or voter registration.*

Sec. 29. ~~[NRS 293.3081 is hereby amended to read as follows:~~

~~293.3081 1. A person at a polling place may cast a provisional ballot in an election [to vote for a candidate for federal office] if the person complies with the applicable provisions of NRS 293.3082 and:~~

~~[1.] (a) Declares that he or she has registered to vote and is eligible to vote at that election in that jurisdiction, but his or her name does not appear on a voter registration list as a voter eligible to vote in that election in that jurisdiction or an election official asserts that the person is not eligible to vote in that election in that jurisdiction;~~

~~[2.] (b) Applies by mail or computer, on or after January 1, 2003, to register to vote and has not previously voted in an election for federal office in this State and fails to provide the identification required pursuant to~~

paragraph (a) of subsection 1 of NRS 293.2725 to the election board officer at the polling place; or

~~[2.] (c) Declares that he or she is entitled to vote after the polling place would normally close as a result of a court order or other order extending the time established for the closing of polls pursuant to a law of this State in effect 10 days before the date of the election.~~

~~2. A provisional ballot must include all offices, candidates and measures upon which the person who is casting the provisional ballot would be entitled to vote if he or she were casting a regular ballot.]~~
(Deleted by amendment.)

Sec. 30. ~~[NRS 293.3082 is hereby amended to read as follows:~~

~~293.3082 1. Before a person may cast a provisional ballot pursuant to NRS 293.3081, the person must complete a written affirmation on a form provided by an election board officer, as prescribed by the Secretary of State, at the polling place which includes:~~

- ~~— (a) The name of the person casting the provisional ballot;~~
- ~~— (b) The reason for casting the provisional ballot;~~
- ~~— (c) A statement in which the person casting the provisional ballot affirms under penalty of perjury that he or she is a registered voter in the jurisdiction and is eligible to vote in the election;~~
- ~~— (d) The date and type of election;~~
- ~~— (e) The signature of the person casting the provisional ballot;~~
- ~~— (f) The signature of the election board officer;~~
- ~~— (g) A unique affirmation identification number assigned to the person casting the provisional ballot;~~
- ~~— (h) If the person is casting the provisional ballot pursuant to **paragraph (a)** of subsection 1 of NRS 293.3081:~~

~~— (1) An indication by the person as to whether or not he or she provided the required identification at the time the person applied to register to vote;~~

~~— (2) The address of the person as listed on the application to register to vote;~~

~~— (3) Information concerning the place, manner and approximate date on which the person applied to register to vote;~~

~~— (4) Any other information that the person believes may be useful in verifying that the person has registered to vote; and~~

~~— (5) A statement informing the voter that if the voter does not provide identification at the time the voter casts the provisional ballot, the required identification must be provided to the county or city clerk not later than 5 p.m. on the Friday following election day ; [and that failure to do so will result in the provisional ballot not being counted;]~~

~~— (i) If the person is casting the provisional ballot pursuant to **paragraph (b)** of subsection [2] 1 of NRS 293.3081:~~

~~— (1) The address of the person as listed on the application to register to vote;~~

~~— (2) The voter registration number, if any, issued to the person; and~~

~~—(3) A statement informing the voter that the required identification must be provided to the county or city clerk not later than 5 p.m. on the Friday following election day ; and [that failure to do so will result in the provisional ballot not being counted; and]~~

~~—(j) If the person is casting the provisional ballot pursuant to **paragraph (c) of subsection [3] 1** of NRS 293.3081, the voter registration number, if any, issued to the person.~~

~~—2. After a person completes a written affirmation pursuant to subsection 1:~~

~~—(a) The election board officer shall provide the person with a receipt that includes the unique affirmation identification number described in subsection 1 and that explains how the person may use the free access system established pursuant to NRS 293.3086 to ascertain whether the person's vote was counted, and, if the vote was not counted, the reason why the vote was not counted; and~~

~~—(b) The voter's name and applicable information must be entered into the roster in a manner which indicates that the voter cast a provisional ballot . [; and~~

~~—(c) The election board officer shall issue a provisional ballot to the person to vote only for candidates for federal offices.] **(Deleted by amendment.)**~~

Sec. 31. ~~[NRS 293.3083 is hereby amended to read as follows:~~

~~—293.3083 A person may cast a ballot by mail [to vote for a candidate for federal office,] which must be treated as a provisional ballot by the county or city clerk if the person:~~

~~—1. Applies by mail or computer to register to vote and has not previously voted in an election for federal office in this State;~~

~~—2. Fails to provide the identification required pursuant to paragraph (b) of subsection 1 of NRS 293.2725 to the county or city clerk at the time that the person mails the ballot; and~~

~~—3. Completes the written affirmation set forth in subsection 1 of NRS 293.3082.] **(Deleted by amendment.)**~~

Sec. 32. ~~[NRS 293.3084 is hereby amended to read as follows:~~

~~—293.3084 Each county and city clerk shall establish procedures to:~~

~~—1. Keep each provisional ballot cast pursuant to NRS 293.3081 or 293.3083 separate from other ballots until it has been determined whether or not the [voter was registered and eligible to vote] **number of provisional ballots cast** in the election [in that jurisdiction;~~

~~—2. Keep each provisional ballot cast pursuant to subsection 3 of NRS 293.3081 separate from all other provisional ballots; and~~

~~—3.] **may affect the outcome of any race or ballot question; and**~~

~~—2. Inform a person whose name does not appear on a voter registration list as an eligible voter for a polling place or who an election official asserts is not eligible to vote at the polling place of the ability of the person to cast a provisional ballot.] **(Deleted by amendment.)**~~

Sec. 33. ~~[NRS 293.3085 is hereby amended to read as follows:~~

~~293.3085 1. [Following each election, a canvass of the provisional ballots cast in the election must be conducted pursuant to NRS 293.387 and, if appropriate, pursuant to NRS 293C.387.~~

~~2.] The county and city clerk shall [not:~~

~~(a) Include any] **include every** provisional ballot in the unofficial results reported on election night . [; or~~

~~(b) Open any envelope containing a provisional ballot before 8 a.m. on the Wednesday following election day.~~

~~3. Except as otherwise provided in subsection 4, a provisional ballot must be counted if:~~

~~(a) The]~~

~~2. **If, based on the unofficial results of the election, the county or city clerk determines that the number of provisional ballots cast may affect the outcome of any race or ballot question, the county or city clerk must not include a provisional ballot in the canvass of the election conducted pursuant to NRS 293.387 or 293C.387, as applicable, unless the county or city clerk determines that:**~~

~~(a) The person who cast the provisional ballot was registered to vote in the election, eligible to vote in the election and issued the appropriate ballot for the address at which the person resides; or~~

~~(b) A voter who failed to provide required identification at the polling place or with his or her mailed ballot [provides] **provided** the required identification to the county or city clerk not later than 5 p.m. on the Friday following election day . [; or~~

~~(c) A court order has not been issued by 5 p.m. on the Friday following election day directing that provisional ballots cast pursuant to subsection 3 of NRS 293.3081 not be counted, and the provisional ballot was cast pursuant to subsection 3 of NRS 293.3081.~~

~~4.] 3. A provisional ballot must not be counted if [the] :~~

~~(a) The county or city clerk determines that the person who cast the provisional ballot cast the wrong ballot for the address at which the person resides [.] ; or~~

~~(b) A court order has been issued by 5 p.m. on the Friday following election day directing that provisional ballots cast pursuant to paragraph (c) of subsection 1 of NRS 293.3081 not be counted, and the provisional ballot was cast pursuant to that paragraph.] (Deleted by amendment.)~~

Sec. 34. ~~[NRS 293.3086 is hereby amended to read as follows:~~

~~293.3086 1. The Secretary of State shall establish a free access system such as a toll free telephone number or an Internet website to inform a person who cast a provisional ballot whether the person's vote was [counted] **included in the canvass of returns conducted pursuant to NRS 293.387 or 293C.387, as applicable,** and, if the vote was not [counted,] **included,** the reason why the vote was not [counted.] **included.**~~

~~2. The free access system must ensure secrecy of the ballot while protecting the confidentiality and integrity of personal information contained therein.~~

~~3. Access to information concerning a provisional ballot must be restricted to the person who cast the provisional ballot.} (Deleted by amendment.)~~

Sec. 35. NRS 293.3564 is hereby amended to read as follows:

293.3564 1. ~~{The}~~ ***Each*** county clerk ~~may~~ shall establish ~~at least~~ ***one or more*** permanent polling places ~~place~~ for early voting by personal appearance in the county . ~~{at the locations selected pursuant to NRS 293.3561.}~~

2. ~~{Except as otherwise provided in subsection 3, any}~~ ***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. 36. NRS 293.3585 is hereby amended to read as follows:

293.3585 1. Except as otherwise provided in NRS 293.283, upon the appearance of a person to cast a ballot for early voting, an election board officer shall:

(a) Determine that the person is a registered voter in the county.

(b) Instruct the voter to sign the roster for early voting ~~{}~~ ***or the roster designated for electors who register to vote during the period for early voting pursuant to section 10 of this act.***

(c) Verify the signature of the voter in the manner set forth in NRS 293.277.

(d) Verify that the voter has not already voted in the current election . ~~{pursuant to this section.}~~

2. If the signature of the voter does not match, the voter must be identified by:

(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or

(c) Providing the election board officer with proof of identification as described in NRS 293.277 other than the card issued to the voter at the time he or she registered to vote . ~~{or was deemed to be registered to vote.}~~

3. If the signature of the voter has changed in comparison to the signature on the application to register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

4. The county clerk shall prescribe a procedure, approved by the Secretary of State, to verify that the voter has not already voted in the current election. ~~[pursuant to this section.]~~

5. The roster for early voting must contain:

(a) The voter's name, the address where he or she is registered to vote, his or her voter identification number ~~[a facsimile of the signature of the voter that is from the original application to register to vote]~~ and a place for the voter's signature;

(b) The voter's precinct or voting district number, if that information is available; and

(c) The date of voting early in person.

6. When a voter is entitled to cast a ballot and has identified himself or herself to the satisfaction of the election board officer, 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.

7. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the election board officer shall:

(a) Prepare the mechanical recording device for the voter;

(b) Ensure that the voter's precinct or voting district, if that information is available, 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.

8. A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293.303.

Sec. 37. 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 which identifies the mechanical recording device and the storage device required pursuant to NRS 293B.084;

(3) The number of ballots voted on the mechanical recording device for that day; ~~[and]~~

(4) The number of signatures in the roster for early voting for that day ~~[]~~; and

(5) The number of signatures in the roster designated for electors who register to vote during the period for early voting pursuant to section 10 of this act, if applicable.

(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) Indicate the number of ballots on an official statement of ballots; and

(b) Place the storage devices 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 storage devices to the central counting place.

Sec. 38. ~~[NRS 293.389 is hereby amended to read as follows:~~

~~293.389 The Secretary of State, a board of county commissioners, a county clerk and any other person who prepares an abstract of votes or other report of votes pursuant to this chapter shall not include in that abstract or report a person designated as an inactive voter pursuant to **paragraph (g) of subsection [7] 1 of NRS 293.530** when determining the percentage of voters who have voted or the total number of voters.] (Deleted by amendment.)~~

Sec. 39. ~~[NRS 293.440 is hereby amended to read as follows:~~

~~293.440 1. Any person who desires a copy of any list of the persons who are registered to vote in any precinct, district or county may obtain a copy by applying at the office of the county clerk and paying therefor a sum of money equal to 1 cent per name on the list, except that one copy of each original and supplemental list for each precinct, district or county must be provided both to the state central committee of any major political party and to the county central committee of any major political party, and to the executive committee of any minor political party upon request, without charge.~~

~~2. Except as otherwise provided in NRS 293.5002 and 293.558, the copy of the list provided pursuant to this section must indicate the address, date of birth, telephone number and the serial number on each application to register to vote. [If the county maintains this information in a computer database, the] **The date of the most recent addition or revision to an entry, if made on or after July 1, 1989, must be included in the computer database maintained by the county and on any resulting list of the information. The date must be expressed numerically in the order of month, day and year.**~~

~~2. A county may not pay more than 10 cents per folio or more than \$6 per thousand copies for printed lists for a precinct or district.~~

~~4. A county which has a system of computers capable of recording information on magnetic tape or diskette shall, upon request of the state central committee or county central committee of any major political party or the executive committee of any minor political party which has filed a certificate of existence with the Secretary of State, record for both the state central committee and the county central committee of the major political party, if requested, and for the executive committee of the minor political party, if requested, on magnetic tape or diskette supplied by it:~~

~~(a) The list of persons who are registered to vote and the information required in subsection 2; and~~

~~(b) Not more than four times per year, as requested by the state or county central committee or the executive committee:~~

~~(1) A complete list of the persons who are registered to vote with a notation for the most recent entry of the date on which the entry or the latest change in the information was made; or~~

~~(2) A list that includes additions and revisions made to the list of persons who are registered to vote after a date specified by the state or county central committee or the executive committee.~~

~~5. If a political party does not provide its own magnetic tape or diskette, or if a political party requests the list in any other form that does not require printing, the county clerk may charge a fee to cover the actual cost of providing the tape, diskette or list.~~

~~6. Any state or county central committee of a major political party, any executive committee of a minor political party or any member or representative of such a central committee or executive committee who receives without charge a list of the persons who are registered to vote in any precinct, district or county pursuant to this section shall not:~~

~~(a) Use the list for any purpose that is not related to an election; or~~

~~(b) Sell the list for compensation or other valuable consideration.]~~

(Deleted by amendment.)

Sec. 40. NRS 293.4689 is hereby amended to read as follows:

293.4689 1. If a county clerk maintains a website on the Internet for information related to elections, the website must contain public information maintained, collected or compiled by the county clerk that relates to elections, which must include, without limitation:

(a) The locations of polling places for casting a ballot on election day in such a format that a registered voter may search the list to determine the location of the polling place **or places** at which the registered voter is **[required] entitled** to cast a ballot; and

(b) The abstract of votes required pursuant to the provisions of NRS 293.388.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a

format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by a county clerk pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by the Secretary of State, another county clerk or a city clerk, the county clerk may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

~~Sec. 41. [NRS 293.486 is hereby amended to read as follows:
293.486 1. Except as otherwise provided in subsection 2, for the purposes of **preregistering or** registering to vote, the address at which the [voter] **person** actually resides is the street address assigned to the location at which the [voter] **person** actually resides.~~

~~2. For the purposes of **preregistering or** registering to vote, if the [voter] **person** does not reside at a location that has been assigned a street address, the address at which the [voter] **person** actually resides is a description of the location at which the [voter] **person** actually resides. The description must identify the location with sufficient specificity to allow the county clerk to assign the location to a precinct.~~

~~3. The provisions of this section do not authorize a person to **preregister or** register to vote if the person is not otherwise eligible to **preregister or** register to vote [.] , **as applicable.** (Deleted by amendment.)~~

~~Sec. 42. [NRS 293.5002 is hereby amended to read as follows:
293.5002 1. The Secretary of State shall establish procedures to allow a person for whom a fictitious address has been issued pursuant to NRS 217.462 to 217.471, inclusive, to:~~

~~(a) [Register] **Preregister or register** to vote; and
(b) Vote by absent ballot,
without revealing the confidential address of the person.~~

~~2. In addition to establishing appropriate procedures or developing forms pursuant to subsection 1, the Secretary of State shall develop a form to allow a person for whom a fictitious address has been issued to **preregister or** register to vote or to change the address of the person's current **preregistration or** registration [.] , **as applicable.** The form must include:~~

~~(a) A section that contains the confidential address of the person; and
(b) A section that contains the fictitious address of the person.~~

~~3. Upon receiving a completed form from a person for whom a fictitious address has been issued, the Secretary of State shall:~~

~~(a) On the portion of the form that contains the fictitious address of the person, indicate the county and precinct in which the person will vote and forward this portion of the form to the appropriate county clerk; and~~

~~(b) File the portion of the form that contains the confidential address.~~

~~4. Notwithstanding any other provision of law, any request received by the Secretary of State pursuant to subsection 3 shall be deemed a request for a permanent absent ballot.~~

~~5. Notwithstanding any other provision of law:~~

~~— (a) The Secretary of State and each county clerk shall keep the portion of the form developed pursuant to subsection 2 that he or she retains separate from other applications for **preregistration or registration.**~~

~~— (b) The county clerk shall not make the name, confidential address or fictitious address of the person who has been issued a fictitious address available for:~~

~~— (1) Inspection or copying; or~~

~~— (2) Inclusion in any list that is made available for public inspection,~~

~~— unless directed to do so by lawful order of a court of competent jurisdiction.} **(Deleted by amendment.)**~~

Sec. 43. ~~[NRS 293.503 is hereby amended to read as follows:~~

~~— 293.503 1. The county clerk of each county where a registrar of voters has not been appointed pursuant to NRS 244.164:~~

~~— (a) Is ex officio county registrar and registrar for all precincts within the county.~~

~~— (b) Shall have the custody of all books, documents and papers pertaining to **preregistration or registration** provided for in this chapter.~~

~~— 2. All books, documents and papers pertaining to **preregistration or registration** are official records of the office of the county clerk.~~

~~— 3. The county clerk shall maintain records of any program or activity that is conducted within the county to ensure the accuracy and currency of the registrar of voters' register for not less than 2 years after creation. The records must include the names and addresses of any person to whom a notice is mailed pursuant to NRS 293.5235, 293.530, or 293.535 and whether the person responded to the notice.~~

~~— 4. Any program or activity that is conducted within the county for the purpose of removing the name of each person who is ineligible to vote in the county from the registrar of voters' register must be complete not later than 90 days before the next primary or general election.~~

~~— 5. Except as otherwise provided by subsection 6, all records maintained by the county clerk pursuant to subsection 3 must be available for public inspection.~~

~~— 6. Except as otherwise provided in NRS 239.0115, any information relating to where a person **preregisters or registers** to vote must remain confidential and is not available for public inspection. Such information may only be used by an election officer for purposes related to [voter] **preregistration and registration.**} **(Deleted by amendment.)**~~

Sec. 44. ~~[NRS 293.5035 is hereby amended to read as follows:~~

~~— 293.5035 1. The county clerk may designate any building owned or leased by the county, or any portion of such a building, as a county facility at which **persons may preregister to vote and** electors may register to vote.~~

~~— 2. A county facility designated pursuant to subsection 1 must be operated as an auxiliary county facility at which [voter] **preregistration and registration [is] are** carried out in addition to being carried out at the office of the county clerk.~~

~~2. If the county clerk designates a county facility pursuant to subsection 1, the county clerk shall determine the hours of operation for the facility and shall, in cooperation with the Secretary of State, ensure that the facility is operated, staffed and equipped in compliance with all applicable provisions of this title and all other applicable provisions of state and federal law relating to the **preregistration of persons and the registration of electors in this State.** (Deleted by amendment.)~~

Sec. 45. ~~[NRS 293.504 is hereby amended to read as follows:~~

~~293.504 1. The following offices shall serve as voter registration agencies:~~

- ~~(a) Such offices that provide public assistance as are designated by the Secretary of State;~~
- ~~(b) Each office that receives money from the State of Nevada to provide services to persons with disabilities in this State;~~
- ~~(c) The offices of the Department of Motor Vehicles;~~
- ~~(d) The offices of the city and county clerks;~~
- ~~(e) Such other county and municipal facilities as a county clerk or city clerk may designate pursuant to NRS 293.5035 or 293C.520, as applicable;~~
- ~~(f) Recruitment offices of the United States Armed Forces; and~~
- ~~(g) Such other offices as the Secretary of State deems appropriate.~~

~~2. Each voter registration agency shall:~~

- ~~(a) Post in a conspicuous place, in at least 12 point type, instructions for **preregistering and** registering to vote;~~
- ~~(b) Except as otherwise provided in subsection 3 [.] and sections 2 to 7, inclusive, of this act, distribute applications to **preregister or** register to vote which may be returned by mail with any application for services or assistance from the agency or submitted for any other purpose and with each application for recertification, renewal or change of address submitted to the agency that relates to such services, assistance or other purpose;~~
- ~~(c) Provide the same amount of assistance to an applicant in completing an application to **preregister or** register to vote as the agency provides to a person completing any other forms for the agency; and~~
- ~~(d) Accept completed applications to **preregister or** register to vote.~~

~~3. A voter registration agency is not required to provide an application to **preregister or** register to vote pursuant to paragraph (b) of subsection 2 to a person who applies for or receives services or assistance from the agency or submits an application for any other purpose if the person **affirmatively** declines to **preregister or** register to vote and submits to the agency a written form that meets the requirements of [42] 52 U.S.C. § [1973gg 5(a)(6). No information] 20506(a)(6). **Information** related to the declination to **preregister or** register to vote may **not** be used for any purpose other than voter registration.~~

~~4. Except as otherwise provided in this subsection and NRS 293.524, and section 5 of this act, any application to **preregister or** register to vote accepted by a voter registration agency must be transmitted to the county~~

~~clerk not later than 10 days after the application is accepted. The applications must be forwarded daily during the 2 weeks immediately preceding the fifth Sunday preceding an election. The county clerk shall accept any application [to register to vote] which is obtained from a voter registration agency pursuant to this section and completed by the fifth Sunday preceding an election if the county clerk receives the application not later than 5 days after that date.~~

~~5. The Secretary of State shall cooperate with the Secretary of Defense to develop and carry out procedures to enable persons in this State to apply to preregister or register to vote at recruitment offices of the United States Armed Forces.} (Deleted by amendment.)~~

Sec. 46. [NRS 293.504 is hereby amended to read as follows:

~~293.504 1. The following offices shall serve as voter registration agencies:~~

~~(a) Such offices that provide public assistance as are designated by the Secretary of State;~~

~~(b) Each office that receives money from the State of Nevada to provide services to persons with disabilities in this State;~~

~~(c) The offices of the Department of Motor Vehicles;~~

~~(d) The offices of the city and county clerks;~~

~~(e) Such other county and municipal facilities as a county clerk or city clerk may designate pursuant to NRS 293.5035 or 293C.520, as applicable;~~

~~(f) Recruitment offices of the United States Armed Forces; and~~

~~(g) Such other offices as the Secretary of State deems appropriate.~~

~~2. Each voter registration agency shall {:~~

~~(a) Post} post in a conspicuous place, in at least 12 point type, instructions for preregistering and registering to vote. {;~~

~~(b) Except as otherwise provided in subsection 3 and sections 2 to 7, inclusive, of this act, distribute applications to preregister or register to vote which may be returned by mail with any application for services or assistance from the agency or submitted for any other purpose and with each application for recertification, renewal or change of address submitted to the agency that relates to such services, assistance or other purpose;~~

~~(c) Provide the same amount of assistance to an applicant in completing an application to preregister or register to vote as the agency provides to a person completing any other forms for the agency; and~~

~~(d) Accept completed applications to preregister or register to vote.~~

~~3. A voter registration agency is not required to provide an application to preregister or register to vote pursuant to paragraph (b) of subsection 2 to a person who applies for or receives services or assistance from the agency or submits an application for any other purpose if the person affirmatively declines to preregister or register to vote and submits to the agency a written form that meets the requirements of 52 U.S.C. § 20506(a)(6). Information related to the declination to preregister or register to vote may not be used for any purpose other than voter registration.~~

~~4. Except as otherwise provided in this subsection and NRS 293.524, and section 5 of this act, any application to preregister or register to vote accepted by a voter registration agency must be transmitted to the county clerk not later than 10 days after the application is accepted. The applications must be forwarded daily during the 2 weeks immediately preceding the fifth Sunday preceding an election. The county clerk shall accept any application which is obtained from a voter registration agency pursuant to this section and completed by the fifth Sunday preceding an election if the county clerk receives the application not later than 5 days after that date.~~

~~5.] 3. The Secretary of State shall cooperate with the Secretary of Defense to develop and carry out procedures to enable persons in this State to apply to preregister or register to vote at recruitment offices of the United States Armed Forces.] (Deleted by amendment.)~~

Sec. 47. ~~[NRS 293.505 is hereby amended to read as follows:~~

~~293.505 1. All justices of the peace, except those located in county seats, are ex officio field registrars to carry out the provisions of this chapter.~~

~~2. The county clerk shall appoint at least one registered voter to serve as a field registrar of voters who, except as otherwise provided in NRS 293.5055, shall **preregister and** register voters within the county for which the field registrar is appointed. Except as otherwise provided in subsection 1, a candidate for any office may not be appointed or serve as a field registrar. A field registrar serves at the pleasure of the county clerk and shall perform such duties as the county clerk may direct. The county clerk shall not knowingly appoint any person as a field registrar who has been convicted of a felony involving theft or fraud. The Secretary of State may bring an action against a county clerk to collect a civil penalty of not more than \$5,000 for each person who is appointed as a field registrar in violation of this subsection. Any civil penalty collected pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.~~

~~3. A field registrar shall demand of any person who applies for **preregistration or** registration all information required by the application to **preregister or** register to vote, **as applicable**, and shall administer all oaths required by this chapter.~~

~~4. When a field registrar has in his or her possession five or more completed applications to **preregister or** register to vote, the field registrar shall forward them to the county clerk, but in no case may the field registrar hold any number of them for more than 10 days.~~

~~5. Each field registrar shall forward to the county clerk all completed applications in his or her possession immediately after the fifth Sunday preceding an election. Within 5 days after the fifth Sunday preceding any general election or general city election, a field registrar shall return all unused applications in his or her possession to the county clerk. If all of the unused applications are not returned to the county clerk, the field registrar shall account for the unreturned applications.~~

~~6. Each field registrar shall submit to the county clerk a list of the serial numbers of the completed applications to **preregister or** register to vote and the names of the electors on those applications. The serial numbers must be listed in numerical order.~~

~~7. Each field registrar shall post notices sent to him or her by the county clerk for posting in accordance with the election laws of this State.~~

~~8. A field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:~~

~~(a) Delegate any of his or her duties to another person; or~~

~~(b) Refuse to **preregister or** register a person on account of that person's political party affiliation.~~

~~9. A person shall not hold himself or herself out to be or attempt to exercise the duties of a field registrar unless the person has been so appointed.~~

~~10. A county clerk, field registrar, employee of a voter registration agency or person assisting [a voter] **another person** pursuant to subsection 13 of NRS 293.5235 shall not:~~

~~(a) Solicit a vote for or against a particular question or candidate;~~

~~(b) Speak to a [voter] **person** on the subject of marking his or her ballot for or against a particular question or candidate; or~~

~~(c) Distribute any petition or other material concerning a candidate or question which will be on the ballot for the ensuing election;~~

~~while **preregistering or** registering [an elector.] **the person.**~~

~~11. When the county clerk receives applications to **preregister or** register to vote from a field registrar, the county clerk shall issue a receipt to the field registrar. The receipt must include:~~

~~(a) The number of persons **preregistered or** registered; and~~

~~(b) The political party of the persons **preregistered or** registered.~~

~~12. A county clerk, field registrar, employee of a voter registration agency or person assisting [a voter] **another person** pursuant to subsection 13 of NRS 293.5235 shall not:~~

~~(a) Knowingly [register]—~~

~~(1) **Register** a person who is not a qualified elector or a person who has filed a false or misleading application to register to vote; or~~

~~(2) **Preregister** a person who does not meet the qualifications set forth in section 9 of this act; or~~

~~(b) [Register] **Preregister or register** a person who fails to provide satisfactory proof of identification and the address at which the person actually resides.~~

~~13. A county clerk, field registrar, employee of a voter registration agency, person assisting [a voter] **another person** pursuant to subsection 13 of NRS 293.5235 or any other person providing a form for the application to **preregister or** register to vote to an elector for the purpose of **preregistering or** registering to vote:~~

~~— (a) If the person who assists [an elector] **another person** with completing the form for the application to **preregister or** register to vote retains the form, shall enter his or her name on the duplicate copy or receipt retained by the [voter] **person** upon completion of the form; and~~

~~— (b) Shall not alter, deface or destroy an application to **preregister or** register to vote that has been signed by [an elector] **a person** except to correct information contained in the application after receiving notice from the [elector] **person** that a change in or addition to the information is required.~~

~~— 14. If a field registrar violates any of the provisions of this section, the county clerk shall immediately suspend the field registrar and notify the district attorney of the county in which the violation occurred.~~

~~— 15. A person who violates any of the provisions of subsection 8, 9, 10, 12 or 13 is guilty of a category E felony and shall be punished as provided in NRS 193.130. **(Deleted by amendment.)**~~

Sec. 48. ~~[NRS 293.5055 is hereby amended to read as follows:~~

~~— 293.5055 A county clerk or field registrar may **preregister or** register, outside the boundaries of the county, any [voter] **person** who is a resident of that county **and meets the qualifications to preregister or register to vote, as applicable.** **(Deleted by amendment.)**~~

Sec. 49. ~~[NRS 293.5057 is hereby amended to read as follows:~~

~~— 293.5057 A person who does not maintain a residence in this State may **preregister or** register to vote for the office of President and Vice President of the United States if the person files a sworn statement with the county clerk or field registrar of voters that the person is not **preregistered or** registered to vote in any other state and provides evidence:~~

~~— 1. Of his or her domicile in this State in accordance with the provisions of NRS 41.191;~~

~~— 2. That he or she maintains an account at a financial institution located in this State; or~~

~~— 3. That his or her motor vehicle is registered in this State. **(Deleted by amendment.)**~~

Sec. 50. ~~[NRS 293.506 is hereby amended to read as follows:~~

~~— 293.506 1. A county clerk may, with approval of the board of county commissioners, establish a system for using a computer to register voters and to keep records of registration.~~

~~— 2. A system established pursuant to subsection 1 must [comply];~~

~~— (a) **Comply** with any procedures and requirements prescribed by the Secretary of State pursuant to NRS 293.250 **[.]; and**~~

~~— (b) **Allow a person to preregister to vote and the county clerk to keep records of preregistration by computer.**~~

~~— 3. **Regardless of whether a county clerk establishes a system pursuant to subsection 1, the county clerk shall:**~~

~~— (a) **Accept applications to preregister and register to vote submitted by computer to the Secretary of State through the system established by the Secretary of State pursuant to section 8 of this act; and**~~

~~(b) Use a computer to keep records of preregistration and registration.~~
(Deleted by amendment.)

~~Sec. 51. [NRS 293.507 is hereby amended to read as follows:~~

~~293.507 1. The Secretary of State shall prescribe:~~

~~(a) [A standard form] **Standard forms** for applications to **preregister or**
register to vote;~~

~~(b) [A special form] **Special forms** for **preregistration and** registration to
be used [in a county where registrations are performed and records of
registration are kept] **for preregistration or registration** by computer; and~~

~~(c) A standard form for the affidavit described in subsection 5.~~

~~2. The county clerks shall provide forms for applications to **preregister**
or register to vote to field registrars in the form and number prescribed by the
Secretary of State.~~

~~3. Each form for an application to **preregister or** register to vote must
include a:~~

~~(a) Unique control number assigned by the Secretary of State; and~~

~~(b) Receipt which:~~

~~(1) Includes a space for a person assisting an applicant in completing
the form to enter the person's name; and~~

~~(2) May be retained by the applicant upon completion of the form.~~

~~4. The form for an application to **preregister or** register to vote must
include:~~

~~(a) A line for use by the applicant to enter:~~

~~(1) The number indicated on the applicant's current and valid driver's
license issued by the Department of Motor Vehicles, if the applicant has such
a driver's license;~~

~~(2) The last four digits of the applicant's social security number, if the
applicant does not have a driver's license issued by the Department of Motor
Vehicles and does have a social security number; or~~

~~(3) The number issued to the applicant pursuant to subsection 5, if the
applicant does not have a current and valid driver's license issued by the
Department of Motor Vehicles or a social security number.~~

~~(b) A line on which to enter the address at which the applicant actually
resides, as set forth in NRS 293.486.~~

~~(c) A notice that the applicant may not list a business as the address
required pursuant to paragraph (b) unless the applicant actually resides there.~~

~~(d) A line on which to enter an address at which the applicant may receive
mail, including, without limitation, a post office box or general delivery.~~

~~5. If an applicant does not have the identification set forth in
subparagraph (1) or (2) of paragraph (a) of subsection 4, the applicant shall
sign an affidavit stating that he or she does not have a current and valid
driver's license issued by the Department of Motor Vehicles or a social
security number. Upon receipt of the affidavit, the county clerk shall issue an
identification number to the applicant which must be the same number as the~~

unique identifier assigned to the applicant for purposes of the statewide voter registration list.

~~6. The Secretary of State shall adopt regulations to carry out the provisions of subsections 3, 4 and 5.~~ **(Deleted by amendment.)**

Sec. 52. ~~[NRS 293.508 is hereby amended to read as follows:~~

~~293.508 The Secretary of State shall include on all forms for an application to **preregister or** register to vote prescribed by the Secretary of State the following option, printed in a separate box created by bold lines, in at least 14 point bold type:~~

~~—CHECK THIS BOX TO RECEIVE A SAMPLE BALLOT IN LARGER TYPE]~~ **(Deleted by amendment.)**

Sec. 53. ~~[NRS 293.509 is hereby amended to read as follows:~~

~~293.509 1. A county clerk may provide the [form for the application] forms for applications to **preregister or** register to vote prescribed by the Secretary of State pursuant to NRS 293.507 to a candidate, major political party, minor political party or any other person submitting a request pursuant to subsection 2.~~

~~2. A candidate, major political party, minor political party or other person shall:~~

~~—(a) Submit a request for forms for [the application] applications to **preregister or** register to vote to the county clerk in person, by telephone, in writing or by facsimile machine; and~~

~~—(b) State the number of forms for [the application] applications to **preregister or** register to vote that the candidate, major political party, minor political party or other person is requesting.~~

~~3. The county clerk may record the control numbers assigned to the forms by the Secretary of State pursuant to NRS 293.507 of the forms he or she provided in response to the request. The county clerk shall maintain a request for multiple applications with the county clerk's records.]~~ **(Deleted by amendment.)**

Sec. 54. ~~[NRS 293.510 is hereby amended to read as follows:~~

~~293.510 1. [In counties where computers are not used to register voters, the county clerk shall:~~

~~—(a) Segregate original applications to register to vote according to the precinct in which the registered voters reside and arrange the applications in each precinct or district in alphabetical order. The applications for each precinct or district must be kept separately for each precinct or district. These applications must be used to prepare the rosters.~~

~~—(b) Arrange the duplicate applications of registration in alphabetical order for the entire county and keep them in binders or a suitable file which constitutes the registrar of voters' register.~~

~~2. In any county where a computer is used to register voters, the] Each county clerk shall:~~

~~— (a) Arrange the original applications to register to vote for the entire county in a manner in which an original application may be quickly located. These original applications constitute the registrar of voters' register.~~

~~— (b) Segregate the applications to register to vote in a computer file according to the precinct or district in which the registered voters reside, and for each precinct or district have printed a computer listing which contains the applications to register to vote in alphabetical order. These listings of applications to register to vote must be used to prepare the rosters.~~

~~— 2. Each county clerk shall keep the applications to preregister to vote separate from the applications to register to vote until such applications are deemed to be applications to register to vote pursuant to section 9 of this act.~~ **(Deleted by amendment.)**

Sec. 55. NRS 293.517 is hereby amended to read as follows:

293.517 1. Any ~~person who meets the qualifications set forth in section 9 of this act residing within the county may preregister to vote and any~~ elector residing within the county may register to vote:

(a) Except as otherwise provided in NRS 293.560 and 293C.527, by appearing before the county clerk, a field registrar or a voter registration agency, completing the application to ~~preregister or~~ register to vote, giving true and satisfactory answers to all questions relevant to his or her identity and right to ~~preregister or~~ vote, and providing proof of residence and identity;

(b) By completing and mailing or personally delivering to the county clerk an application to ~~preregister or~~ register to vote pursuant to the provisions of NRS 293.5235;

(c) Pursuant to the provisions of NRS 293.524 ~~or section 6, 10, 11, 81 or 82 of this act~~ or chapter 293D of NRS;

(d) At his or her residence with the assistance of a field registrar pursuant to NRS 293.5237; or

(e) By submitting an application to ~~preregister or~~ register to vote by computer ~~using the system~~.

~~— (1) Established by the Secretary of State pursuant to section 8 of this act; or~~

~~— (2) Established by the county clerk,~~ if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register voters.

↪ The county clerk shall require a person to submit official identification as proof of residence and identity, such as a driver's license or other official document, before ~~preregistering or~~ registering the person. If the applicant ~~preregisters or~~ registers to vote pursuant to this subsection and fails to provide proof of residence and identity, the applicant must provide proof of residence and identity before casting a ballot in person or by mail or after casting a provisional ballot pursuant to NRS 293.3081 or 293.3083. For the purposes of this subsection, a voter registration card issued pursuant to subsection 6 does not provide proof of the residence or identity of a person.

2. ~~The [Except as otherwise provided in sections 2 to 7, inclusive, of this act, the]~~ application to ~~[preregister or]~~ register to vote must be signed and verified under penalty of perjury by the ~~[person preregistering or the]~~ elector registering.

3. Each elector who is or has been married must be ~~[preregistered or]~~ registered under his or her own given or first name, and not under the given or first name or initials of his or her spouse.

4. ~~An [Except as otherwise provided in sections 2 to 7, inclusive, of this act, a person or an]~~ elector who is ~~[preregistered or]~~ registered and changes his or her name must complete a new application to ~~[preregister or]~~ register to vote ~~[, as applicable.]~~ The ~~[person or]~~ elector may obtain a new application:

- (a) At the office of the county clerk or field registrar;
- (b) By submitting an application to ~~[preregister or]~~ register to vote pursuant to the provisions of NRS 293.5235;
- (c) By submitting a written statement to the county clerk requesting the county clerk to mail an application to ~~[preregister or]~~ register to vote;
- (d) At any voter registration agency; or
- (e) By submitting an application to ~~[preregister or]~~ register to vote by computer ~~[, using the system.]~~

~~—(1) Established by the Secretary of State pursuant to section 8 of this act; or~~

~~—(2) Established by the county clerk,]~~ if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register voters.

↪ If the elector fails to register under his or her new name, the elector may be challenged pursuant to the provisions of NRS 293.303 or 293C.292 and may be required to furnish proof of identity and subsequent change of name.

5. Except as otherwise provided in subsection 7 ~~[, and sections 4 to 7, inclusive, of this act,]~~ an elector who registers to vote pursuant to paragraph (a) of subsection 1 shall be deemed to be registered upon the completion of an application to register to vote.

6. After the county clerk determines that the application to register to vote of a person is complete and that, except as otherwise provided in NRS 293D.210, the person is eligible to vote pursuant to NRS 293.485, the county clerk shall issue a voter registration card to the voter which contains:

- (a) The name, address, political affiliation and precinct number of the voter;
- (b) The date of issuance; and
- (c) The signature of the county clerk.

7. If ~~[a person or]~~ an elector submits an application to ~~[preregister or]~~ register to vote or an affidavit described in paragraph (c) of subsection 1 of NRS 293.507 that contains any handwritten additions, erasures or interlineations, the county clerk may object to the application to register to vote if the county clerk believes that because of such handwritten additions, erasures or interlineations, the application to register to vote of the elector is

incomplete or that, except as otherwise provided in NRS 293D.210, the ~~person is not eligible to preregister pursuant to section 9 of this act or the~~ elector is not eligible to vote pursuant to NRS 293.485 ~~; if applicable.~~ If the county clerk objects pursuant to this subsection, he or she shall immediately notify the ~~person or~~ elector ~~if applicable~~ and the district attorney of the county. Not later than 5 business days after the district attorney receives such notification, the district attorney shall advise the county clerk as to whether:

(a) The application to register to vote of the elector is complete and, except as otherwise provided in NRS 293D.210, the ~~person is eligible to preregister pursuant to section 9 of this act or the~~ elector is eligible to vote pursuant to NRS 293.485; and

(b) The county clerk should proceed to process the application . to register to vote.

➡ If the District Attorney advises the county clerk to process the application , to register to vote, the county clerk shall immediately issue a voter registration card to the applicant pursuant to subsection 6 ~~; if applicable.~~

Sec. 56. ~~[NRS 293.518 is hereby amended to read as follows:~~

~~293.518 1. [At] Except as otherwise provided in sections 3 and 4 of this act, at the time a person preregisters or an elector registers to vote, the person or elector must indicate:~~

~~— (a) A political party affiliation; or~~

~~— (b) That he or she is not affiliated with a political party.~~

➡ ~~[At] A person or an elector who indicates that he or she is “independent” shall be deemed not affiliated with a political party.~~

~~2. If a person or an elector indicates that he or she is not affiliated with a political party, or is independent, the county clerk or field registrar of voters shall list the person’s or elector’s political party as nonpartisan.~~

~~3. If a person or an elector indicates an affiliation with a major political party or a minor political party that has filed a certificate of existence with the Secretary of State, the county clerk or field registrar of voters shall list the person’s or elector’s political party as indicated by the person or elector.~~

~~4. If a person or an elector indicates an affiliation with a minor political party that has not filed a certificate of existence with the Secretary of State, the county clerk or field registrar of voters shall:~~

~~— (a) List the person’s or elector’s political party as the party indicated in the application to preregister or register to vote [.] , as applicable.~~

~~— (b) When compiling data related to preregistration and voter registration for the county, report the person’s or elector’s political party as “other party.”~~

~~5. If a person or an elector does not make any of the indications described in subsection 1, the county clerk or field registrar of voters shall:~~

~~— (a) List the person’s or elector’s political party as nonpartisan; and~~

~~— (b) Mail to the person or elector a notice setting forth that the person has been preregistered or the elector has been registered to vote, as applicable.~~

as a nonpartisan because ~~[the elector] he or she~~ did not make any of the indications described in subsection 1. (Deleted by amendment.)

Sec. 57. ~~[NRS 293.520 is hereby amended to read as follows:~~

~~293.520 Except as otherwise provided in this section, the preregistration of persons or registration or reregistration of electors who are unable to sign their names must be made upon personal application of those persons or electors at the office of the county clerk where they may be identified or in the presence of a field registrar. If such a person or an elector is unable to appear in person at the office of the county clerk, the county clerk shall send a field registrar or an employee of the office of the county clerk to the elector to identify the person or elector and preregister the person or register or reregister the elector, as appropriate. The persons or electors described in this section may use a mark or cross in place of a signature.] (Deleted by amendment.)~~

Sec. 58. ~~[NRS 293.523 is hereby amended to read as follows:~~

~~293.523 A naturalized citizen need not produce his or her certificate of naturalization in order to qualify to be preregistered or registered.] (Deleted by amendment.)~~

Sec. 59. ~~[NRS 293.5235 is hereby amended to read as follows:~~

~~293.5235 1. Except as otherwise provided in NRS 293.502 and chapter 293D of NRS, a person may preregister or register to vote by mailing an application to preregister or register to vote to the county clerk of the county in which the person resides or may preregister or register to vote by computer [,] using the system established by the Secretary of State pursuant to section 8 of this act or the system established by the county clerk, if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register to vote. The county clerk shall, upon request, mail an application to preregister or register to vote to an applicant. The county clerk shall make the applications available at various public places in the county. An application to preregister to vote may be used to correct information in a previous application. An application to register to vote may be used to correct information in the registrar of voters' register.~~

~~2. An application to preregister or register to vote which is mailed to an applicant by the county clerk or made available to the public at various locations or voter registration agencies in the county may be returned to the county clerk by mail or in person. For the purposes of this section, an application which is personally delivered to the county clerk shall be deemed to have been returned by mail.~~

~~3. The applicant must complete the application, including, without limitation, checking the boxes described in paragraphs (b) and (c) of subsection 10 and signing the application.~~

~~4. The county clerk shall, upon receipt of an application, determine whether the application is complete.~~

~~5. If the county clerk determines that the application is complete, he or she shall, within 10 days after receiving the application, mail to the applicant:~~

~~— (a) A notice that the applicant is **preregistered or** registered to vote [and], as applicable. If the applicant is registered to vote, the county clerk must also mail to the applicant a voter registration card as required by subsection 6 of NRS 293.517; or~~

~~— (b) A notice that the **person's application to preregister to vote or the registrar of voters' register** has been corrected to reflect any changes indicated on the application.~~

~~— 6. Except as otherwise provided in subsection 5 of NRS 293.518, if the county clerk determines that the application is not complete, the county clerk shall, as soon as possible, mail a notice to the applicant that additional information is required to complete the application. If the applicant provides the information requested by the county clerk within 15 days after the county clerk mails the notice, the county clerk shall, within 10 days after receiving the information, mail to the applicant:~~

~~— (a) A notice that the applicant is [registered];~~

~~— (1) **Preregistered to vote; or**~~

~~— (2) **Registered to vote** and a voter registration card as required by subsection 6 of NRS 293.517; or~~

~~— (b) A notice that **the person's application to preregister to vote or the registrar of voters' register** has been corrected to reflect any changes indicated on the application.~~

~~— If the applicant does not provide the additional information within the prescribed period, the application is void.~~

~~— 7. The applicant shall be deemed to be **preregistered or** registered or to have corrected the information in the **application to preregister to vote or the registrar of voters' register** on the date the application is postmarked or received by the county clerk, whichever is earlier.~~

~~— 8. If the applicant fails to check the box described in paragraph (b) of subsection 10, the application shall not be considered invalid and the county clerk shall provide a means for the applicant to correct the omission at the time the applicant appears to vote in person at the assigned polling place.~~

~~— 9. The Secretary of State shall prescribe the form for [an application] **applications to preregister or** register to vote by:~~

~~— (a) Mail, which must be used to **preregister or** register to vote by mail in this State;~~

~~— (b) Computer, which must be used to **preregister or** register to vote [in];~~

~~— (1) In a county if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register to vote;~~

~~— (2) **Using the system established by the Secretary of State pursuant to section 8 of this act.**~~

~~— 10. The application to **preregister or** register to vote by mail must include:~~

~~— (a) A notice in at least 10 point type which states:~~

~~—NOTICE: You are urged to return your application [to register to vote] to the County Clerk in person or by mail. If you choose to give your completed application to another person to return to the County Clerk on your behalf, and the person fails to deliver the application to the County Clerk, you will not be **preregistered or** registered to vote [.] , as **applicable**. Please retain the duplicate copy or receipt from your application to **preregister or** register to vote.~~

~~—(b) The question, “Are you a citizen of the United States?” and boxes for the applicant to check to indicate whether or not the applicant is a citizen of the United States.~~

~~—(c) [The] **If the application is to:**~~

~~—(1) **Preregister to vote, the question, “Are you at least 16 years of age and not more than 18 years of age?” and boxes to indicate whether or not the applicant is at least 16 years of age and not more than 18 years of age.**~~

~~—(2) **Register to vote, the question, “Will you be at least 18 years of age on or before election day?” and boxes for the applicant to check to indicate whether or not the applicant will be at least 18 years of age or older on election day.**~~

~~—(d) A statement instructing the applicant not to complete the application if the applicant checked “no” in response to the question set forth in:~~

~~—(1) **If the application is to preregister to vote, paragraph (b) or subparagraph (1) of paragraph (c).**~~

~~—(2) **If the application is to register to vote, paragraph (b) or subparagraph (2) of paragraph (c).**~~

~~—(e) A statement informing the applicant that if the application is submitted by mail and the applicant is **preregistering or** registering to vote for the first time, the applicant must submit the information set forth in paragraph (a) of subsection 2 of NRS 293.2725 to avoid the requirements of subsection 1 of NRS 293.2725 upon voting for the first time.~~

~~—11. Except as otherwise provided in subsection 5 of NRS 293.518, the county clerk shall not **preregister or** register a person to vote pursuant to this section unless that person has provided all of the information required by the application.~~

~~—12. The county clerk shall mail, by postcard, the notices required pursuant to subsections 5 and 6. If the postcard is returned to the county clerk by the United States Postal Service because the address is fictitious or the person does not live at that address, the county clerk shall attempt to determine whether the person’s current residence is other than that indicated on the application to **preregister or** register to vote in the manner set forth in NRS 293.530.~~

~~—13. A person who, by mail, **preregisters or** registers to vote pursuant to this section may be assisted in completing the application to **preregister or** register to vote by any other person. The application must include the mailing address and signature of the person who assisted the applicant. The failure to~~

~~provide the information required by this subsection will not result in the application being deemed incomplete.~~

~~14. An application to **preregister or** register to vote must be made available to all persons, regardless of political party affiliation.~~

~~15. An application must not be altered or otherwise defaced after the applicant has completed and signed it. An application must be mailed or delivered in person to the office of the county clerk within 10 days after it is completed.~~

~~16. A person who willfully violates any of the provisions of subsection 13, 14 or 15 is guilty of a category E felony and shall be punished as provided in NRS 193.130.~~

~~17. The Secretary of State shall adopt regulations to carry out the provisions of this section.~~ **(Deleted by amendment.)**

Sec. 60. ~~[NRS 293.5237 is hereby amended to read as follows:~~

~~293.5237 Any time [before]:~~

~~1. A person who, because of illness, disability or for other good cause shown, requires assistance to complete an application to preregister to vote may request the county clerk in writing or by telephone to preregister the person at the person's residence. Upon request, the county clerk shall direct the appropriate field registrar to go to the home of such a person to preregister the person to vote.~~

~~2. Before the fifth Sunday preceding an election, a person who because of illness, disability or for other good cause shown requires assistance to complete an application to register to vote may request the county clerk in writing or by telephone to register the person at the person's residence. Upon request, the county clerk shall direct the appropriate field registrar to go to the home of such a person to register the person to vote.~~ **(Deleted by amendment.)**

Sec. 61. ~~[NRS 293.524 is hereby amended to read as follows:~~

~~293.524 1. [The] **Except as otherwise provided in this section, the** Department of Motor Vehicles shall provide [an] a **paper** application to **preregister or** register to vote to each person who [applies]:~~

~~(a) Applies for the issuance or renewal of any type of driver's license or identification card issued by the Department [.]; and~~

~~(b) Does not apply to preregister or register to vote pursuant to section 4 of this act.~~

~~2. The county clerk shall use the applications to **preregister or** register to vote which are signed and completed pursuant to subsection 1 to **preregister or** register applicants to vote or to correct information in a **person's previous application to preregister or** the registrar of voters' register. [An] A **paper** application that is not signed must not be used to **preregister or** register or correct the **preregistration or** registration of the applicant.~~

~~3. For the purposes of this section, each employee specifically authorized to do so by the Director of the Department may oversee the completion of [an] a **paper** application. The authorized employee shall check the **paper**~~

application for completeness and verify the information required by the ~~paper~~ application. Each ~~paper~~ application must include a duplicate copy or receipt to be retained by the applicant upon completion of the form. The Department shall, except as otherwise provided in this subsection, forward each ~~paper~~ application on a weekly basis to the county clerk or, if applicable, to the registrar of voters of the county in which the applicant resides. The ~~paper~~ applications must be forwarded daily during the 2 weeks immediately preceding the fifth Sunday preceding an election.

~~4. The Department is not required to provide a paper application to preregister or register to vote pursuant to subsection 1 to a person who declines to apply to preregister or register to vote pursuant to this section and submits to the Department a written form that meets the requirements of 52 U.S.C. § 20506(a)(6). Information related to the declination to apply to preregister or register to vote must not be used for any purpose other than voter registration.~~

~~5. The county clerk shall accept any paper application to [register].~~

~~(a) Preregister to vote at any time.~~

~~(b) Register to vote which is obtained from the Department of Motor Vehicles pursuant to this section and completed by the fifth Sunday preceding an election if the county clerk receives the paper application not later than 5 days after that date.~~

~~6. Upon receipt of [an] a paper application, the county clerk or field registrar of voters shall determine whether the paper application is complete. If the county clerk or field registrar of voters determines that the paper application is complete, he or she shall notify the applicant and the applicant shall be deemed to be preregistered or registered as of the date of the submission of the paper application. If the county clerk or field registrar of voters determines that the paper application is not complete, he or she shall notify the applicant of the additional information required. The applicant shall be deemed to be preregistered or registered as of the date of the initial submission of the paper application if the additional information is provided within 15 days after the notice for the additional information is mailed. If the applicant has not provided the additional information within 15 days after the notice for the additional information is mailed, the incomplete paper application is void. Any notification required by this subsection must be given by mail at the mailing address on the paper application not more than 7 working days after the determination is made concerning whether the paper application is complete.~~

~~[5.] 7. The county clerk shall use any form submitted to the Department to correct information on a driver's license or identification card to correct information on a previous application to preregister or in the registrar of voters' register, unless the person indicates on the form that the correction is not to be used for the purposes of voter preregistration or registration. The Department shall forward each such form to the county clerk or, if applicable, to the registrar of voters of the county in which the person resides~~

in the same manner provided by subsection 3 for ~~paper~~ applications to ~~preregister or register to vote~~.

~~[6.] 8. Upon receipt of a form to correct information, the county clerk shall compare the information to that contained in the application to preregister to vote or the registrar of voters' register [1. If the person is a registered voter, the], as applicable. The county clerk shall correct the information to reflect any changes indicated on the form. After making any changes, the county clerk shall notify the person by mail that the records have been corrected.~~

~~[7.] 9. The Secretary of State shall, with the approval of the Director, adopt regulations to:~~

~~(a) Establish any procedure necessary to provide a person who applies to preregister to vote or an elector who applies to register to vote pursuant to this section the opportunity to do so;~~

~~(b) Prescribe the contents of any forms or paper applications which the Department is required to distribute pursuant to this section; and~~

~~(c) Provide for the transfer of the completed paper applications of preregistration or registration from the Department to the appropriate county clerk [for inclusion in the rosters and registrar of voters' register.] (Deleted by amendment.)~~

Sec. 62. ~~[NRS 293.524 is hereby amended to read as follows:~~

~~293.524 1. Except as otherwise provided in this section [1, the]:~~

~~(a) The Department of Motor Vehicles shall provide a paper application to preregister or register to vote to each person who:~~

~~[(a)] (1) Applies for the issuance or renewal of any type of driver's license or identification card issued by the Department; and~~

~~[(b)] (2) Does not apply to preregister or register to vote pursuant to section 4 of this act.~~

~~(b) Each voter registration agency other than the Department of Motor Vehicles shall provide a paper application to preregister or register to vote to each person who:~~

~~(1) Applies for or receives services or assistance from the agency; and~~

~~(2) Does not apply to preregister or register to vote pursuant to section 6 of this act.~~

~~2. The county clerk shall use the applications to preregister or register to vote which are signed and completed pursuant to subsection 1 to preregister or register applicants to vote or to correct information in a person's previous application to preregister or the registrar of voters' register. A paper application that is not signed must not be used to preregister or register or correct the preregistration or registration of the applicant.~~

~~3. For the purposes of this section, each employee specifically authorized to do so [by the Director of the Department] may oversee the completion of a paper application. The authorized employee shall check the paper application for completeness and verify the information required by the paper application. Each paper application must include a duplicate copy or receipt~~

~~to be retained by the applicant upon completion of the form. [The Department] **A voter registration agency** shall, except as otherwise provided in this subsection, forward each paper application on a weekly basis to the county clerk or, if applicable, to the registrar of voters of the county in which the applicant resides. The paper applications must be forwarded daily during the 2 weeks immediately preceding the fifth Sunday preceding an election.~~

~~4. [The Department] **A voter registration agency** is not required to provide a paper application to preregister or register to vote pursuant to subsection 1 to a person who declines to apply to preregister or register to vote pursuant to this section and submits to the [Department] **voter registration agency** a written form that meets the requirements of 52 U.S.C. § 20506(a)(6). Information related to the declination to apply to preregister or register to vote must not be used for any purpose other than voter registration.~~

~~5. The county clerk shall accept any paper application to:~~

~~(a) Preregister to vote at any time.~~

~~(b) Register to vote which is obtained from [the Department of Motor Vehicles] **a voter registration agency** pursuant to this section and completed by the fifth Sunday preceding an election if the county clerk receives the paper application not later than 5 days after that date.~~

~~6. Upon receipt of a paper application, the county clerk or field registrar of voters shall determine whether the paper application is complete. If the county clerk or field registrar of voters determines that the paper application is complete, he or she shall notify the applicant and the applicant shall be deemed to be preregistered or registered as of the date of the submission of the paper application. If the county clerk or field registrar of voters determines that the paper application is not complete, he or she shall notify the applicant of the additional information required. The applicant shall be deemed to be preregistered or registered as of the date of the initial submission of the paper application if the additional information is provided within 15 days after the notice for the additional information is mailed. If the applicant has not provided the additional information within 15 days after the notice for the additional information is mailed, the incomplete paper application is void. Any notification required by this subsection must be given by mail at the mailing address on the paper application not more than 7 working days after the determination is made concerning whether the paper application is complete.~~

~~7. The county clerk shall use any form submitted to [the Department to correct information on a driver's license or identification card] **a voter registration agency** to correct information on a previous application to preregister or in the registrar of voters' register, unless the person indicates on the form that the correction is not to be used for the purposes of voter preregistration or registration. [The Department] **A voter registration agency** shall forward each such form to the county clerk or, if applicable, to the registrar of voters of the county in which the person resides in the same~~

~~manner provided by subsection 3 for paper applications to preregister or register to vote.~~

~~8. Upon receipt of a form to correct information, the county clerk shall compare the information to that contained in the application to preregister to vote or the registrar of voters' register, as applicable. The county clerk shall correct the information to reflect any changes indicated on the form. After making any changes, the county clerk shall notify the person by mail that the records have been corrected.~~

~~9. The Secretary of State shall [, with the approval of the Director,] adopt regulations to:~~

~~(a) Establish any procedure necessary to provide a person who applies to preregister to vote or an elector who applies to register to vote pursuant to this section the opportunity to do so;~~

~~(b) Prescribe the contents of any forms or paper applications which [the Department] a voter registration agency is required to distribute pursuant to this section; and~~

~~(c) Provide for the transfer of the completed paper applications of preregistration or registration from the [Department] voter registration agency to the appropriate county clerk. (Deleted by amendment.)~~

Sec. 63. ~~[NRS 293.527 is hereby amended to read as follows:~~

~~293.527 When a person moves to another county and preregisters to vote therein, or an elector moves to another county and registers to vote therein, the county clerk of the county where the person or elector has moved shall send a cancellation notice to the clerk of the county in which the person or elector previously resided. The county clerk receiving such a notice shall cancel the preregistration or registration of the person or elector and place it in a cancelled file.] (Deleted by amendment.)~~

Sec. 64. ~~[NRS 293.530 is hereby amended to read as follows:~~

~~293.530 1. Except as otherwise provided in NRS 293.541:~~

~~[1.] (a) County clerks may use any reliable and reasonable means available to correct the portions of the statewide voter registration list which are relevant to the county clerks and to determine whether a registered voter's current residence is other than that indicated on the voter's application to register to vote.~~

~~[2.] (b) A county clerk may, with the consent of the board of county commissioners, make investigations of registration in the county by census, by house to house canvass or by any other method.~~

~~[3.] (c) A county clerk shall cancel the registration of a voter pursuant to this [section] subsection if:~~

~~[(a)] (1) The county clerk mails a written notice to the voter which the United States Postal Service is required to forward;~~

~~[(b)] (2) The county clerk mails a return postcard with the notice which has a place for the voter to write his or her new address, is addressed to the county clerk and has postage guaranteed;~~

~~[(c)] (3) The voter does not respond; and~~

~~— [(d)] (4) The voter does not appear to vote in an election before the polls have closed in the second general election following the date of the notice.~~

~~— [4.] (d) For the purposes of this [section,] subsection, the date of the notice is deemed to be 3 days after it is mailed.~~

~~— [5.] (e) The county clerk shall maintain records of:~~

~~— [(a)] (1) Any notice mailed pursuant to [subsection 3;~~

~~— (b)] paragraph (c);~~

~~— (2) Any response to such notice; and~~

~~— [(c)] (3) Whether a person to whom a notice is mailed appears to vote in an election;~~

~~— for not less than 2 years after creation.~~

~~— [6.] (f) The county clerk shall use any postcards which are returned to correct the portions of the statewide voter registration list which are relevant to the county clerk.~~

~~— [7.] (g) If a voter fails to return the postcard mailed pursuant to [subsection 3] paragraph (c) within 30 days, the county clerk shall designate the voter as inactive on the voter's application to register to vote.~~

~~— [8.] (h) The Secretary of State shall adopt regulations to prescribe the method for maintaining a list of voters who have been designated as inactive pursuant to [subsection 7.] paragraph (g).~~

~~— (i) If:~~

~~— (1) The name of a voter is added to the statewide voter registration list pursuant to section 6 of this act; or~~

~~— (2) The voter registration information of a voter whose name is on the statewide voter registration list is updated pursuant to section 6 of this act, the county clerk shall provide written notice of the addition or change to the voter not later than 5 working days after the addition or change is made. Except as otherwise provided in this paragraph, the notice must be mailed to the current residence of the voter. The county clerk may send the notice by electronic mail if the voter confirms the validity of the electronic mail address to which the notice will be sent by responding to a confirmation inquiry sent to that electronic mail address. Such a confirmation inquiry must be sent for each notice sent pursuant to this paragraph.~~

~~— 2. A county clerk is not required to take any action pursuant to this section in relation to a person who preregisters to vote until the person is deemed to be registered to vote pursuant to section 9 of this act. (Deleted by amendment.)~~

Sec. 65. [NRS 293.535 is hereby amended to read as follows:

~~— 293.535 1. The county clerk shall notify a registrant if any elector or other reliable person files an affidavit with the county clerk stating that:~~

~~— (a) The registrant is not a citizen of the United States; or~~

~~— (b) The registrant has:~~

~~— (1) Moved outside the boundaries of the county where he or she is registered to another county, state, territory or foreign country, with the~~

~~intention of remaining there for an indefinite time and with the intention of abandoning his or her residence in the county where registered; and~~

~~— (2) Established residence in some other state, territory or foreign country, or in some other county of this state, naming the place.~~

~~➔ The affiant must state that he or she has personal knowledge of the facts set forth in the affidavit.~~

~~— 2. Upon the filing of an affidavit pursuant to paragraph (b) of subsection 1, the county clerk shall notify the registrant in the manner set forth in NRS 293.530 and shall enclose a copy of the affidavit. If the registrant fails to respond or appear to vote within the required time, the county clerk shall cancel the registration.~~

~~— 3. An affidavit filed pursuant to paragraph (a) of subsection 1 must be filed not later than 30 days before an election. Upon the filing of such an affidavit, the county clerk shall notify the registrant by registered or certified mail, return receipt requested, of the filing of the affidavit, and shall enclose a copy of the affidavit. Unless the registrant, within 15 days after the return receipt has been filed in the office of the county clerk, presents satisfactory proof of citizenship, the county clerk shall cancel the registration.~~

~~— 4. The provisions of this section do not prevent the challenge provided for in NRS 293.303 or 293C.292.~~

~~— 5. A county clerk is not required to take any action pursuant to this section in relation to a person who is preregistered to vote until the person is deemed to be registered to vote pursuant to section 9 of this act. (Deleted by amendment.)~~

Sec. 66. [NRS 293.537 is hereby amended to read as follows:

~~293.537 1. The county clerk of each county shall maintain [a]:~~

~~— (a) A file of the applications to preregister to vote of persons who have cancelled their preregistration; and~~

~~— (b) A file of the applications to register to vote of electors who have cancelled their registration.~~

~~➔ The [file] files must be kept in alphabetical order. The county clerk shall mark the applications “Cancelled,” and indicate thereon the reason for cancellation.~~

~~— 2. If the county clerk finds that the preregistration of a person was cancelled erroneously, the county clerk shall reinstate the person’s application to preregister to vote.~~

~~— 3. If the county clerk finds that the registration of an elector was cancelled erroneously, the county clerk shall reregister the elector or on election day allow the elector whose registration was erroneously cancelled to vote pursuant to NRS 293.304, 293.525, 293C.295 or 293C.525.~~

~~— [2.] 4. The county clerk may:~~

~~— (a) Microfilm the applications to preregister or register to vote of a person or an elector who cancels his or her preregistration or registration, as applicable, and destroy the originals at any time.~~

~~—(b) Record cancelled applications to preregister or register to vote by computer and destroy the originals at any time.~~

~~—(c) Destroy any application to preregister or register to vote of a person or an elector who cancels his or her preregistration or registration, as applicable, after the expiration of 3 years after the date of cancellation.]~~
(Deleted by amendment.)

Sec. 67. ~~[NRS 293.540 is hereby amended to read as follows:~~

~~293.540 1. The county clerk shall cancel the preregistration of a person:~~

~~—(a) If the county clerk has personal knowledge of the death of the person or if an authenticated certificate of the death of the person is filed in the county clerk's office.~~

~~—(b) At the request of the person.~~

~~—(c) If the county clerk has discovered an incorrect preregistration pursuant to the provisions of NRS 293.5235 and the person has failed to respond within the required time.~~

~~—(d) As required by NRS 293.541.~~

~~—(e) Upon verification that the application to preregister to vote is a duplicate if the county clerk has the original or another duplicate of the application on file in the county clerk's office.~~

~~2. The county clerk shall cancel the registration [:] of a person:~~

~~—[1.] (a) If the county clerk has personal knowledge of the death of the person [registered,] or if an authenticated certificate of the death of [any elector] the person is filed in the county clerk's office.~~

~~—[2.] (b) If the county clerk is provided a certified copy of a court order stating that the court specifically finds by clear and convincing evidence that the person [registered] lacks the mental capacity to vote because he or she cannot communicate, with or without accommodations, a specific desire to participate in the voting process.~~

~~—[3.] (c) Upon the determination that the person [registered] has been convicted of a felony unless:~~

~~—[(a)] (1) If the person [registered] was convicted of a felony in this State, the right to vote of the person has been restored pursuant to the provisions of NRS 213.090, 213.155 or 213.157.~~

~~—[(b)] (2) If the person [registered] was convicted of a felony in another state, the right to vote of the person has been restored pursuant to the laws of the state in which the person was convicted.~~

~~—[4.] (d) Upon the production of a certified copy of the judgment of any court directing the cancellation to be made.~~

~~—[5.] (e) Upon the request of any registered voter to affiliate with any political party or to change affiliation, if that change is made before the end of the last day to register to vote in the election.~~

~~—[6.] (f) At the request of the person . [registered.]~~

~~7.] (g) If the county clerk has discovered an incorrect registration pursuant to the provisions of NRS 293.5235, 293.530 or 293.535 and the elector has failed to respond or appear to vote within the required time.~~

~~[8.] (h) As required by NRS 293.541.~~

~~[9.] (i) Upon verification that the application to register to vote is a duplicate if the county clerk has the original or another duplicate of the application on file in the county clerk's office.] (Deleted by amendment.)~~

Sec. 68. ~~[NRS 293.541 is hereby amended to read as follows:~~

~~293.541 1. The county clerk shall cancel the **preregistration of a person or the** registration of a voter if:~~

~~(a) After consultation with the district attorney, the district attorney determines that there is probable cause to believe that information in the [registration] **application to preregister or register to vote** concerning the identity or residence of the **person or** voter is fraudulent;~~

~~(b) The county clerk provides a notice as required pursuant to subsection 2 or executes an affidavit of cancellation pursuant to subsection 3; and~~

~~(c) The **person or** voter fails to present satisfactory proof of identity and residence pursuant to subsection 2, 4 or 5.~~

~~2. Except as otherwise provided in subsection 3, the county clerk shall notify the **person or** voter by registered or certified mail, return receipt requested, of a determination made pursuant to subsection 1. The notice must set forth the grounds for cancellation. Unless the **person or** voter, within 15 days after the return receipt has been filed in the office of the county clerk, presents satisfactory proof of identity and residence to the county clerk, the county clerk shall cancel the **person's preregistration or the** voter's registration [.] , as applicable.~~

~~3. If insufficient time exists before a pending election to provide the notice required by subsection 2 [.] to a **registered voter**, the county clerk shall execute an affidavit of cancellation and [file].~~

~~(a) **File** the affidavit of cancellation with the registrar of voters' register; and [;~~

~~(a) In counties where records of registration are not kept by computer, the county clerk shall attach a copy of the affidavit of cancellation in the roster.~~

~~(b) In counties where records of registration are kept by computer, the county clerk shall have [;~~

~~(b) **Have** the affidavit of cancellation printed on the computer entry for the registration and add a copy of it to the roster.~~

~~4. If a voter appears to vote at the election next following the date that an affidavit of cancellation was executed for the voter pursuant to this section, the voter must be allowed to vote only if the voter furnishes:~~

~~(a) Official identification which contains a photograph of the voter, including, without limitation, a driver's license or other official document; and~~

~~— (b) Satisfactory identification that contains proof of the address at which the voter actually resides and that address is consistent with the address listed on the roster.~~

~~— 5. If a determination is made pursuant to subsection 1 concerning information in the registration to vote of a voter and an absent ballot or a ballot voted by a voter who resides in a mailing precinct is received from the voter, the ballot must be kept separate from other ballots and must not be counted unless the voter presents satisfactory proof to the county clerk of identity and residence before such ballots are counted on election day.~~

~~— 6. For the purposes of this section, a voter registration card issued pursuant to NRS 293.517 does not provide proof of the:~~

- ~~— (a) Address at which a person actually resides; or~~
- ~~— (b) Residence or identity of a person. **(Deleted by amendment.)**~~

Sec. 69. ~~[NRS 293.543 is hereby amended to read as follows:~~

~~293.543 1. If the registration of an elector is cancelled pursuant to **paragraph (b) of** subsection 2 of NRS 293.540, the county clerk shall reregister the elector upon notice from the clerk of the district court that the elector has been found by the district court to have the mental capacity to vote. The court must include the finding in a court order and, not later than 30 days after issuing the order, provide a certified copy of the order to the county clerk of the county in which the person is a resident and to the Office of the Secretary of State.~~

~~— 2. If the registration of an elector is cancelled pursuant to **paragraph (c) of** subsection [3] 2 of NRS 293.540, the elector may reregister after presenting satisfactory evidence which demonstrates that the elector's:~~

- ~~— (a) Conviction has been overturned; or~~
- ~~— (b) Civil rights have been restored;~~

~~— (1) If the elector was convicted in this State, pursuant to the provisions of NRS 213.090, 213.155 or 213.157;~~

~~— (2) If the elector was convicted in another state, pursuant to the laws of the state in which he or she was convicted.~~

~~— 3. If the registration of an elector is cancelled pursuant to the provisions of **paragraph (e) of** subsection [5] 2 of NRS 293.540, the elector may reregister immediately.~~

~~— 4. If the registration of an elector is cancelled pursuant to the provisions of **paragraph (f) of** subsection [6] 2 of NRS 293.540, after the close of registration for a primary election, the elector may not reregister until after the primary election. **(Deleted by amendment.)**~~

Sec. 70. ~~[NRS 293.547 is hereby amended to read as follows:~~

~~293.547 1. After the 30th day but not later than the 25th day before any election, a written challenge may be filed with the county clerk.~~

~~— 2. A registered voter may file a written challenge if:~~

- ~~— (a) He or she is registered to vote in the same precinct as the person whose right to vote is challenged; and~~

~~—(b) The challenge is based on the personal knowledge of the registered voter.~~

~~—3. The challenge must be signed and verified by the registered voter and name the person whose right to vote is challenged and the ground of the challenge.~~

~~—4. A challenge filed pursuant to this section must not contain the name of more than one person whose right to vote is challenged. The county clerk shall not accept for filing any challenge which contains more than one such name.~~

~~—5. The county clerk shall:~~

~~—(a) File the challenge in the registrar of voters' register and [:~~

~~—(1) In counties where records of registration are not kept by computer, he or she shall attach a copy of the challenge to the challenged registration in the roster.~~

~~—(2) In counties where records of registration are kept by computer,] he or she shall have the challenge printed on the computer entry for the challenged registration and add a copy of it to the roster.~~

~~—(b) Within 5 days after a challenge is filed, mail a notice in the manner set forth in NRS 293.530 to the person whose right to vote has been challenged pursuant to this section informing the person of the challenge. If the person fails to respond or appear to vote within the required time, the county clerk shall cancel the person's registration. A copy of the challenge and information describing how to reregister properly must accompany the notice.~~

~~—(c) Immediately notify the district attorney. A copy of the challenge must accompany the notice.~~

~~—6. Upon receipt of a notice pursuant to this section, the district attorney shall investigate the challenge within 14 days and, if appropriate, cause proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. The court shall give such proceedings priority over other civil matters that are not expressly given priority by law. Upon court order, the county clerk shall cancel the registration of the person whose right to vote has been challenged pursuant to this section.] **(Deleted by amendment.)**~~

Sec. 71. NRS 293.560 is hereby amended to read as follows:

293.560 1. Except as otherwise provided in NRS 293.502, 293D.230 and 293D.300, **and sections 10 and 11 of this act**, registration must close on the third Tuesday preceding any primary or general election and on the third Saturday preceding any recall or special election, except that if a recall or special election is held on the same day as a primary or general election, registration must close on the third Tuesday preceding the day of the elections.

2. For a primary or special election, the office of the county clerk must be open until 7 p.m. during the last 2 days on which registration is open. In a county whose population is less than 100,000, the office of the county clerk

may close at 5 p.m. during the last 2 days before registration closes if approved by the board of county commissioners.

3. For a general election:

(a) In a county whose population is less than 100,000, the office of the county clerk must be open until 7 p.m. during the last 2 days on which registration is open. The office of the county clerk may close at 5 p.m. if approved by the board of county commissioners.

(b) In a county whose population is 100,000 or more, the office of the county clerk must be open during the last 4 days on which registration is open, according to the following schedule:

(1) On weekdays until 9 p.m.; and

(2) A minimum of 8 hours on Saturdays, Sundays and legal holidays.

4. Except for a special election held pursuant to chapter 306 or 350 of NRS:

(a) The county clerk of each county shall cause a notice signed by him or her to be published in a newspaper having a general circulation in the county indicating:

(1) The day and time that registration will be closed; and

(2) If the county clerk has designated a county facility pursuant to NRS 293.5035, the location of that facility.

➡ If no such newspaper is published in the county, the publication may be made in a newspaper of general circulation published in the nearest county in this State.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

5. The offices of the county clerk, a county facility designated pursuant to NRS 293.5035 and other ex officio registrars may remain open on the last Friday in October in each even-numbered year.

6. For the period beginning on the fifth Sunday preceding any primary or general election and ending on the third Tuesday preceding any primary or general election, an elector may register to vote only:

(a) By appearing in person at the office of the county clerk or, if open, a county facility designated pursuant to NRS 293.5035; or

(b) By computer, ~~using the system established by the Secretary of State pursuant to section 8 of this act or the system established by the county clerk,~~ if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register voters.

7. A county facility designated pursuant to NRS 293.5035 may be open during the periods described in this section for such hours of operation as the county clerk may determine, as set forth in subsection 3 of NRS 293.5035.

Sec. 72. NRS 293.563 is hereby amended to read as follows:

293.563 1. During the interval between the closing of registration and the election, the county clerk shall prepare for ~~each~~ :

(a) **Each** polling place a roster containing the registered voters eligible to vote at the polling place.

(b) Each polling place established pursuant to section 9.2 of this act, if any, a roster containing the registered voters eligible to vote in the county.

(c) Each polling place designated pursuant to section 10 of this act, if any, a roster designated for electors who register to vote during the period for early voting pursuant to that section.

~~((e))~~ (d) Each polling place designated pursuant to section 11 of this act, if any, a roster designated for electors who register to vote on the day of the election pursuant to that section.

2. The ~~roster~~ **rosters** must be delivered or caused to be delivered by the county or city clerk to an election board officer of the proper polling place before the opening of the polls.

Sec. 72.5. NRS 293.565 is hereby amended to read as follows:

293.565 1. Except as otherwise provided in subsection 3, sample ballots must include:

(a) If applicable, the statement required by NRS 293.267;

(b) The fiscal note or description of anticipated financial effect, as provided pursuant to NRS 218D.810, 293.250, 293.481, 295.015, 295.095 or 295.230 for each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(c) An explanation, as provided pursuant to NRS 218D.810, 293.250, 293.481, 295.121 or 295.230, of each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(d) Arguments for and against each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question, and rebuttals to each argument, as provided pursuant to NRS 218D.810, 293.250, 293.252 or 295.121; and

(e) The full text of each proposed constitutional amendment.

2. If, pursuant to the provisions of NRS 293.2565, the word “Incumbent” must appear on the ballot next to the name of the candidate who is the incumbent, the word “Incumbent” must appear on the sample ballot next to the name of the candidate who is the incumbent.

3. Sample ballots that are mailed to registered voters may be printed without the full text of each proposed constitutional amendment if:

(a) The cost of printing the sample ballots would be significantly reduced if the full text of each proposed constitutional amendment were not included;

(b) The county clerk ensures that a sample ballot that includes the full text of each proposed constitutional amendment is provided at no charge to each registered voter who requests such a sample ballot; and

(c) The sample ballots provided to each polling place include the full text of each proposed constitutional amendment.

4. A county clerk may establish a system for distributing sample ballots by electronic means to each registered voter who elects to receive a sample ballot by electronic means. Such a system may include, without limitation,

electronic mail or electronic access through an Internet website. If a county clerk establishes such a system and a registered voter elects to receive a sample ballot by electronic means, the county clerk shall distribute the sample ballot to the registered voter by electronic means pursuant to the procedures and requirements set forth by regulations adopted by the Secretary of State.

5. If a registered voter does not elect to receive a sample ballot by electronic means pursuant to subsection 4, the county clerk shall distribute the sample ballot to the registered voter by mail.

6. Before the period for early voting for any election begins, the county clerk shall distribute to each registered voter in the county by mail or electronic means, as applicable, the sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place. ~~It~~ **or places.** If the location of the polling place **or places** has changed since the last election:

(a) The county clerk shall mail a notice of the change to each registered voter in the county not sooner than 10 days before distributing the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE **OR PLACES**
HAS CHANGED SINCE THE LAST ELECTION

7. Except as otherwise provided in subsection 8, a sample ballot required to be distributed pursuant to this section must:

(a) Be prepared in at least 12-point type; and

(b) Include on the front page, in a separate box created by bold lines, a notice prepared in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN
LARGE TYPE, CALL (Insert appropriate telephone number)

8. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

9. The sample ballot distributed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be prepared in at least 14-point type, or larger when practicable.

10. If a person requests a sample ballot in large type, the county clerk shall ensure that all future sample ballots distributed to that person from the county are in large type.

11. The county clerk shall include in each sample ballot a statement indicating that the county clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his

or her polling place or places and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the county clerk has provided pursuant to subsection 4 of NRS 293.2955 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the county clerk shall include in the sample ballot a statement indicating:

- (a) The addresses of such centralized voting locations;
- (b) The types of specially equipped voting devices available at such centralized voting locations; and
- (c) That a voter who is elderly or disabled may cast his or her ballot at such a centralized voting location rather than at his or her regularly designated polling place ~~14~~ or places.

12. The cost of distributing sample ballots for any election other than a primary or general election must be borne by the political subdivision holding the election.

Sec. 73. ~~NRS 293.675 is hereby amended to read as follows:~~
~~293.675 1. The Secretary of State shall establish and maintain an official statewide voter registration list, which may be maintained on the Internet, in consultation with each county and city clerk.~~
~~2. The statewide voter registration list must:~~
~~(a) Be a uniform, centralized and interactive computerized list;~~
~~(b) Serve as the single method for storing and managing the official list of registered voters in this State;~~
~~(c) Serve as the official list of registered voters for the conduct of all elections in this State;~~
~~(d) Contain the name and registration information of every legally registered voter in this State;~~
~~(e) Include a unique identifier assigned by the Secretary of State to each legally registered voter in this State;~~
~~(f) Except as otherwise provided in subsection 6, be coordinated with the appropriate databases of other agencies in this State;~~
~~(g) Be electronically accessible to each state and local election official in this State at all times;~~
~~(h) Except as otherwise provided in subsection 7, allow for data to be shared with other states under certain circumstances; and~~
~~(i) Be regularly maintained to ensure the integrity of the registration process and the election process.~~
~~3. Each county and city clerk shall:~~
~~(a) [Electronically] Except for information related to the preregistration of persons to vote, electronically enter into the statewide voter registration list all information related to voter registration obtained by the county or city clerk at the time the information is provided to the county or city clerk; and~~
~~(b) Provide the Secretary of State with information concerning the voter registration of the county or city and other reasonable information requested~~

~~by the Secretary of State in the form required by the Secretary of State to establish or maintain the statewide voter registration list.~~

~~4. In establishing and maintaining the statewide voter registration list, the Secretary of State shall enter into a cooperative agreement with the Department of Motor Vehicles to match information in the database of the statewide voter registration list with information in the appropriate database of the Department of Motor Vehicles to verify the accuracy of the information in an application to register to vote.~~

~~5. The Department of Motor Vehicles shall enter into an agreement with the Social Security Administration pursuant to 42 U.S.C. § [15483,] 21083, to verify the accuracy of information in an application to register to vote.~~

~~6. Except as otherwise provided in NRS 481.063 or any provision of law providing for the confidentiality of information, the Secretary of State may enter into an agreement with an agency of this State pursuant to which the agency provides to the Secretary of State any information in the possession of the agency that the Secretary of State deems necessary to maintain the statewide voter registration list.~~

~~7. The Secretary of State may:~~

~~(a) Request from the chief officer of elections of another state any information which the Secretary of State deems necessary to maintain the statewide voter registration list; and~~

~~(b) Provide to the chief officer of elections of another state any information which is requested and which the Secretary of State deems necessary for the chief officer of elections of that state to maintain a voter registration list, if the Secretary of State is satisfied that the information provided pursuant to this paragraph will be used only for the maintenance of that voter registration list.] (Deleted by amendment.)~~

Sec. 74. [NRS 293.710 is hereby amended to read as follows:

~~293.710 1. It is unlawful for any person, in connection with any election, petition or **preregistration** or registration of voters, whether acting himself or herself or through another person in his or her behalf, to:~~

~~(a) Use or threaten to use any force, intimidation, coercion, violence, restraint or undue influence;~~

~~(b) Inflict or threaten to inflict any physical or mental injury, damage, harm or loss upon the person or property of another;~~

~~(c) Expose or publish or threaten to expose or publish any fact concerning another in order to induce or compel such other to vote or refrain from voting for any candidate or any question;~~

~~(d) Impede or prevent, by abduction, duress or fraudulent contrivance, the free exercise of the franchise by any voter, or thereby to compel, induce or prevail upon any elector to give or refrain from giving his or her vote; or~~

~~(e) Discharge or change the place of employment of any employee with the intent to impede or prevent the free exercise of the franchise by such employee.~~

~~2. A person who violates a provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.]~~
(Deleted by amendment.)

Sec. 75. NRS 293.730 is hereby amended to read as follows:

293.730 1. A person shall not:

(a) Remain in or outside of any polling place so as to interfere with the conduct of the election.

(b) Except an election board officer, receive from any voter a ballot prepared by the voter.

(c) Remove a ballot from any polling place before the closing of the polls.

(d) Apply for or receive a ballot at any election precinct or district other than ~~the~~ one at which the person is entitled to vote.

(e) Show his or her ballot to any person, after voting, so as to reveal any of the names voted for.

(f) Inside a polling place, ask another person for whom he or she intends to vote.

(g) Except an election board officer, deliver a ballot to a voter.

(h) Except an election board officer in the course of the election board officer's official duties, inside a polling place, ask another person his or her name, address or political affiliation.

2. A voter shall not:

(a) Receive a ballot from any person other than an election board officer.

(b) Deliver to an election board or to any member thereof any ballot other than the one received.

(c) Place any mark upon his or her ballot by which it may afterward be identified as the one voted by the person.

3. Any person who violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 76. NRS 293.790 is hereby amended to read as follows:

293.790 If any person whose vote has been rejected offers to vote at the same election, at any polling place other than ~~the~~ one in which the person is ~~registered~~ **authorized** to vote, such person is guilty of a gross misdemeanor.

Sec. 77. ~~[NRS 293.800 is hereby amended to read as follows:~~

~~293.800 1. A person who, for himself, herself or another person, willfully gives a false answer or answers to questions propounded to the person by the registrar or field registrar of voters relating to the information called for by the application to register to vote, or who willfully falsifies the application in any particular, or who violates any of the provisions of the election laws of this State or knowingly encourages another person to violate those laws is guilty of a category E felony and shall be punished as provided in NRS 193.130.~~

~~2. A public officer or other person, upon whom any duty is imposed by this title, who willfully neglects his or her duty or willfully performs it in such a way as to hinder the objects and purposes of the election laws of this~~

~~State, except where another penalty is provided, is guilty of a category E felony and shall be punished as provided in NRS 193.130.~~

~~3. If the person is a public officer, his or her office is forfeited upon conviction of any offense provided for in subsection 2.~~

~~4. [A] Except as otherwise provided in this subsection, a person who causes or endeavors to cause his or her name to be registered, knowing that he or she is not an elector or will not be an elector on or before the day of the next ensuing election in the precinct or district in which he or she causes or endeavors to cause the registration to be made, and any other person who induces, aids or abets the person in the commission of either of the acts is guilty of a category E felony and shall be punished as provided in NRS 193.130. The provisions of this subsection do not apply to a person who preregisters to vote.~~

~~5. A field registrar or other person who provides to an elector an application to register to vote and who:~~

~~(a) Knowingly falsifies the application or knowingly causes an application to be falsified;~~

~~(b) Knowingly provides money or other compensation to another for a falsified application; or~~

~~(c) Intentionally fails to submit to the county clerk a completed application,~~

~~is guilty of a category E felony and shall be punished as provided in NRS 193.130.] (Deleted by amendment.)~~

Sec. 78. [NRS 293.805 is hereby amended to read as follows:

~~293.805 1. It is unlawful for a person to provide compensation for preregistering or registering voters that is based upon:~~

~~(a) The total number of persons or voters a person preregisters or registers; or~~

~~(b) The total number of persons or voters a person preregisters or registers in a particular political party.~~

~~2. A person who violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.] (Deleted by amendment.)~~

Sec. 79. [NRS 293.810 is hereby amended to read as follows:

~~293.810 It is unlawful for any person to be preregistered to vote or registered as a voter in more than one county at one time.] (Deleted by amendment.)~~

Sec. 80. Chapter 293C of NRS is hereby amended by adding thereto the provisions set forth as sections ~~81 and~~ **80.2 to 82 , inclusive**, of this act.

Sec. 80.2. 1. A city clerk may establish one or more polling places in the city where any person entitled to vote in the city by personal appearance may do so on the day of the primary city election or general city election.

2. Any person entitled to vote in the city by personal appearance may do so at any polling place established pursuant to subsection 1.

Sec. 80.4. 1. Except as otherwise provided in subsection 2, if a city clerk establishes one or more polling places pursuant to section 80.2 of this act, the city clerk must:

(a) Publish during the week before the election in a newspaper of general circulation a notice of the location of each such polling place.

(b) Post a list of the location of each such polling place on any bulletin board used for posting notice of meetings of the governing body of the city. The list must be posted continuously for a period beginning not later than the fifth business day before the election and ending at 7 p.m. on the day of the election. The city clerk shall make copies of the list available to the public during the period of posting in reasonable quantities without charge.

2. The provisions of subsection 1 do not apply if every polling place in the city is a polling place where any person entitled to vote in the city by personal appearance may do so on the day of the primary city election or general city election.

3. No additional polling place may be established pursuant to section 80.2 of this act after the publication pursuant to this section, except in the case of an emergency and if approved by the Secretary of State.

Sec. 80.6. 1. For each polling place established pursuant to section 80.2 of this act, if any, the city clerk shall prepare a roster that contains, for every registered voter in the city, the voter's name, the address where he or she is registered to vote, his or her voter identification number, the voter's precinct or district number and the voter's signature.

2. The roster must be delivered or caused to be delivered by the city clerk to an election board officer of the proper polling place before the opening of the polls.

Sec. 80.8. 1. Except as otherwise provided in NRS 293C.272, upon the appearance of a person to cast a ballot at a polling place established pursuant to section 80.2 of this act, the election board officer shall:

(a) Determine that the person is a registered voter in the city.

(b) Instruct the voter to sign the roster.

(c) Verify the signature of the voter in the manner set forth in NRS 293C.270.

(d) Verify that the voter has not already voted in the current election.

2. If the signature of the voter does not match, the voter must be identified by:

(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or

(c) Providing the election board officer with proof of identification as described in NRS 293C.270 other than the card issued to the voter at the time he or she registered to vote.

3. If the signature of the voter has changed in comparison to the signature on the application to register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

4. The city clerk shall prescribe a procedure, approved by the Secretary of State, to verify that the voter has not already voted in the current election.

5. When a voter is entitled to cast a ballot and has identified himself or herself to the satisfaction of the election board officer, the voter is entitled to receive the appropriate ballot or ballots, but only for his or her own use at the polling place where he or she applies to vote.

6. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the election board officer shall:

(a) Prepare the mechanical recording device for the voter;

(b) Ensure that the voter's precinct or voting district and the form of the ballot are indicated on the voting receipt, if the city clerk uses voting receipts; and

(c) Allow the voter to cast a vote.

7. A voter applying to vote at a polling place established pursuant to section 80.2 of this act may be challenged pursuant to NRS 293.303

Sec. 81. 1. Except as otherwise provided in subsection 8, ~~each~~ if the governing body of a city determines, in consultation with the city clerk, that the city clerk has the necessary technology and resources so that electors of the city may register to vote during the period for early voting by personal appearance in a way that ensures the integrity of the registration process and the election process, the city clerk ~~shall~~ must designate one or more permanent polling places for early voting by personal appearance in the city as a site for an elector of the city to register to vote.

2. An elector who is not registered to vote by the close of registration may register to vote during the period for early voting at any polling place designated pursuant to subsection 1 by the city clerk of the city where the elector resides.

3. To register to vote during the period for early voting, an elector must:

(a) Appear before the close of the polls at a polling place designated by the city clerk pursuant to subsection 1 as a site for registering to vote during the period for early voting;

(b) Complete the application to register to vote; and

(c) Provide proof of his or her residence and identity as described in subsections 4 and 5.

4. The following forms of identification may be used:

(a) A driver's license;

(b) An identification card issued by the Department of Motor Vehicles;

(c) A military identification card; or

(d) Any other form of identification issued by a governmental agency which contains the signature and a physical description or picture of the elector.

5. The following documents may be used to establish the residency of an elector if the current residential address of the elector, as indicated on his or her application to register to vote, is displayed on the document:

- (a) Any form of identification set forth in subsection 4;
- (b) A utility bill, including, without limitation, a bill for electric, gas, oil, water, sewer, septic, telephone, cellular telephone or cable television service;
- (c) A bank or credit union statement;
- (d) A paycheck;
- (e) An income tax return;
- (f) A statement concerning the mortgage, rental or lease of a residence;
- (g) A motor vehicle registration;
- (h) A property tax statement;
- (i) Any other document issued by a governmental agency; or
- (j) Any other official document which the city clerk or other person designated by the city clerk to accept applications to register to vote pursuant to this section determines, in his or her discretion, to be a reliable indication of the true residential address of the elector.

6. An elector who registers to vote pursuant to this section shall be deemed to be registered upon the completion of an application to register to vote and the verification of his or her identity and residency.

7. An elector who registers to vote pursuant to this section:

- (a) May vote during the period for early voting only at the polling place for early voting at which the elector registers to vote; and
- (b) If the elector applies to vote at the polling place for early voting at which he or she registers to vote, must sign his or her name in a roster provided by the city clerk and designated for electors who register to vote pursuant to this section.

8. The provisions of this section do not apply to a city election in which all ballots must be cast by mail pursuant to NRS 293C.112.

Sec. 82. 1. Except as otherwise provided in subsection 8, ~~each~~ if the governing body of a city determines, in consultation with the city clerk, that the county clerk has the necessary technology and resources so that electors of the city may register to vote on the day of a primary city election or general city election in a way that ensures the integrity of the registration process and the election process, the city clerk ~~shall~~ must:

(a) Designate one or more polling places in the city as a site for an elector of the city to register to vote on the day of a primary city election or general city election.

(b) Unless every polling place in the city is designated as a site for an elector of the city to register to vote on the day of a primary city election or general city election:

(1) Publish during the week before the election in a newspaper of general circulation a notice of the location of each polling place in the city that has been established pursuant to paragraph (a).

~~((e))~~ (2) Post a list of the locations established pursuant to paragraph (a) on any bulletin board used for posting notice of meetings of the governing body of the city. The list must be posted continuously for a period beginning not later than the fifth business day before the election and ending at 7 p.m. on the day of the election. The city clerk shall make copies of the list available to the public during the period of posting in a reasonable quantity without charge.

2. An elector who is not registered to vote by the close of registration may register to vote on the day of the primary city election or general city election at any polling place designated pursuant to subsection 1 by the city clerk of the city where the elector resides.

3. To register to vote on the day of the primary city election or general city election, an elector must:

(a) Appear before the close of the polls at a polling place designated by the city clerk pursuant to subsection 1 as a site for registering to vote on the day of the election;

(b) Complete the application to register to vote; and

(c) Provide proof of his or her residence and identity as described in subsections 4 and 5.

4. The following forms of identification may be used to identify an elector applying to register to vote pursuant to this section:

(a) A driver's license;

(b) An identification card issued by the Department of Motor Vehicles;

(c) A military identification card; or

(d) Any other form of identification issued by a governmental agency which contains the signature and a physical description or picture of the elector.

5. The following documents may be used to establish the residency of an elector if the current residential address of the elector, as indicated on his or her application to register to vote, is displayed on the document:

(a) Any form of identification set forth in subsection 4;

(b) A utility bill, including, without limitation, a bill for electric, gas, oil, water, sewer, septic, telephone, cellular telephone or cable television service;

(c) A bank or credit union statement;

(d) A paycheck;

(e) An income tax return;

(f) A statement concerning the mortgage, rental or lease of a residence;

(g) A motor vehicle registration;

(h) A property tax statement;

(i) Any other document issued by a governmental agency; or

(j) Any other official document which the city clerk or other person designated by the city clerk to accept applications to register to vote pursuant to this section determines, in his or her discretion, to be a reliable indication of the true residential address of the elector.

6. An elector who registers pursuant to this section shall be deemed to be registered to vote upon the completion of an application to register to vote and the verification of his or her identity and residency.

7. An elector who registers to vote pursuant to this section:

(a) May vote in the primary city election or general city election only at the polling place at which the elector registers to vote or changes his or her address, as applicable; and

(b) If the elector applies to vote at the polling place at which he or she registers to vote, must sign his or her name in the roster designated for electors who register to vote pursuant to this section.

8. The provisions of this section do not apply to a city election in which all ballots must be cast by mail pursuant to NRS 293C.112.

Sec. 83. 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 81 of this act;**

(2) Voting by absent ballot in person in a city election pursuant to NRS 293C.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. 84. 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, **and** ~~section~~ **sections 80.2 to 80.8, inclusive, and 82 of this act,** 293C.305 to

293C.340, inclusive, and 293C.355 to 293C.361, inclusive, **and section 81 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. 85. ~~NRS 293C.240 is hereby amended to read as follows:~~

~~293C.240 1. When it appears to the satisfaction of the city clerk that an absent ballot central counting board will expedite the work of tallying the absent ballot vote of the city, the city clerk [may] **shall** appoint such a board. [If the city is located in a county that uses a computer to maintain records of registered voters, the county clerk shall appoint the board.]~~

~~2. In a city where an absent ballot central counting board has been appointed, no central election board may be appointed. The absent ballot central counting board shall perform the duties of the central election board.]~~

(Deleted by amendment.)

Sec. 86. NRS 293C.267 is hereby amended to read as follows:

293C.267 1. Except as otherwise provided in subsection 2 and NRS 293C.297, at all elections held pursuant to the provisions of this chapter, the polls must open at 7 a.m. and close at 7 p.m.

2. Whenever at any election all the votes of the ~~the~~ polling place , as shown on the roster, ~~[not designated pursuant to section 82 of this act as a site for an elector of the city to register to vote on the day of the election]~~ have been cast, ~~as shown by the roster,~~ the election board officers shall close the polls ~~[polling place,]~~ and the counting of votes must begin and continue without unnecessary delay until the count is completed. **The provisions of this subsection do not apply to any polling place established pursuant to section 80.2 of this act or designated pursuant to section 81 or 82 of this act.**

3. Upon opening the polls, one of the election board officers shall cause a proclamation to be made so that all present may be aware of the fact that applications of registered voters to vote will be received.

4. No person other than election board officers engaged in receiving, preparing or depositing ballots may be permitted inside the guardrail during the time the polls are open, except by authority of the election board as necessary to keep order and carry out the provisions of this chapter.

Sec. 87. NRS 293C.270 is hereby amended to read as follows:

293C.270 1. Except as otherwise provided in NRS 293C.272, if a person's name appears in the roster , ~~for~~ if the person provides an affirmation pursuant to NRS 293C.525 ~~[,]~~ **or if the person registered to vote pursuant to section 82 of this act**, the person is entitled to vote and must sign his or her name in the roster when he or she applies to vote. The signature must be compared by an election board officer with the signature or a facsimile thereof on the person's application to register to vote or one of the forms of identification listed in subsection 2.

2. The forms of identification that may be used to identify a voter at the polling place are:

- (a) The card issued to the voter at the time he or she registered to vote ; ~~for was deemed to be registered to vote;~~
- (b) A driver's license;
- (c) An identification card issued by the Department of Motor Vehicles;
- (d) A military identification card; or
- (e) Any other form of identification issued by a governmental agency that contains the voter's signature and physical description or picture.

Sec. 88. ~~NRS 293C.272 is hereby amended to read as follows:~~
~~293C.272 1. If, because of physical limitations, a registered voter is unable to sign his or her name in the roster as required by NRS 293C.270, the voter must be identified by:~~
~~(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;~~
~~(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or~~
~~(c) Providing the election board officer with proof of identification as described in NRS 293C.270 other than the card issued to the voter at the time he or she registered to vote [.] or was deemed to be registered to vote.~~
~~2. If the identity of the voter is verified, the election board officer shall indicate in the roster "Identified" by the voter's name.] (Deleted by amendment.)~~

Sec. 89. NRS 293C.275 is hereby amended to read as follows:

293C.275 1. Except as otherwise provided in NRS 293C.272, a registered voter who applies to vote must state his or her name to the election board officer in charge of the roster, and the officer shall immediately announce the name, instruct the voter to sign the roster , ~~and~~ verify the signature of the voter in the manner set forth in NRS 293C.270. ~~It and verify~~
that the registered voter has not already voted in the current election.

2. If the signature does not match, the voter must be identified by:

- (a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;
- (b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or
- (c) Providing the election board officer with proof of identification as described in NRS 293C.270 other than the card issued to the voter at the time he or she registered to vote , ~~for was deemed to be registered to vote.]~~

3. If the signature of the voter has changed in comparison to the signature on the application to register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

Sec. 90. 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 or when the registered voter 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~~ a polling place ~~at which he or she is entitled to vote.~~

Sec. 91. NRS 293C.297 is hereby amended to read as follows:

293C.297 1. If at the hour of closing the polls there are any ~~registered~~ :

(a) **Registered** voters waiting to vote ~~at~~ ; or

(b) **If the polling place has been designated pursuant to section 82 of this act as a site for an elector of the city to register to vote on the day of the election, persons waiting to register to vote,**

↪ the doors of the polling place must be closed after all those ~~voters~~ **persons** have been admitted to the polling place. Voting must continue until those ~~voters~~ **persons** have voted.

2. The officer appointed by the chief law enforcement officer of the city shall allow other persons to enter the polling place after the doors have been closed to observe or for any other lawful purpose if there is room within the polling place and their admittance will not interfere with the voting ~~at~~ **or voter registration.**

Sec. 92. NRS 293C.355 is hereby amended to read as follows:

293C.355 The provisions of NRS 293C.355 to 293C.361, inclusive, **and section 81 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. 93. NRS 293C.3564 is hereby amended to read as follows:

293C.3564 1. The city clerk ~~may~~ ~~shall~~ establish ~~at least~~ **one or more** permanent polling ~~places~~ ~~place~~ for early voting by personal appearance in the city at the locations selected pursuant to NRS 293C.3561.

2. Any person entitled to vote early by personal appearance may do so at any polling place for early voting.

Sec. 94. NRS 293C.3585 is hereby amended to read as follows:

293C.3585 1. Except as otherwise provided in NRS 293C.272, upon the appearance of a person to cast a ballot for early voting, an election board officer shall:

(a) Determine that the person is a registered voter in the county.

(b) Instruct the voter to sign the roster for early voting ~~[-] or the roster designated for electors who register to vote during the period for early voting pursuant to section 81 of this act.~~

(c) Verify the signature of the voter in the manner set forth in NRS 293C.270.

(d) Verify that the voter has not already voted in the current election . ~~[pursuant to this section.]~~

2. If the signature does not match, the voter must be identified by:

(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or

(c) Providing the election board officer with proof of identification as described in NRS 293C.270 other than the card issued to the voter at the time he or she registered to vote . ~~[or was deemed to be registered to vote.]~~

3. If the signature of the voter has changed in comparison to the signature on the application to register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

4. The city clerk shall prescribe a procedure, approved by the Secretary of State, to verify that the voter has not already voted in the current election . ~~[pursuant to this section.]~~

5. The roster for early voting must contain:

(a) The voter's name, the address where he or she is registered to vote, his or her voter identification number ~~[- a facsimile of the signature of the voter that is from the original application to register to vote]~~ and a place for the voter's signature;

(b) The voter's precinct or voting district number, if that information is available; and

(c) The date of voting early in person.

6. When a voter is entitled to cast a ballot and has identified himself or herself to the satisfaction of the election board officer, 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.

7. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the election board officer shall:

(a) Prepare the mechanical recording device for the voter;

(b) Ensure that the voter's precinct or voting district, if that information is available, 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.

8. A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293C.292.

Sec. 95. 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 : ~~for 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 which identifies the mechanical recording device and the storage device required pursuant to NRS 293B.084;

(3) The number of ballots voted on the mechanical recording device for that day; ~~and~~

(4) The number of signatures in the roster for early voting for that day ~~}; and~~

(5) *The number of signatures in the roster designated for electors who register to vote during early voting pursuant to section 81 of this act, if applicable.*

(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) Indicate the number of ballots on an official statement of ballots; and

(b) Place the storage devices 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 storage devices to the central counting place.

Sec. 96. ~~NRS 293C.389 is hereby amended to read as follows:~~

~~293C.389 The governing body of a city, a city clerk and any other person who prepares an abstract of votes or other report of votes pursuant to this chapter shall not include in that abstract or report a person designated as an inactive voter pursuant to paragraph (g) of subsection 1 of NRS 293.530~~

~~when determining the percentage of voters who have voted or the total number of voters.] (Deleted by amendment.)~~

~~Sec. 97. [NRS 293C.520 is hereby amended to read as follows:~~

~~293C.520 1. The city clerk may designate any building owned or leased by the city, or any portion of such a building, as a municipal facility at which **persons may preregister to vote or** electors may register to vote.~~

~~2. A municipal facility designated pursuant to subsection 1 must be operated as an auxiliary municipal facility at which [voter] **preregistration and registration [is] are** carried out in addition to being carried out at the office of the city clerk.~~

~~3. If the city clerk designates a municipal facility pursuant to subsection 1, the city clerk shall determine the hours of operation for the facility and shall, in cooperation with the Secretary of State, ensure that the facility is operated, staffed and equipped in compliance with all applicable provisions of this title and all other applicable provisions of state and federal law relating to the **preregistration of persons and** registration of electors in this State.] (Deleted by amendment.)~~

~~Sec. 98. NRS 293C.527 is hereby amended to read as follows:~~

~~293C.527 1. Except as otherwise provided in NRS 293.502, 293D.230 and 293D.300, **and sections 81 and 82 of this act**, registration must close on the third Tuesday preceding any primary city election or general city election and on the third Saturday preceding any recall or special election, except that if a recall or special election is held on the same day as a primary city election or general city election, registration must close on the third Tuesday preceding the day of the elections.~~

~~2. For a primary city election or special city election, the office of the city clerk must be open until 7 p.m. during the last 2 days on which registration is open. In a city whose population is less than 25,000, the office of the city clerk may close at 5 p.m. if approved by the governing body of the city.~~

~~3. For a general election:~~

~~(a) In a city whose population is less than 25,000, the office of the city clerk must be open until 7 p.m. during the last 2 days on which registration is open. The office of the city clerk may close at 5 p.m. if approved by the governing body of the city.~~

~~(b) In a city whose population is 25,000 or more, the office of the city clerk must be open during the last 4 days on which registration is open, according to the following schedule:~~

~~(1) On weekdays until 9 p.m.; and~~

~~(2) A minimum of 8 hours on Saturdays, Sundays and legal holidays.~~

~~4. Except for a special election held pursuant to chapter 306 or 350 of NRS:~~

~~(a) The city clerk of each city shall cause a notice signed by him or her to be published in a newspaper having a general circulation in the city indicating:~~

(1) The day and time that registration will be closed; and

(2) If the city clerk has designated a municipal facility pursuant to NRS 293C.520, the location of that facility.

➡ If no newspaper is of general circulation in that city, the publication may be made in a newspaper of general circulation in the nearest city in this State.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

5. For the period beginning on the fifth Sunday preceding any primary city election or general city election and ending on the third Tuesday preceding any primary city election or general city election, an elector may register to vote only:

(a) By appearing in person at the office of the city clerk or, if open, a municipal facility designated pursuant to NRS 293C.520; or

(b) By computer, ~~using the system established by the Secretary of State pursuant to section 8 of this act or the system established by the county clerk of the county in which the city is located,~~ if the county clerk of the county in which the city is located has established a system pursuant to NRS 293.506 for using a computer to register voters.

6. A municipal facility designated pursuant to NRS 293C.520 may be open during the periods described in this section for such hours of operation as the city clerk may determine, as set forth in subsection 3 of NRS 293C.520.

Sec. 98.5. NRS 293C.530 is hereby amended to read as follows:

293C.530 1. A city clerk may establish a system for distributing sample ballots by electronic means to each registered voter who elects to receive a sample ballot by electronic means. Such a system may include, without limitation, electronic mail or electronic access through an Internet website. If a city clerk establishes such a system and a registered voter elects to receive a sample ballot by electronic means, the city clerk shall distribute the sample ballot to the registered voter by electronic means pursuant to the procedures and requirements set forth by regulations adopted by the Secretary of State.

2. If a registered voter does not elect to receive a sample ballot by electronic means pursuant to subsection 1, the city clerk shall distribute the sample ballot to the registered voter by mail.

3. Before the period for early voting for any election begins, the city clerk shall distribute to each registered voter in the city by mail or electronic means, as applicable, the sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place ~~if~~ or places. If the location of the polling place or places has changed since the last election:

(a) The city clerk shall mail a notice of the change to each registered voter in the city not sooner than 10 days before distributing the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE **OR PLACES**
HAS CHANGED SINCE THE LAST ELECTION

4. Except as otherwise provided in subsection 6, a sample ballot required to be distributed pursuant to this section must:

- (a) Be prepared in at least 12-point type;
- (b) Include the description of the anticipated financial effect and explanation of each citywide measure and advisory question, including arguments for and against the measure or question, as required pursuant to NRS 295.205 or 295.217; and
- (c) Include on the front page, in a separate box created by bold lines, a notice prepared in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN
LARGE TYPE, CALL (Insert appropriate telephone number)

5. The word “Incumbent” must appear on the sample ballot next to the name of the candidate who is the incumbent, if required pursuant to NRS 293.2565.

6. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

7. The sample ballot distributed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be prepared in at least 14-point type, or larger when practicable.

8. If a person requests a sample ballot in large type, the city clerk shall ensure that all future sample ballots distributed to that person from the city are in large type.

9. The city clerk shall include in each sample ballot a statement indicating that the city clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place **or places** and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the city clerk has provided pursuant to subsection 4 of NRS 293C.281 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the city clerk shall include in the sample ballot a statement indicating:

- (a) The addresses of such centralized voting locations;
- (b) The types of specially equipped voting devices available at such centralized voting locations; and
- (c) That a voter who is elderly or disabled may cast his or her ballot at such a centralized voting location rather than at the voter’s regularly designated polling place **or places**.

10. The cost of distributing sample ballots for a city election must be borne by the city holding the election.

Sec. 99. NRS 293C.535 is hereby amended to read as follows:

293C.535 1. Except as otherwise provided by special charter, registration of electors in incorporated cities must be accomplished in the manner provided in this chapter.

2. ~~The~~ **Except as otherwise provided in subsection 3, the** county clerk shall use the statewide voter registration list to prepare for the city clerk of each incorporated city within the county the roster of all electors eligible to vote at a regular or special city election.

3. The **city clerk shall prepare for each** :

(a) Each polling place a roster containing the registered voters eligible to vote at the polling place.

(b) Each polling place established pursuant to section 80.2 of this act, if any, a roster containing the registered voters eligible to vote in the city.

(c) Each polling place designated pursuant to:

~~[(a)]~~ **(1) Section 81 of this act , if any, a roster designated for electors who register to vote during the period for early voting pursuant to that section.**

~~[(b)]~~ **(2) Section 82 of this act , if any, a roster designated for electors who register to vote on the day of the city election pursuant to that section.**

4. The rosters must be prepared, one for each ward or other voting district within each incorporated city. The entries in the roster must be arranged alphabetically with the surnames first.

~~[(4)]~~ 5. The county clerk shall keep duplicate originals or copies of the applications to register to vote in the county clerk's office.

Sec. 100. NRS 293C.540 is hereby amended to read as follows:

293C.540 Not later than 3 days before the day on which any regular or special city election is held, the county clerk shall deliver to the city clerk the official ~~register~~ **rosters** for the city.

Sec. 101. NRS 293C.715 is hereby amended to read as follows:

293C.715 1. If a city clerk maintains a website on the Internet for information relating to elections, the website must contain public information maintained, collected or compiled by the city clerk that relates to elections, which must include, without limitation:

(a) The locations of polling places for casting a ballot on election day in such a form that a registered voter may search the list to determine the location of the polling place **or places** at which the registered voter is ~~required~~ **entitled** to cast a ballot; and

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293C.387.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by a city clerk pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by the Secretary of State, a county clerk or another city clerk, the city clerk may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 102. ~~[NRS 293C.720 is hereby amended to read as follows:~~

~~293C.720 Each city clerk is encouraged to:~~

~~1. Not later than the earlier date of the first notice provided pursuant to subsection 4 of NRS 293.560 or NRS 293C.187, notify the public, through means designed to reach members of the public who are elderly or disabled, of the provisions of NRS 293C.281, 293C.282, 293C.310, subsection 1 of NRS 293C.312, NRS 293C.317 and 293C.318.~~

~~2. Provide in alternative audio and visual formats information concerning elections, information concerning how to preregister or register to vote and information concerning the manner of voting for use by a person who is elderly or disabled, including, without limitation, providing such information through a telecommunications device that is accessible to a person who is deaf.~~

~~3. Not later than 5 working days after receiving the request of a person who is elderly or disabled, provide to the person, in a format that can be used by the person, any requested material that is:~~

~~(a) Related to elections; and~~

~~(b) Made available by the city clerk to the public in printed form.]~~

(Deleted by amendment.)

Sec. 103. ~~[NRS 293D.200 is hereby amended to read as follows:~~

~~293D.200 1. The Secretary of State shall make available to covered voters information regarding voter registration procedures for covered voters and procedures for casting military overseas ballots.~~

~~2. The Secretary of State shall establish a system of approved electronic transmission through which covered voters may apply for, receive and send documents and other information pursuant to this chapter. The system of approved electronic transmission must include, without limitation, a method by which a covered voter may provide his or her digital signature or electronic signature on any document or other material that is necessary for the covered voter to register to vote, apply for a military overseas ballot or cast a military overseas ballot pursuant to this chapter.~~

~~3. The Secretary of State shall develop standardized absentee voting materials, including, without limitation, privacy and transmission envelopes and their electronic equivalents, authentication materials and voting instructions, to be used with the military overseas ballot of a covered voter authorized to vote in any jurisdiction in this State and, to the extent reasonably possible, shall do so in coordination with other states.~~

~~4. The Secretary of State shall prescribe the form and content of a declaration for use by a covered voter to swear or affirm specific representations pertaining to the covered voter's identity, eligibility to vote,~~

~~status as a covered voter and timely and proper completion of a military overseas ballot. The declaration must be based on the declaration prescribed to accompany a federal write-in absentee ballot under section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, [42] 52 U.S.C. § [1973ff-2,] 20303 as modified to be consistent with this chapter. The Secretary of State shall ensure that a form for the execution of the declaration, including an indication of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.~~

~~5. The Secretary of State shall prescribe by regulation the duties of a local elections official upon receipt of a military overseas ballot, including, without limitation, the procedures to be used by a local elections official in accepting, handling and counting a military overseas ballot.~~

~~6. The Secretary of State shall prescribe the form and content of an application for a United States citizen who is outside the United States to preregister to vote if:~~

~~(a) The person would have been able to preregister to vote pursuant to section 9 of this act except for the residency requirement; and~~

~~(b) The last place where a parent or legal guardian of the person was, or under this chapter would have been, eligible to vote before leaving the United States is within this State.] (Deleted by amendment.)~~

Sec. 104. ~~[NRS 293D.210 is hereby amended to read as follows:~~

~~293D.210 An overseas voter is eligible to be a covered voter if:~~

~~1. Before leaving the United States, the overseas voter was eligible to vote in this State and, except for the residency requirement, otherwise satisfies this State's voter eligibility requirements;~~

~~2. Before leaving the United States, the overseas voter would have been eligible to vote in this State had the overseas voter then been of voting age and, except for the residency requirement, otherwise satisfies this State's voter eligibility requirements; [or]~~

~~3. [Was] Before leaving the United States, the overseas voter was preregistered to vote as described in section 9 of this act and, except for the residency requirement, otherwise satisfies this State's voter eligibility requirements; or~~

~~4. The overseas voter was born outside the United States and, except for the residency requirement, otherwise satisfies the voter eligibility requirements set forth in NRS 293.485, so long as:~~

~~(a) The last place where a parent or legal guardian of the overseas voter was, or under this chapter would have been, eligible to vote before leaving the United States is within this State; and~~

~~(b) The overseas voter is not registered to vote in any other state.]~~

(Deleted by amendment.)

Sec. 105. ~~[NRS 239.010 is hereby amended to read as follows:~~

~~239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516,~~

~~62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218C.130, 218C.240, 218C.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 524A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, and sections 7 and 9 of this act, sections 25, 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. 106. ~~[NRS 483.290 is hereby amended to read as follows:~~

~~483.290 1. An application for an instruction permit or for a driver's license must:~~

~~(a) Be made upon a form furnished by the Department;~~

~~(b) Be verified by the applicant before a person authorized to administer oaths. Officers and employees of the Department may administer those oaths without charge;~~

~~(c) Be accompanied by the required fee;~~

~~(d) State the full legal name, date of birth, sex, address of principal residence and mailing address, if different from the address of principal residence, of the applicant and briefly describe the applicant;~~

~~(e) State whether the applicant has theretofore been licensed as a driver, and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for the suspension, revocation or refusal;~~

~~(f) Include such other information as the Department may require to determine the competency and eligibility of the applicant;~~

~~2. Every applicant must furnish proof of his or her full legal name and age by displaying:~~

~~(a) An original or certified copy of the required documents as prescribed by regulation; or~~

~~(b) A photo identification card issued by the Department of Corrections pursuant to NRS 209.511;~~

~~3. The Department shall adopt regulations prescribing the documents an applicant may use to furnish proof of his or her full legal name and age to the Department pursuant to paragraph (a) of subsection 2.~~

~~4. At the time of applying for a driver's license, an applicant may, if eligible, preregister or register to vote pursuant to NRS 293.524 [.] or section 4 of this act.~~

~~5. Every applicant who has been assigned a social security number must furnish proof of his or her social security number by displaying:~~

~~(a) An original card issued to the applicant by the Social Security Administration bearing the social security number of the applicant; or~~

~~(b) Other proof acceptable to the Department, including, without limitation, records of employment or federal income tax returns;~~

~~6. The Department may refuse to accept a driver's license issued by another state, the District of Columbia or any territory of the United States if the Department determines that the other state, the District of Columbia or the territory of the United States has less stringent standards than the State of Nevada for the issuance of a driver's license.~~

~~7. With respect to any document presented by a person who was born outside of the United States to prove his or her full legal name and age, the Department:~~

~~— (a) May, if the document has expired, refuse to accept the document or refuse to issue a driver's license to the person presenting the document, or both; and~~

~~— (b) Shall issue to the person presenting the document a driver's license that is valid only during the time the applicant is authorized to stay in the United States, or if there is no definite end to the time the applicant is authorized to stay, the driver's license is valid for 1 year beginning on the date of issuance.~~

~~— 8. The Administrator shall adopt regulations setting forth criteria pursuant to which the Department will issue or refuse to issue a driver's license in accordance with this section to a person who is a citizen of any state, the District of Columbia, any territory of the United States or a foreign country. The criteria pursuant to which the Department shall issue or refuse to issue a driver's license to a citizen of a foreign country must be based upon the purpose for which that person is present within the United States.~~

~~— 9. Notwithstanding any other provision of this section, the Department shall not accept a consular identification card as proof of the age or identity of an applicant for an instruction permit or for a driver's license. As used in this subsection, "consular identification card" has the meaning ascribed to it in NRS 232.006.~~ **(Deleted by amendment.)**

Sec. 107. [NRS 483.850 is hereby amended to read as follows:]

~~— 483.850 1. Every application for an identification card must be made upon a form provided by the Department and include, without limitation:~~

~~— (a) The applicant's:~~

~~— (1) Full legal name.~~

~~— (2) Date of birth.~~

~~— (3) State of legal residence.~~

~~— (4) Current address of principal residence and mailing address, if different from his or her address of principal residence, in this State, unless the applicant is on active duty in the military service of the United States.~~

~~— (b) A statement from:~~

~~— (1) A resident stating that he or she does not hold a valid driver's license or identification card from any state or jurisdiction; or~~

~~— (2) A seasonal resident stating that he or she does not hold a valid Nevada driver's license.~~

~~— 2. When the form is completed, the applicant must sign the form and verify the contents before a person authorized to administer oaths.~~

~~— 3. An applicant who has been issued a social security number must provide to the Department for inspection:~~

~~— (a) An original card issued to the applicant by the Social Security Administration bearing the social security number of the applicant; or~~

~~— (b) Other proof acceptable to the Department bearing the social security number of the applicant, including, without limitation, records of employment or federal income tax returns.~~

~~4. At the time of applying for an identification card, an applicant may, if eligible, preregister or register to vote pursuant to NRS 293.524 [.] or section 4 of this act.~~

~~5. A person who possesses a driver's license or identification card issued by another state or jurisdiction who wishes to apply for an identification card pursuant to this section shall surrender to the Department the driver's license or identification card issued by the other state or jurisdiction at the time the person applies for an identification card pursuant to this section. (Deleted by amendment.)~~

Sec. 108. [Section 2 of this act is hereby amended to read as follows:

~~Sec. 2. 1. The Secretary of State, each county clerk and each voter registration agency other than the Department of Motor Vehicles shall cooperatively establish a system by which voter registration information that is collected pursuant to section 4 of this act by the agency from a person who, in person, applies for or receives services or assistance at an office of the agency must be transmitted electronically to the Secretary of State and the county clerks for the purpose of preregistering or registering the person to vote or updating the voter registration information of the person.~~

~~2. The Secretary of State, the Department of Motor Vehicles and each county clerk shall cooperatively establish a system by which voter registration information that is collected pursuant to section 4 of this act by the Department from a person who submits an application for the issuance or renewal of or change of address for any type of driver's license or identification card issued by the Department must be transmitted electronically to the Secretary of State and the county clerks for the purpose of preregistering or registering the person to vote or updating the voter registration information of the person.~~

~~[2.] 3. The [system] systems established pursuant to [subsection] subsections 1 and 2 must:~~

~~(a) Ensure the secure electronic storage of information collected pursuant to section 4 of this act, the secure transmission of such information to the Secretary of State and county clerks and the secure electronic storage of such information by the Secretary of State and county clerks;~~

~~(b) Provide for the destruction of records by [the Department] a voter registration agency as required by subsection 2 of section 5 of this act; and~~

~~(c) Enable the county clerks to receive, view and collate the information into individual electronic documents pursuant to paragraph (c) of subsection 1 of section 6 of this act. (Deleted by amendment.)~~

Sec. 109. [Section 3 of this act is hereby amended to read as follows:

~~Sec. 3. 1. Each voter registration agency other than the Department of Motor Vehicles shall follow the procedures described in this section and sections 4 and 5 of this act if a person, in person,~~

~~applies for or receives services or assistance at an office of the agency, services or assistance from the agency.~~

~~2. The Department of Motor Vehicles shall follow the procedures described in this section and sections 4 and 5 of this act if a person applies to the Department for the issuance or renewal of or change of address for any type of driver's license or identification card issued by the Department.~~

~~[2.] 3. Before concluding the person's transaction with the [Department, the Department] voter registration agency, the agency shall notify each person described in [subsection 1:] subsection 1 or 2, as applicable:~~

~~(a) Of the qualifications to preregister to vote, as provided in section 9 of this act, or the qualifications to vote in this State, as provided in NRS 293.485;~~

~~(b) That, unless the person affirmatively declines in writing to apply to preregister or register to vote or have his or her voter registration information updated, as applicable:~~

~~— (1) The person is deemed to have consented to the transmission of information to the Secretary of State and the county clerks for the purpose of preregistering or registering the person to vote or updating the voter registration information of the person; and~~

~~— (2) The [Department] agency will transmit to the county clerk of the county in which the person resides all information required to preregister or register the person to vote pursuant to this chapter or to update the voter registration information of the person;~~

~~(c) That:~~

~~— (1) Indicating a political party affiliation or indicating that the person is not affiliated with a political party is voluntary;~~

~~— (2) The person may indicate a political party affiliation on a paper or electronic form provided by the [Department,] agency; and~~

~~— (3) The person will not be able to vote at a primary election or primary city election for candidates for partisan office of a major political party unless the person updates his or her voter registration information to indicate a major political party affiliation; and~~

~~(d) Of the provisions of subsections 2 and 3 of section 7 of this act.~~

~~[3.] 4. The failure or refusal of the person to acknowledge that he or she has received the notice required by subsection [2.] 3:~~

~~(a) Is not a declination by the person to apply to preregister or register to vote or have his or her voter registration information updated; and~~

~~(b) Shall not be deemed to affect any duty of the [Department,] voter registration agency, the Secretary of State or any county clerk;~~

~~— (1) Relating to the application of the person to preregister or register to vote; or~~

~~— (2) To update the voter registration information of the person.~~

~~[4.] 5. The Secretary of State:~~

~~(a) Shall prescribe by regulation the form of the notice required by subsection [2.] 3 and the procedure for providing such notice; and~~

~~(b) Shall not require the person to acknowledge that he or she has received the notice required by subsection [2.] 3.~~ **(Deleted by amendment.)**

Sec. 110. [Section 4 of this act is hereby amended to read as follows:

~~Sec. 4. 1. Unless the person affirmatively declines in writing to apply to preregister or register to vote or have his or her voter registration information updated, as applicable, **except as otherwise provided in subsection 2,** if a person, **in person,** applies [to the Department of Motor Vehicles for the issuance or renewal of or change of address for a driver's license or identification card issued by the Department, the Department] **for or receives services or assistance from a voter registration agency, the agency** shall collect from the person:~~

~~(a) A paper or electronic affirmation signed under penalty of perjury that the person is eligible to vote or preregister to vote, as applicable;~~

~~(b) An electronic facsimile of the signature of the person, if the [Department] **agency** is capable of recording, storing and transmitting to the county clerk an electronic facsimile of the signature;~~

~~(c) Any personal information which the person has not already provided to the [Department] **agency** and which is required for the person to preregister or register to vote or to update the voter registration information of the person, including:~~

~~— (1) The first or given name and the surname of the person;~~

~~— (2) The address at which the person actually resides as set forth in NRS 293.486 and, if different, the address at which the person may receive mail, including, without limitation, a post office box or general delivery;~~

~~— (3) The date of birth of the person;~~

~~— (4) Except as otherwise provided in subsection [2.] 3, one of the following:~~

~~— (I) The number indicated on the person's current and valid driver's license or identification card issued by the Department of Motor Vehicles, if the person has such a driver's license or identification card;~~

~~— (II) The last four digits of the person's social security number, if the person does not have a driver's license or identification card issued by the Department of Motor Vehicles and has a social security number; and~~

~~— (5) The political affiliation, if any, indicated by the person; and~~

~~(d) The paper or electronic form, if any, completed by the person and indicating his or her political party affiliation.~~

~~2. The Department of Motor Vehicles is only required to collect the information described in subsection 1 if a person applies to the~~

~~Department for the issuance or renewal of or change of address for any type of driver's license or identification card.~~

~~3. If the person does not have the identification described in subparagraph (4) of paragraph (c) of subsection 1, the person must sign an affidavit stating that he or she does not have a current and valid driver's license or identification card issued by the Department of Motor Vehicles or a social security number. Upon receipt of the affidavit, the county clerk shall issue an identification number to the person which must be the same number as the unique identifier assigned to the person for purposes of the statewide voter registration list. (Deleted by amendment.)~~

Sec. 111. [Section 5 of this act is hereby amended to read as follows:

~~Sec. 5. 1. Except as otherwise provided in this subsection, [the Department of Motor Vehicles] each voter registration agency shall electronically transmit to the Secretary of State and the appropriate county clerk the information and any electronic documents collected from a person pursuant to section 4 of this act:~~

~~(a) Except as otherwise provided in paragraph (b), not later than 5 working days after collecting the information; and~~

~~(b) During the 2 weeks immediately preceding the fifth Sunday preceding an election, not later than 1 working day after collecting the information.~~

~~2. [The Department] A voter registration agency shall destroy any record containing information collected pursuant to section 4 of this act that is not otherwise collected by the [Department] agency in the normal course of business immediately after transmitting the information to the Secretary of State and county clerk pursuant to subsection 1.~~

~~3. [The Department] A voter registration agency shall forward the following paper documents on a weekly basis to the appropriate county clerk, or daily during the 2 weeks immediately preceding the fifth Sunday preceding an election:~~

~~(a) Each signed affirmation collected pursuant to paragraph (a) of subsection 1 of section 4 of this act;~~

~~(b) Any completed form indicating a political party affiliation collected pursuant to paragraph (d) of subsection 1 of section 4 of this act; and~~

~~(c) Any affidavit signed pursuant to subsection 2 of section 4 of this act. (Deleted by amendment.)~~

Sec. 112. [Section 6 of this act is hereby amended to read as follows:

~~Sec. 6. 1. Unless the person affirmatively declines in writing to apply to preregister or register to vote or have his or her voter registration information updated, as applicable : [, if a person applies to the Department of Motor Vehicles for the issuance or renewal of or change of address for any type of driver's license or identification card issued by the Department:]~~

~~—(a) The person shall be deemed an applicant to preregister or register to vote.~~

~~—(b) Any action taken by the person pursuant to section 4 of this act shall be deemed an act of applying to preregister or register to vote, as applicable.~~

~~—(c) Upon receipt of the information collected from the person and transmitted to a county clerk by [the Department of Motor Vehicles,] a voter registration agency, the county clerk shall collate the information into an individual electronic document, which shall be deemed an application to preregister or register to vote, as applicable.~~

~~—(d) Unless the applicant is already preregistered or registered to vote, the date on which the person applies to preregister or register to vote pursuant to section 4 of this act shall be deemed the date on which the applicant preregistered or registered to vote, as applicable.~~

~~—2. If the county clerk determines that the an application to register to vote is complete and that the applicant is eligible to vote pursuant to NRS 293.485, the name of the applicant must appear on the statewide voter registration list and the appropriate roster, and the person must be provided all sample ballots and any other voter information provided to registered voters. If the county clerk determines that the application is not complete, he or she shall notify the applicant that additional information is required in accordance with the provisions of NRS 293.524.~~

~~—3. For each applicant who applies to preregister or register to vote pursuant to section 4 of this act:~~

~~—(a) The electronic facsimile of the signature of the applicant shall be deemed to be the facsimile of the signature on the person's application to register to vote to be used to verify the signature of the voter in the manner set forth in NRS 293.277 if:~~

~~—(1) An electronic facsimile of the signature has been collected and transmitted to the county clerk of the county in which the applicant resides pursuant to sections 4 and 5 of this act, respectively; and~~

~~—(2) The county clerk is capable of receiving, storing and using the facsimile of the signature for that purpose; or~~

~~—(b) If the conditions described in paragraph (a) are not met, the signature of the applicant on the affirmation signed pursuant to paragraph (a) of subsection 1 of section 4 of this act shall be deemed to be the signature on the person's application to preregister or register to vote for the purpose of making a facsimile thereof to be used to verify the signature of the voter in the manner set forth in NRS 293.277.~~

~~—4. If an applicant is already preregistered or registered to vote, the county clerk shall use the voter registration information of the applicant transmitted by [the Department of Motor Vehicles] a voter registration agency to update the applicant's preregistration information or to correct~~

~~the statewide voter registration list pursuant to NRS 293.530, if necessary.}] (Deleted by amendment.)~~

Sec. 113. ~~[Section 7 of this act is hereby amended to read as follows:~~

~~Sec. 7. 1. A person who affirmatively declines in writing to apply to preregister or register to vote or have his or her voter registration information updated, as applicable, pursuant to section 4 of this act may apply to preregister or register to vote at [the Department of Motor Vehicles] a voter registration agency pursuant to NRS 293.524.~~

~~2. Whether a person applies to preregister or register to vote or have his or her voter registration information updated, as applicable, pursuant to section 4 of this act must not affect the provision of services or assistance to the person by [the Department,] a voter registration agency, and the fact of a person applying to preregister or register to vote or have his or her voter registration information updated, as applicable, pursuant to section 4 of this act or declining to do so must not be disclosed to the public.~~

~~3. Any information collected pursuant to sections 2 to 7, inclusive, of this act must not be used for any purpose other than voter preregistration or registration.~~

~~4. Except as otherwise provided in this subsection, the Secretary of State shall adopt regulations necessary to carry out the provisions of sections 2 to 7, inclusive, of this act. The Secretary of State shall not require a person to provide any documentation in order to apply to preregister or register to vote or have his or her voter registration information updated, as applicable, pursuant to section 4 of this act that is not required by section 4 of this act or federal law, including, without limitation, documentation to provide the person's identity, citizenship or residence.}] (Deleted by amendment.)~~

Sec. 114. ~~[The provisions of NRS 354.599 do not apply to any additional expense of a local government that are related to the provisions of this act.}] (Deleted by amendment.)~~

Sec. 115. ~~[1.] This [section and sections 1 to 45, inclusive, 47 to 61, inclusive, 63 to 107, inclusive, and 114 of this act become] act becomes~~ effective:

~~[(a)] 1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and~~

~~[(b)] 2. On January 1, 2018, for all other purposes.~~

~~[2. Sections 46, 62 and 108 to 113, inclusive, of this act, become effective:~~

~~—(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and~~

~~—(b) On January 1, 2019, for all other purposes.}]~~

Assemblywoman Diaz moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 194.

Bill read second time.

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

Amendment No. 612.

AN ACT relating to professions; providing for the certification of behavioral healthcare peer recovery support specialists by the Board of Examiners for Alcohol, Drug and Gambling Counselors; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Board of Examiners for Alcohol, Drug and Gambling Counselors and authorizes the Board to license or certify persons engaged in the practice or clinical practice of counseling alcohol and drug abusers and problem gamblers. (Chapter 641C of NRS)

Sections 4-7 of this bill require the Board to issue a certificate as a behavioral healthcare peer recovery support specialist to authorize a person to give nonprofessional, nonclinical assistance for long-term recovery from substance use and other mental disorders by sharing appropriate portions of the person's own recovery. **Section 6** establishes the requirements for obtaining a certificate as a behavioral healthcare peer recovery support specialist which include the payment of a fee for the application, issuance or renewal of a certificate pursuant to **section 18**. **Section 7** authorizes a behavioral healthcare peer recovery support specialist to engage in the practice of providing behavioral healthcare peer recovery support specialist services only under ~~the~~ supervision ~~of certain licensed or certified professionals or in accordance with a plan of supervision approved by the Board.~~ : **(1) provided by the entity or organization for whom the behavioral healthcare peer recovery support specialist works; and (2) conducted by a documented and qualified staff member.**

~~Sections 9-13,~~ **9-10, 11-13, 15-17 and 19-22** of this bill make conforming changes concerning behavioral healthcare peer recovery support specialists and the practice of providing behavioral healthcare peer recovery support specialist services.

Sections 1 and 2 of this bill provide that the provisions governing psychologists, behavior analysts, assistant behavior analysts, autism behavior interventionists, ~~and~~ social workers **and clinical social workers** do not apply to a person who : **(1) is a behavioral healthcare peer recovery support specialist** ~~;~~ **or (2) volunteers for a nonprofit agency or organization and, as part of his or her duties, engages in the practice of providing behavioral healthcare peer recovery support specialist services.** **Section 10.5 of this bill provides that the provisions governing alcohol, drug and**

gambling counselors and behavioral healthcare peer recovery support specialists do not apply to a person who volunteers for a nonprofit agency or organization and, as part of his or her duties, engages in the practice of providing behavioral healthcare peer recovery support specialist services.

Section 8 of this bill provides that the practice of providing behavioral healthcare peer recovery support specialist services is a learned profession that affects public health, safety and welfare and is subject to regulation.

Section 14 of this bill requires each applicant for a certificate as a behavioral healthcare peer recovery support specialist to pass a written ~~and oral~~ examination.

Section 23 of this bill prohibits a person who is not licensed or certified by the Board from engaging in the practice of providing behavioral healthcare peer recovery support specialist services.

Sections 24 and 25 of this bill require a behavioral healthcare peer recovery support specialist to report the abuse, neglect, exploitation, isolation or abandonment of an older person or a vulnerable person and provide that a person is guilty of a misdemeanor for failing to do so.

Existing law authorizes peer support recovery organizations to provide peer supportive services relating to mental health, addiction or substance abuse to persons who are 18 years of age or older and who suffer from mental illness or addiction or identify themselves as at risk for mental illness or addiction. (NRS 449.01563) Under existing law such services do not require the person offering the supportive services to be licensed. (NRS 449.01566) Section 28 of this bill removes the language which provides that a person offering [behavioral healthcare] peer [recovery] support services does not need to be licensed. Section 35.5 of this bill provides that a person engaging in the practice of providing behavioral healthcare peer recovery support specialist services on or before July 1, 2017, has 2 years from that date to meet the requirements for certification and obtain a certificate, as required by this bill.

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

Section 1. NRS 641.029 is hereby amended to read as follows:

641.029 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;
2. A person who is licensed to practice dentistry in this State;
3. A person who is licensed as a marriage and family therapist or marriage and family therapist intern pursuant to chapter 641A of NRS;
4. A person who is licensed as a clinical professional counselor or clinical professional counselor intern pursuant to chapter 641A of NRS;
5. A person who is licensed to engage in social work **or clinical social work** pursuant to chapter 641B of NRS;

6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;

7. A person who is licensed as a clinical alcohol and drug abuse counselor, licensed or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern, a clinical alcohol and drug abuse counselor intern, a problem gambling counselor, ~~for~~ a problem gambling counselor intern ~~or~~ **a behavioral healthcare peer recovery support specialist**, pursuant to chapter 641C of NRS; ~~for~~

8. Any member of the clergy ~~or~~;

9. A person who:

(a) Engages in volunteer services for a nonprofit agency or organization and does not receive compensation, other than a stipend, for such services; and

(b) As part of his or her duties in providing volunteer services, performs any of the activities described in subsections 1 and 2 of section 5 of this act,

↪ if such a person does not commit an act described in NRS 641.440 or represent himself or herself as a psychologist.

Sec. 2. NRS 641B.040 is hereby amended to read as follows:

641B.040 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;
 2. A nurse who is licensed to practice in this State;
 3. A person who is licensed as a psychologist pursuant to chapter 641 of NRS;

4. A person who is licensed as a marriage and family therapist or marriage and family therapist intern pursuant to chapter 641A of NRS;

5. A person who is licensed as a clinical professional counselor or clinical professional counselor intern pursuant to chapter 641A of NRS;

6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;

7. A person who is licensed as a clinical alcohol and drug abuse counselor, licensed or certified as an alcohol and drug abuse counselor, or certified as a clinical alcohol and drug abuse counselor intern, an alcohol and drug abuse counselor intern, a problem gambling counselor, ~~for~~ a problem gambling counselor intern ~~or~~ **a behavioral healthcare peer recovery support specialist**, pursuant to chapter 641C of NRS;

8. Any member of the clergy;

9. A county welfare director;

10. Any person who may engage in social work or clinical social work in his or her regular governmental employment but does not hold himself or herself out to the public as a social worker; ~~for~~

11. A student of social work and any other person preparing for the profession of social work under the supervision of a qualified social worker in a training institution or facility recognized by the Board, unless the student or other person has been issued a provisional license pursuant to paragraph (b) of subsection 1 of NRS 641B.275. Such a student must be designated by

the title “student of social work” or “trainee in social work,” or any other title which clearly indicates the student’s training status ~~or~~; or

12. A person who:

(a) Engages in volunteer services for a nonprofit agency or organization and does not receive compensation, other than a stipend, for such services; and

(b) As part of his or her duties in providing volunteer services, performs any of the activities described in subsections 1 and 2 of section 5 of this act.

Sec. 3. Chapter 641C of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 7, inclusive, of this act.

Sec. 4. “Behavioral healthcare peer recovery support specialist” means a person who is certified as a behavioral healthcare peer recovery support specialist pursuant to the provisions of this chapter.

Sec. 5. 1. “Practice of providing behavioral healthcare peer recovery support specialist services” means the practice of providing nonprofessional, nonclinical assistance to a person with a substance use or other mental disorder ~~including without limitation, mentoring, coaching, educating or role modeling, with the intent of achieving long-term recovery from a substance use or other mental disorder by sharing appropriate portions of the provider’s own recovery;~~ that has been diagnosed by:

(a) A physician licensed pursuant to chapter 630 of NRS;

(b) An advanced practice registered nurse licensed pursuant to NRS 632.237;

(c) An osteopathic physician licensed pursuant to chapter 633 of NRS;

(d) A psychologist licensed pursuant to chapter 641 of NRS;

(e) A marriage and family therapist licensed pursuant to chapter 641A of NRS;

(f) A clinical professional counselor licensed pursuant to chapter 641A of NRS;

(g) A clinical social worker licensed pursuant to chapter 641B of NRS;

or
(h) A person licensed pursuant to the provisions of this chapter.

2. The term includes, without limitation, the following nonprofessional, nonclinical activities that assist a person in achieving long-term recovery from a substance use disorder or other mental disorder:

(a) Mentoring;

(b) Coaching;

(c) Educating;

(d) Role modeling; or

(e) Any other nonprofessional, nonclinical assistance that the Board may prescribe by regulation.

3. The term does not include:

(a) The diagnosis or treatment of ~~any~~ a substance use disorder or other mental disorder; ~~including, without limitation, a substance use disorder, or~~

(b) *The use of a psychological or psychometric assessment test to determine intelligence, personality, aptitude or interests ~~for~~; or*

(c) *Counseling or psychotherapy as practiced by a:*

(1) *Psychologist licensed pursuant to chapter 641 of NRS;*

(2) *Marriage and family therapist licensed pursuant to chapter 641A of NRS;*

(3) *Clinical professional counselor licensed pursuant to chapter 641A of NRS;*

(4) *Clinical social worker licensed pursuant to chapter 641B of NRS;*
or

(5) *A person licensed pursuant to the provisions of this chapter.*

Sec. 6. The Board shall issue a certificate as a behavioral healthcare peer recovery support specialist to a person who:

1. Is not less than 21 years of age;
2. Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
3. Has a high school diploma or a general equivalency diploma or an equivalent document;

4. Submits evidence satisfactory to the Board that the person has completed a training program approved by the Board which consisted of at least 46 hours of training, including, without limitation:

(a) Ten hours of training in each of the following domains, as they relate to the practice of providing behavioral healthcare peer recovery support specialist services:

- (1) Advocacy;
- (2) Mentoring and education; and
- (3) Recovery and wellness support; and

(b) Sixteen hours of training in the domain of confidentiality and ethical responsibility, as it relates to the practice of providing behavioral healthcare peer recovery support specialist services;

5. Submits evidence satisfactory to the Board that the person has completed at least 25 hours of work in each of the domains described in subsection 4, as they relate to the practice of providing behavioral healthcare peer recovery support specialist services, under the supervision of a person who provides supervision of such work for the entity or organization for which the work is completed;

6. Submits, on a form prescribed by the Board, evidence satisfactory to the Board that the person has completed at least 500 hours of paid or volunteer work in ~~each of~~ the domains described in subsection 4, as they relate to the practice of providing behavioral healthcare peer recovery support specialist services and the form is signed by a person who provides supervision or management for the entity or organization for which the work is completed, attesting that the applicant has completed the paid or volunteer work required by this subsection;

7. ~~If the person is in recovery from a mental disorder, including, without limitation, a substance use disorder, provides;~~ Provides to the Board a statement and, if applicable, evidence satisfactory to the Board attesting that:

(a) The person has experienced the process of recovering from a substance use disorder or other mental disorder and, as a result, is qualified to engage in the practice of providing behavioral healthcare peer recovery support specialist services;

(b) The person remains in active recovery; and

~~[(b)]~~ (c) The disorder is stable or in sustained remission;

8. Has not been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, a crime involving violence or a sexual offense as that term is defined in NRS 179.245;

9. If the person has been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, a crime other than a crime described in subsection 8, has been released from parole, probation or custody for at least 12 months before applying for certification;

10. ~~[Provides evidence satisfactory to the Board that the person has experienced the process of recovering from a mental disorder, including, without limitation, a substance use disorder, and as a result is qualified to engage in the practice of providing behavioral healthcare peer recovery support specialist services;~~

~~11.]~~ Passes the written [and oral examinations] examination prescribed by the Board pursuant to NRS 641C.290;

~~12.]~~ 11. Pays the fees required pursuant to NRS 641C.470; and

~~13.]~~ 12. Submits all information required to complete an application for a certificate.

Sec. 7. 1. A certificate as a behavioral healthcare peer recovery support specialist is valid for 2 years and may be renewed. The Board may waive any requirement for the renewal of a certificate upon good cause shown by the holder of the certificate.

2. A behavioral healthcare peer recovery support specialist may engage in the practice of providing behavioral healthcare peer recovery support specialist services only ~~if~~

~~— (a) Under the] under supervision ; [of a;~~

~~— (1) Licensed clinical alcohol and drug abuse counselor;~~

~~— (2) Licensed or certified alcohol and drug abuse counselor;~~

~~— (3) Psychologist licensed pursuant to chapter 641 of NRS;~~

~~— (4) Clinical professional counselor licensed pursuant to chapter 641A of NRS;~~

~~— (5) Marriage and family therapist licensed pursuant to chapter 641A of NRS; or~~

~~— (6) Social worker licensed pursuant to chapter 641B of NRS.~~

~~— (b) Pursuant to a plan of supervision approved by the Board. The Board may approve a plan of supervision if:~~

~~(1) The plan is submitted to the Board by a nonprofit organization which the Board determines has a primary function of providing services described in section 5 of this act;~~

~~(2) The nonprofit organization attaches to the plan an affidavit signed by a representative of the nonprofit organization which states that supervision by a professional identified in paragraph (a) would cause an undue burden on the nonprofit organization;~~

~~(3) The nonprofit organization does not provide any services which would require licensure or certification as a professional identified in paragraph (a); and~~

~~(4) The plan provides for direct supervision by a person who has at least 5 years of paid or volunteer experience in providing services described in section 5 of this act.~~

(a) Provided by the entity or organization for which the behavioral healthcare peer recovery support specialist works; and

(b) Conducted by a documented and qualified staff member who:

(1) Provides supervision pursuant to his or her job description; and

(2) Works for the entity or organization for which the behavioral healthcare peer recovery support specialist works.

Sec. 8. NRS 641C.010 is hereby amended to read as follows:

641C.010 The practice of counseling alcohol and drug abusers, the clinical practice of counseling alcohol and drug abusers, ~~and~~ the practice of counseling problem gamblers **and the practice of providing behavioral healthcare peer recovery support specialist services** are hereby declared to be learned professions affecting public health, safety and welfare and are subject to regulation to protect the public from the practice of counseling alcohol and drug abusers, the clinical practice of counseling alcohol and drug abusers, ~~and~~ the practice of counseling problem gamblers **and the practice of providing behavioral healthcare peer recovery support specialist services** by unqualified persons and from unprofessional conduct by persons who are licensed or certified to engage in the practice of counseling alcohol and drug abusers, licensed to engage in the clinical practice of counseling alcohol and drug abusers, ~~or~~ certified to engage in the practice of counseling problem gamblers **or certified to engage in the practice of providing behavioral healthcare peer recovery support specialist services.**

Sec. 9. NRS 641C.020 is hereby amended to read as follows:

641C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 641C.030 to 641C.110, inclusive, **and sections 4 and 5 of this act** have the meanings ascribed to them in those sections.

Sec. 10. NRS 641C.040 is hereby amended to read as follows:

641C.040 “Certificate” means a certificate issued to a person who is certified as an alcohol and drug abuse counselor, a clinical alcohol and drug abuse counselor intern, an alcohol and drug abuse counselor intern, a

problem gambling counselor, ~~for~~ a problem gambling counselor intern ~~for~~ **or a behavioral healthcare peer recovery support specialist.**

Sec. 10.5. NRS 641C.130 is hereby amended to read as follows:

641C.130 The provisions of this chapter do not apply to:

1. A physician who is licensed pursuant to the provisions of chapter 630 or 633 of NRS;
2. A nurse who is licensed pursuant to the provisions of chapter 632 of NRS and is authorized by the State Board of Nursing to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers;
3. A psychologist who is licensed pursuant to the provisions of chapter 641 of NRS;
4. A clinical professional counselor or clinical professional counselor intern who is licensed pursuant to chapter 641A of NRS;
5. A marriage and family therapist or marriage and family therapist intern who is licensed pursuant to the provisions of chapter 641A of NRS and is authorized by the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers;
- ~~for~~
6. A person who is licensed as a clinical social worker pursuant to the provisions of chapter 641B of NRS and is authorized by the Board of Examiners for Social Workers to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers ~~for~~; **or**

7. A person who:

(a) Engages in volunteer services for a nonprofit agency or organization and does not receive compensation, other than a stipend, for such services; and

(b) As part of his or her duties in providing volunteer services, performs any of the activities described in subsections 1 and 2 of section 5 of this act.

Sec. 11. NRS 641C.150 is hereby amended to read as follows:

641C.150 1. The Board of Examiners for Alcohol, Drug and Gambling Counselors, consisting of seven members appointed by the Governor, is hereby created.

2. The Board must consist of:

- (a) Three members who are licensed as clinical alcohol and drug abuse counselors or alcohol and drug abuse counselors pursuant to the provisions of this chapter.
- (b) One member who is certified as an alcohol and drug abuse counselor pursuant to the provisions of this chapter.
- (c) Two members who are licensed pursuant to chapter 630, 632, 641, 641A or 641B of NRS and certified as problem gambling counselors pursuant to the provisions of this chapter.
- (d) One member who is a representative of the general public. This member must not be:

(1) A licensed clinical alcohol and drug abuse counselor, ~~for~~ a licensed or certified alcohol and drug abuse counselor, ~~for~~ a certified problem gambling counselor ~~or~~ **a certified behavioral healthcare peer recovery support specialist**; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensed clinical alcohol and drug abuse counselor, ~~for~~ a licensed or certified alcohol and drug abuse counselor, ~~for~~ a certified problem gambling counselor ~~or~~ **a certified behavioral healthcare peer recovery support specialist**.

3. A person may not be appointed to the Board unless he or she is:

(a) A citizen of the United States or is lawfully entitled to remain and work in the United States; and

(b) A resident of this State.

4. No member of the Board may be held liable in a civil action for any act that he or she performs in good faith in the execution of his or her duties pursuant to the provisions of this chapter.

Sec. 12. NRS 641C.200 is hereby amended to read as follows:

641C.200 1. The Board shall adopt such regulations as are necessary to carry out the provisions of this chapter, including, without limitation, regulations that prescribe:

(a) The ethical standards for licensed and certified counselors, ~~and~~ certified interns ~~or~~ **and behavioral healthcare peer recovery support specialists**; and

(b) The requirements for continuing education for the renewal, restoration or reinstatement of a license or certificate.

2. The Board may adopt regulations that prescribe:

(a) The contents of a written and oral examination concerning the practice of counseling problem gamblers;

(b) The grounds for initiating disciplinary action against a certified problem gambling counselor or certified problem gambling counselor intern; and

(c) Disciplinary procedures for certified problem gambling counselors and certified problem gambling counselor interns, including the suspension, revocation and reinstatement of a certificate as a problem gambling counselor or problem gambling counselor intern.

3. Any regulations adopted by the Board pursuant to this section must be consistent with the provisions of chapter 622A of NRS.

Sec. 13. NRS 641C.210 is hereby amended to read as follows:

641C.210 The Executive Director of the Board or his or her designee shall prepare and maintain:

1. A separate list of the names and addresses of:

(a) The applicants for a license;

(b) The applicants for a certificate;

(c) The licensed counselors;

(d) The certified counselors; ~~and~~

(e) The certified interns ~~{-}~~; **and**

(f) *The behavioral healthcare peer recovery support specialists.*

2. A record of each examination conducted by the Board.

3. An inventory of:

(a) The property of the Board; and

(b) The property of this State that is in the possession of the Board.

Sec. 14. NRS 641C.290 is hereby amended to read as follows:

641C.290 1. Except as otherwise provided in NRS 641C.300, 641C.3305 and 641C.3306, each applicant for a license as a clinical alcohol and drug abuse counselor must pass a written and oral examination concerning his or her knowledge of the clinical practice of counseling alcohol and drug abusers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

2. Except as otherwise provided in NRS 641C.300, 641C.355, 641C.356, 641C.395 and 641C.396, each applicant for a license or certificate as an alcohol and drug abuse counselor must pass a written and oral examination concerning his or her knowledge of the practice of counseling alcohol and drug abusers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

3. Except as otherwise provided in NRS 641C.432 and 641C.433, each applicant for a certificate as a problem gambling counselor must pass a written and oral examination concerning his or her knowledge of the practice of counseling problem gamblers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

4. ***Except as otherwise provided in NRS 641C.300, each applicant for a certificate as a behavioral healthcare peer recovery support specialist must pass a written ~~and oral~~ examination concerning his or her knowledge of the practice of providing behavioral healthcare peer recovery support specialist services, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.***

5. The Board shall:

(a) Examine applicants at least two times each year.

(b) Establish the time and place for the examinations.

(c) Provide such books and forms as may be necessary to conduct the examinations.

(d) Except as otherwise provided in NRS 622.090, establish, by regulation, the requirements for passing the examination.

~~{-}~~ 6. The Board may employ other persons to conduct the examinations.

Sec. 15. NRS 641C.300 is hereby amended to read as follows:

641C.300 The Board may issue a license or certificate without examination to a person who holds a license or certificate as a clinical

alcohol and drug abuse counselor , ~~for~~ an alcohol and drug abuse counselor **or a behavioral healthcare peer recovery support specialist** in another state, a territory or possession of the United States or the District of Columbia if the requirements of that jurisdiction at the time the license or certificate was issued are deemed by the Board to be substantially equivalent to the requirements set forth in the provisions of this chapter.

Sec. 16. NRS 641C.310 is hereby amended to read as follows:

641C.310 1. The Board may hold hearings and conduct investigations concerning any matter related to an application for a license or certificate. In the hearings and investigations, the Board may require the presentation of evidence.

2. The Board may refuse to issue a license or certificate to, or renew the license or certificate of, an applicant if the Board determines that the applicant:

(a) Is not of good moral character as it relates to the practice of counseling alcohol and drug abusers , ~~for~~ the clinical practice of counseling alcohol and drug abusers ~~and~~ **or the practice of providing behavioral healthcare peer recovery support specialist services;**

(b) Has submitted a false credential to the Board;

(c) Has been disciplined in another state, a possession or territory of the United States or the District of Columbia in connection with the practice of counseling alcohol and drug abusers , ~~for~~ the clinical practice of counseling alcohol and drug abusers ~~and~~ **or the practice of providing behavioral healthcare peer recovery support specialist services;**

(d) Has committed an act in another state, a possession or territory of the United States or the District of Columbia in connection with the practice of counseling alcohol and drug abusers , ~~for~~ the clinical practice of counseling alcohol and drug abusers **or the practice of providing behavioral healthcare peer recovery support specialist services** that would be a violation of the provisions of this chapter if the act were committed in this State; or

(e) Has failed to comply with any of the requirements for a license or certificate.

Sec. 17. NRS 641C.460 is hereby amended to read as follows:

641C.460 1. A license or certificate that is not renewed on or before the date on which it expires is delinquent. The Board shall, within 30 days after the license or certificate becomes delinquent, send a notice to the licensed or certified counselor , ~~for~~ certified intern **or behavioral healthcare peer recovery support specialist** by certified mail, return receipt requested, to the address of the counselor , ~~for~~ intern **or specialist** as indicated in the records of the Board.

2. A licensed or certified counselor , ~~for~~ certified intern **or behavioral healthcare peer recovery support specialist** may renew a delinquent license or certificate within 60 days after the license or certificate becomes delinquent by complying with the requirements of NRS 641C.450 and paying, in addition to the fee for the renewal of the license or certificate, the

fee for the renewal of a delinquent license or certificate prescribed in NRS 641C.470.

3. A license or certificate expires 60 days after it becomes delinquent if it is not renewed within that period.

4. Except as otherwise provided in NRS 641C.530, a license or certificate that has expired may be restored if the applicant:

- (a) Submits to the Board an application to restore the license or certificate;
- (b) Pays the renewal fees for the period during which the license or certificate was expired and the fee for the restoration of a license or certificate prescribed in NRS 641C.470;
- (c) Passes the oral and written examinations prescribed by the Board;
- (d) Submits to the Board evidence of completion of the continuing education required by the Board; and
- (e) Submits all information required to complete the application.

Sec. 18. NRS 641C.470 is hereby amended to read as follows:

641C.470 1. The Board shall charge and collect not more than the following fees:

For the initial application for a license or certificate, including a license or certificate by endorsement but not including a certificate as a behavioral healthcare peer recovery support specialist..... \$150

For the initial application for a certificate as a behavioral healthcare peer recovery support specialist..... 75

For the issuance of a provisional license or certificate 125

For the issuance of an initial license or certificate, including a license or certificate by endorsement..... 60

For the renewal of a license or certificate as an alcohol and drug abuse counselor, a license as a clinical alcohol and drug abuse counselor ~~for~~ or a certificate as a problem gambling counselor ~~for a certificate as a behavioral healthcare peer recovery support specialist~~ 300

For the renewal of a certificate as a behavioral healthcare peer recovery support specialist..... 150

For the renewal of a certificate as a clinical alcohol and drug abuse counselor intern, an alcohol and drug abuse counselor intern or a problem gambling counselor intern..... 75

For the renewal of a delinquent license or certificate 75

For the restoration of an expired license or certificate 150

For the restoration or reinstatement of a suspended or revoked license or certificate..... 300

For the issuance of a license or certificate without examination 150

For an examination.....	150
For the approval of a course of continuing education	150

2. If an applicant submits an application for a license or certificate by endorsement pursuant to NRS 641C.3305, 641C.355, 641C.395 or 641C.432, the Board shall charge and collect not more than the fees specified in subsection 1 for the initial application for and issuance of an initial license or certificate, as applicable.

3. If an applicant submits an application for a license or certificate by endorsement pursuant to NRS 641C.3306, 641C.356, 641C.396 or 641C.433, as applicable, the Board shall collect not more than one-half of the fee specified in subsection 1 for the initial issuance of the license.

4. The fees charged and collected pursuant to this section are not refundable.

Sec. 19. NRS 641C.530 is hereby amended to read as follows:

641C.530 1. The Board may use any information included in a report of criminal history that is obtained pursuant to this section or NRS 641C.260 in determining whether:

(a) To issue, renew, restore, suspend, revoke or reinstate a license or certificate pursuant to this chapter; or

(b) Any ground for imposing any disciplinary action exists pursuant to NRS 641C.700.

2. Before renewing, restoring or reinstating the license or certificate of a licensed counselor, certified counselor , ~~for~~ certified intern ~~for~~ **or behavioral healthcare peer recovery support specialist**, the Board may, by regulation, require the licensed counselor, certified counselor , ~~for~~ certified intern **or behavioral healthcare peer recovery support specialist** to submit to the Board a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. Except as otherwise provided in this subsection, in reviewing the information included in a report of criminal history that is obtained pursuant to this section or NRS 641C.260, the Board may consider any original charge filed against an applicant, licensed counselor, certified counselor , ~~for~~ certified intern **or behavioral healthcare peer recovery support specialist** that alleges a particular criminal act regardless of whether the person was convicted of, or entered a plea of guilty or nolo contendere to, a lesser charge. The Board shall not consider a charge filed against an applicant, licensed counselor, certified counselor , ~~for~~ certified intern **or behavioral healthcare peer recovery support specialist** that alleges a particular criminal act for which, in the absence of a plea of guilty or nolo contendere to a lesser charge:

(a) The applicant, licensed counselor, certified counselor , ~~{or}~~ certified intern **or behavioral healthcare peer recovery support specialist** was found not guilty; or

(b) The charges against the applicant, licensed counselor, certified counselor , ~~{or}~~ certified intern **or behavioral healthcare peer recovery support specialist** were dismissed.

Sec. 20. NRS 641C.700 is hereby amended to read as follows:

641C.700 The grounds for initiating disciplinary action pursuant to the provisions of this chapter include:

1. Conviction of:

(a) A felony relating to the practice of counseling alcohol and drug abusers, the clinical practice of counseling alcohol and drug abusers , ~~{or}~~ the practice of counseling problem gamblers ~~{;}~~ **or the practice of providing behavioral healthcare peer recovery support specialist services;**

(b) An offense involving moral turpitude; or

(c) A violation of a federal or state law regulating the possession, distribution or use of a controlled substance or dangerous drug as defined in chapter 453 of NRS;

2. Fraud or deception in:

(a) Applying for a license or certificate;

(b) Taking an examination for a license or certificate;

(c) Documenting the continuing education required to renew or reinstate a license or certificate;

(d) Submitting a claim for payment to an insurer; or

(e) The practice of counseling alcohol and drug abusers , ~~{or}~~ the clinical practice of counseling alcohol and drug abusers ~~{;}~~ **or the practice of providing behavioral healthcare peer recovery support specialist services;**

3. Allowing the unauthorized use of a license or certificate issued pursuant to this chapter;

4. Professional incompetence;

5. The habitual use of alcohol or any other drug that impairs the ability of a licensed or certified counselor , ~~{or}~~ certified intern **or behavioral healthcare peer recovery support specialist** to engage in the practice of counseling alcohol and drug abusers , ~~{or}~~ the clinical practice of counseling alcohol and drug abusers ~~{;}~~ **or the practice of providing behavioral healthcare peer recovery support specialist services, as applicable;**

6. Engaging in the practice of counseling alcohol and drug abusers , ~~{or}~~ the clinical practice of counseling alcohol and drug abusers **or the practice of providing behavioral healthcare peer recovery support specialist services** with an expired, suspended or revoked license or certificate;

7. Engaging in behavior that is contrary to the ethical standards as set forth in the regulations of the Board; and

8. The operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

↪ This subsection applies to an owner or other principal responsible for the operation of the facility.

Sec. 21. NRS 641C.720 is hereby amended to read as follows:

641C.720 1. The Board or any of its members who become aware of any ground for initiating disciplinary action against a person engaging in the practice of counseling alcohol and drug abusers , ~~for~~ the clinical practice of counseling alcohol and drug abusers **or the practice of providing behavioral healthcare peer recovery support specialist services** in this State shall, and any other person who is so aware may, file a written complaint specifying the relevant facts with the Board. The complaint must specifically charge one or more of the grounds for initiating disciplinary action.

2. If, after notice and a hearing as required by law, the Board determines that a licensed or certified counselor , ~~or~~ certified intern **or behavioral healthcare peer recovery support specialist** has violated a provision of this chapter or any regulation adopted pursuant to this chapter, it may:

(a) Administer a public reprimand;

(b) Suspend the license or certificate and impose conditions for the removal of the suspension;

(c) Revoke the license or certificate and prescribe the requirements for the reinstatement of the license or certificate;

(d) If he or she is a licensed or certified counselor, require him or her to be supervised by another person while engaging in the practice of counseling alcohol and drug abusers or the clinical practice of counseling alcohol and drug abusers;

(e) Require him or her to participate in treatment or counseling and pay the expenses of that treatment or counseling;

(f) Require him or her to pay restitution to any person adversely affected by his or her acts or omissions;

(g) Impose a fine of not more than \$5,000; or

(h) Take any combination of the actions authorized by paragraphs (a) to (g), inclusive.

3. If a license or certificate is revoked or suspended pursuant to subsection 2, the licensed or certified counselor , ~~or~~ certified intern **or behavioral healthcare peer recovery support specialist** may apply to the Board for reinstatement of the suspended license or certificate or may apply to the Board pursuant to the provisions of chapter 622A of NRS for reinstatement of the revoked license or certificate. The Board may accept or reject the application and may require the successful completion of an examination as a condition of reinstatement of the license or certificate.

4. The Board shall not administer a private reprimand.

5. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

6. The Board shall retain all complaints filed with the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

Sec. 22. NRS 641C.900 is hereby amended to read as follows:

641C.900 A person shall not engage in the practice of counseling alcohol and drug abusers, the clinical practice of counseling alcohol and drug abusers , ~~for~~ the practice of counseling problem gamblers **or the practice of providing behavioral healthcare peer recovery support specialist services** unless the person is a licensed counselor, certified counselor , ~~for~~ certified intern ~~for~~ **or behavioral healthcare peer recovery support specialist.**

Sec. 23. NRS 641C.910 is hereby amended to read as follows:

641C.910 1. A person shall not:

(a) Hold himself or herself out to a member of the general public as a clinical alcohol and drug abuse counselor, a clinical alcohol and drug abuse counselor intern, an alcohol and drug abuse counselor, an alcohol and drug abuse counselor intern, a problem gambling counselor , ~~for~~ a problem gambling counselor intern ~~for~~ **or a behavioral healthcare peer recovery support specialist;**

(b) Use the title “clinical alcohol and drug abuse counselor,” “clinical alcohol and drug abuse counselor intern,” “alcohol and drug abuse counselor,” “alcohol and drug abuse counselor intern,” “drug abuse counselor,” “substance abuse counselor,” “problem gambling counselor,” “problem gambling counselor intern,” “gambling counselor ~~for~~ ,” **“behavioral healthcare peer recovery support specialist”** or any similar title in connection with his or her work;

(c) Imply in any way that he or she is licensed or certified by the Board;

(d) Engage in the practice of counseling alcohol and drug abusers;

(e) Engage in the clinical practice of counseling alcohol and drug abusers;

~~for~~

(f) Engage in the practice of counseling problem gamblers ~~for~~ ; **or**

(g) Engage in the practice of providing behavioral healthcare peer recovery support specialist services,

↪ unless the person is licensed or certified by the Board pursuant to the provisions of this chapter.

2. If the Board believes that any person has violated or is about to violate any provision of this chapter or a regulation adopted pursuant thereto, it may bring an action in a court of competent jurisdiction to enjoin the person from engaging in or continuing the violation. An injunction:

(a) May be issued without proof of actual damage sustained by any person.

(b) Does not prevent the criminal prosecution and punishment of a person who violates a provision of this chapter or a regulation adopted pursuant thereto.

Sec. 24. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited, isolated or abandoned shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation, isolation or abandonment of the older person to:

(1) The local office of the Aging and Disability Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office; or

(3) A toll-free telephone service designated by the Aging and Disability Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited, isolated or abandoned.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation, isolation or abandonment of the older person involves an act or omission of the Aging and Disability Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, **behavioral healthcare peer recovery support specialist**, music therapist, athletic trainer, driver of an ambulance, paramedic, licensed dietitian or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited, isolated or abandoned.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation, isolation or abandonment of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 449.4304.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation, isolation or abandonment of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

(m) Every person who operates or is employed by a peer support recovery organization, as defined in NRS 449.01563.

(n) Every person who operates or is employed by a community health worker pool, as defined in NRS 449.0028, or with whom a community health worker pool contracts to provide the services of a community health worker, as defined in NRS 449.0027.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect, isolation or abandonment, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging and Disability Services Division of the Department of Health and Human Services, must be forwarded within 30 days after the completion of the report to the:

(a) Aging and Disability Services Division;

(b) Repository for Information Concerning Crimes Against Older Persons created by NRS 179A.450; and

(c) Unit for the Investigation and Prosecution of Crimes.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited, isolated or abandoned, the Aging and Disability Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if the older person is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 25. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited, isolated or abandoned shall:

(a) Report the abuse, neglect, exploitation, isolation or abandonment of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited, isolated or abandoned.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation, isolation or abandonment of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, perfusionist, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, **behavioral healthcare peer recovery support specialist**, music therapist, athletic trainer, driver of an ambulance, paramedic, licensed dietitian or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited, isolated or abandoned.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator,

manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation, isolation or abandonment of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation, isolation or abandonment of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect, isolation or abandonment, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 26. ~~[NRS 449.0045 is hereby amended to read as follows:~~

~~449.0045 "Facility for the dependent" includes:~~

~~1. A facility for the treatment of abuse of alcohol or drugs;~~

~~2. A halfway house for recovering alcohol and drug abusers;~~

~~3. A facility for the care of adults during the day;~~

~~4. A residential facility for groups;~~

~~5. An agency to provide personal care services in the home;~~

~~6. A facility for transitional living for released offenders;~~

~~7. A home for individual residential care;~~

~~8. A **behavioral healthcare** peer **recovery** support **[recovery]** organization; and~~

~~9. A community health worker pool.] (Deleted by amendment.)~~

Sec. 27. ~~[NRS 449.01562 is hereby amended to read as follows:~~

~~449.01562. [“Peer] **“Behavioral healthcare peer recovery** support [recovery] organization” means a person or agency which, for compensation, provides **behavioral healthcare peer recovery** support services to persons who are 18 years of age or older and who suffer from mental illness or addiction or identify themselves as at risk for mental illness or addiction.]~~
(Deleted by amendment.)

Sec. 28. NRS 449.01566 is hereby amended to read as follows:

449.01566. “Peer ~~[“Behavioral healthcare peer recovery]~~ support services” means supportive services relating to mental health, addiction or [disorders, including, without limitation,] substance abuse ~~[use disorders]~~ which:

1. Do not require the person offering the supportive services to be certified or licensed [.] unless the person:

(a) Is engaging in the practice of providing behavioral healthcare peer recovery support specialist services, as defined in section 5 of this act; and

(b) Is not exempt from the provisions of chapter 641C of NRS pursuant to NRS 641C.130.

2. Are offered to a person in need of such services.

3. ~~[2.]~~ May include, without limitation:

- (a) Helping to stabilize such a person;
- (b) Helping such a person with recovery;
- (c) Helping such a person to access community-based behavioral health care;
- (d) Assisting such a person during a crisis situation or an intervention;
- (e) Providing assistance with preventive care;
- (f) Providing strategies and education relating to the whole health needs of such a person; and
- (g) Providing encouragement, peer mentoring and training in self-advocacy and self-direction to such a person.

Sec. 29. ~~[NRS 449.03015 is hereby amended to read as follows:~~

~~449.03015. A person who is licensed pursuant to this chapter as a facility for the dependent or a medical facility and who employs persons to provide **behavioral healthcare peer recovery** support services is not required to obtain an additional license as a **behavioral healthcare peer recovery** support [recovery] organization.]~~
(Deleted by amendment.)

Sec. 30. ~~[NRS 449.065 is hereby amended to read as follows:~~

~~449.065. 1. Except as otherwise provided in subsections 6 and 7 and NRS 449.067, each facility for intermediate care, facility for skilled nursing, **behavioral healthcare peer recover** support [recovery] organization, residential facility for groups, home for individual residential care, agency to provide personal care services in the home and agency to provide nursing in the home shall, when applying for a license or renewing a license, file with the Administrator of the Division of Public and Behavioral Health a surety bond;~~

~~—(a) If the facility, agency, organization or home employs less than 7 employees, in the amount of \$5,000;~~

~~—(b) If the facility, agency, organization or home employs at least 7 but not more than 25 employees, in the amount of \$25,000; or~~

~~—(c) If the facility, agency, organization or home employs more than 25 employees, in the amount of \$50,000.~~

~~—2. A bond filed pursuant to this section must be executed by the facility, agency, organization or home as principal and by a surety company as surety. The bond must be payable to the Aging and Disability Services Division of the Department of Health and Human Services and must be conditioned to provide indemnification to an older patient who the Specialist for the Rights of Elderly Persons determines has suffered property damage as a result of any act or failure to act by the facility, agency, organization or home to protect the property of the older patient.~~

~~—3. Except when a surety is released, the surety bond must cover the period of the initial license to operate or the period of the renewal, as appropriate.~~

~~—4. A surety on any bond filed pursuant to this section may be released after the surety gives 30 days' written notice to the Administrator of the Division of Public and Behavioral Health, but the release does not discharge or otherwise affect any claim filed by an older patient for property damaged as a result of any act or failure to act by the facility, agency, organization or home to protect the property of the older patient alleged to have occurred while the bond was in effect.~~

~~—5. A license is suspended by operation of law when the facility, agency, organization or home is no longer covered by a surety bond as required by this section or by a substitute for the surety bond pursuant to NRS 449.067. The Administrator of the Division of Public and Behavioral Health shall give the facility, agency, organization or home at least 20 days' written notice before the release of the surety or the substitute for the surety, to the effect that the license will be suspended by operation of law until another surety bond or substitute for the surety bond is filed in the same manner and amount as the bond or substitute being terminated.~~

~~—6. The Administrator of the Division of Public and Behavioral Health may exempt a **behavioral healthcare** peer **recovery** support [recovery] organization, residential facility for groups or a home for individual residential care from the requirement of filing a surety bond pursuant to this section if the Administrator determines that the requirement would result in undue hardship to the **behavioral healthcare** peer **recovery** support [recovery] organization, residential facility for groups or home for individual residential care.~~

~~—7. The requirement of filing a surety bond set forth in this section does not apply to a facility for intermediate care, facility for skilled nursing, **behavioral healthcare** peer **recovery** support [recovery] organization, residential facility for groups, home for individual residential care, agency to~~

~~provide personal care services in the home or agency to provide nursing in the home that is operated and maintained by the State of Nevada or an agency thereof.~~

~~8. As used in this section, "older patient" means a patient who is 60 years of age or older.] (Deleted by amendment.)~~

~~Sec. 31. [NRS 449.067 is hereby amended to read as follows:~~

~~449.067 1. As a substitute for the surety bond required pursuant to NRS 449.065, a facility for intermediate care, a facility for skilled nursing, a behavioral healthcare peer recovery support [recovery] organization, a residential facility for groups, a home for individual residential care, an agency to provide personal care services in the home and an agency to provide nursing in the home may deposit with any bank or trust company authorized to do business in this State, upon approval from the Administrator of the Division of Public and Behavioral Health:~~

~~(a) An obligation of a bank, savings and loan association, thrift company or credit union licensed to do business in this State;~~

~~(b) Bills, bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States; or~~

~~(c) Any obligation of this State or any city, county, town, township, school district or other instrumentality of this State, or guaranteed by this State, in an aggregate amount, based upon principal amount or market value, whichever is lower.~~

~~2. The obligations of a bank, savings and loan association, thrift company or credit union must be held to secure the same obligation as would the surety bond required by NRS 449.065. With the approval of the Administrator of the Division of Public and Behavioral Health, the depositor may substitute other suitable obligations for those deposited, which must be assigned to the Aging and Disability Services Division of the Department of Health and Human Services and are negotiable only upon approval by the Administrator of the Aging and Disability Services Division.~~

~~3. Any interest or dividends earned on the deposit accrue to the account of the depositor.~~

~~4. The deposit must be an amount at least equal to the surety bond required by NRS 449.065 and must state that the amount may not be withdrawn except by direct and sole order of the Administrator of the Aging and Disability Services Division.] (Deleted by amendment.)~~

~~Sec. 32. [NRS 449.089 is hereby amended to read as follows:~~

~~449.089 1. Each license issued pursuant to NRS 449.030 to 449.2428, inclusive, expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to NRS 449.050 unless the Division finds, after an investigation, that the facility has not:~~

~~(a) Satisfactorily complied with the provisions of NRS 449.030 to 449.2428, inclusive, or the standards and regulations adopted by the Board;~~

~~—(b) Obtained the approval of the Director of the Department of Health and Human Services before undertaking a project, if such approval is required by NRS 439A.100; or~~

~~—(c) Conformed to all applicable local zoning regulations.~~

~~—2. Each reapplication for an agency to provide personal care services in the home, an agency to provide nursing in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, a hospital described in 42 U.S.C. § 1395ww(d)(1)(B)(iv) which accepts payment through Medicare, a residential facility for groups, a program of hospice care, a home for individual residential care, a facility for the care of adults during the day, a facility for hospice care, a nursing pool, a **behavioral healthcare** peer **recovery** support [recovery] organization, the distinct part of a hospital which meets the requirements of a skilled nursing facility or nursing facility pursuant to 42 C.F.R. § 483.5(b)(2), a hospital that provides swing bed services as described in 42 C.F.R. § 482.66 or, if residential services are provided to children, a medical facility or facility for the treatment of abuse of alcohol or drugs must include, without limitation, a statement that the facility, hospital, agency, program, pool, organization or home is in compliance with the provisions of NRS 449.119 to 449.125, inclusive, and 449.174.~~

~~—3. Each reapplication for an agency to provide personal care services in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, a facility for the care of adults during the day, a **behavioral healthcare** peer **recovery** support [recovery] organization, a residential facility for groups or a home for individual residential care must include, without limitation, a statement that the holder of the license to operate, and the administrator or other person in charge and employees of, the facility, agency, pool, organization or home are in compliance with the provisions of NRS 449.093.} (Deleted by amendment.)~~

~~Sec. 33. [NRS 449.119 is hereby amended to read as follows:~~

~~449.119 As used in NRS 449.119 to 449.125, inclusive, “facility, hospital, agency, program or home” means an agency to provide personal care services in the home, an agency to provide nursing in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, a hospital described in 42 U.S.C. § 1395ww(d)(1)(B)(iv) which accepts payment through Medicare, a **behavioral healthcare** peer **recovery** support [recovery] organization, a residential facility for groups, a program of hospice care, a home for individual residential care, a facility for the care of adults during the day, a facility for hospice care, a nursing pool, the distinct part of a hospital which meets the requirements of a skilled nursing facility or nursing facility pursuant to 42 C.F.R. § 483.5(b)(2), a hospital that provides swing bed services as described in 42 C.F.R. § 482.66 or, if residential services are provided to children, a medical facility or facility for the treatment of abuse of alcohol or drugs.} (Deleted by amendment.)~~

Sec. 34. ~~[NRS 449.174 is hereby amended to read as follows:~~

~~449.174 1. In addition to the grounds listed in NRS 449.160, the Division may deny a license to operate a facility, hospital, agency, program or home to an applicant or may suspend or revoke the license of a licensee to operate such a facility, hospital, agency, program or home if:~~

~~(a) The applicant or licensee has been convicted of:~~

~~(1) Murder, voluntary manslaughter or mayhem;~~

~~(2) Assault or battery with intent to kill or to commit sexual assault or mayhem;~~

~~(3) Sexual assault, statutory sexual seduction, incest, lewdness or indecent exposure, or any other sexually related crime that is punished as a felony;~~

~~(4) Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punished as a misdemeanor, within the immediately preceding 7 years;~~

~~(5) A crime involving domestic violence that is punished as a felony;~~

~~(6) A crime involving domestic violence that is punished as a misdemeanor, within the immediately preceding 7 years;~~

~~(7) Abuse or neglect of a child or contributory delinquency;~~

~~(8) 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, within the immediately preceding 7 years;~~

~~(9) Abuse, neglect, exploitation, isolation or abandonment 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;~~

~~(10) A violation of any provision of law relating to the State Plan for Medicaid or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years;~~

~~(11) A violation of any provision of NRS 422.450 to 422.590, inclusive;~~

~~(12) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;~~

~~(13) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years;~~

~~(14) Any other felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon; or~~

~~(15) An attempt or conspiracy to commit any of the offenses listed in this paragraph, within the immediately preceding 7 years;~~

~~(b) The licensee has, in violation of NRS 449.125, continued to employ a person who has been convicted of a crime listed in paragraph (a); or~~

~~(c) The applicant or licensee has had a substantiated report of child abuse or neglect made against him or her and if the facility, hospital, agency, program or home provides residential services to children.~~

~~2. In addition to the grounds listed in NRS 449.160, the Division may suspend or revoke the license of a licensee to operate an agency to provide personal care services in the home, an agency to provide nursing in the home, a community health worker pool or a **behavioral healthcare peer recovery** support [recovery] organization if the licensee has, in violation of NRS 449.125, continued to employ a person who has been convicted of a crime listed in paragraph (a) of subsection 1.~~

~~3. As used in this section:~~

~~(a) "Domestic violence" means an act described in NRS 33.018.~~

~~(b) "Facility, hospital, agency, program or home" has the meaning ascribed to it in NRS 449.119.~~

~~(c) "Medicaid" has the meaning ascribed to it in NRS 439B.120.~~

~~(d) "Medicare" has the meaning ascribed to it in NRS 439B.130.]~~

(Deleted by amendment.)

Sec. 35. ~~[NRS 449.194 is hereby amended to read as follows:~~

~~449.194 Any person who is employed by an agency to provide personal care services in the home, a community health worker pool or a **behavioral healthcare peer recovery** support [recovery] organization who:~~

~~1. Has successfully completed a course in cardiopulmonary resuscitation according to the guidelines of the American National Red Cross or American Heart Association;~~

~~2. Has successfully completed the training requirements of a course in basic emergency care of a person in cardiac arrest conducted in accordance with the standards of the American Heart Association; or~~

~~3. Has successfully completed the training requirements of a course in the use and administration of first aid, including cardiopulmonary resuscitation,~~

~~and who in good faith renders emergency care or assistance in accordance with the person's training, in the course of his or her regular employment or profession, to an elderly person or a person with a disability, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by that person in rendering that care.] (Deleted by amendment.)~~

Sec. 35.5. 1. Notwithstanding any provision of this act or chapter 641C of NRS to the contrary, any person who engages in the practice of providing behavioral healthcare peer recovery support specialist services for an entity or organization on a paid basis on or before July 1, 2017, must meet the requirements for certification and obtain a certificate as required by section 6 of this act and NRS 641C.900, as amended by section 22 of this act, not later than July 1, 2019.

2. As used in this section, "practice of providing behavioral healthcare peer recovery support specialist services" has the meaning ascribed to it in section 5 of this act.

Sec. 36. This act becomes effective on July 1, 2017.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 211.

Bill read second time.

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

Amendment No. 544.

AN ACT relating to labor; ~~authorizing a court to award treble damages in an action to recover unpaid wages;~~ **increasing the amount of the administrative penalty that may be imposed by the Labor Commissioner for the violation of certain requirements relating to wages and compensation; authorizing the Labor Commissioner, under certain circumstances, to award money to persons harmed by such a violation; requiring the Labor Commissioner to post on an Internet website the business name and address of an employer that willfully violates certain requirements relating to wages and compensation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[This bill authorizes a court to award treble damages to an employee who prevails in an action or proceeding to recover unpaid wages.]~~

Existing law establishes certain requirements and prohibitions concerning the wages and compensation that must be paid to employees. An employer who violates such a requirement or prohibition is guilty of a misdemeanor. In addition to any other penalty or remedy, the Labor Commissioner is authorized to impose an administrative penalty of not more than \$5,000. (NRS 608.005-608.195, 608.250-608.290)

Sections 1.3 and 1.4 of this bill increase the maximum amount of the administrative penalty the Labor Commissioner may impose from \$5,000 to \$10,000 and authorize the Labor Commissioner to award money to a person who is harmed by a violation of the laws relating to wages and compensation if the Labor Commissioner determines that it is in the best interest of this State to do so. Sections 1.3 and 1.4 also limit the amount of the award to the wages and benefits lost as a result of the violation or the amount of the proceeds of the administrative penalty recovered, whichever is less. Additionally, sections 1.3 and 1.4 require the Labor Commissioner to post the business name and address of any employer determined by the Labor Commissioner to have willfully violated the requirements and prohibitions concerning the wages that must be paid to employees on the Labor Commissioner's Internet website.

This bill also requires the Labor Commissioner to post on the Internet website the name and business address of an employer who willfully

violates certain labor laws. Sections 1.3 and 1.4 also authorize the Labor Commissioner to adopt regulations to carry out the provisions of these sections.

Section 1.1 of this bill requires all money collected by the Labor Commissioner as an administrative penalty imposed pursuant to sections 1.3 and 1.4 of this bill to be accounted for separately and used only for awards to persons who were harmed by a violation of the laws governing wages and compensation. Sections 2, 2.3 and 2.5 of this bill make conforming changes to reflect the other changes in the bill. Section 3 of this bill provides that the provisions of this bill apply to any actions and proceedings brought before a final decision has been rendered in the action or proceeding.

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

~~Section 1. [Chapter 608 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*If an employee prevails in any action or proceeding to recover wages which are not paid in accordance with the provisions of this chapter, the employee may recover an amount that is treble the amount of the unpaid wages.* (Deleted by amendment.)~~

Sec. 1.1. NRS 607.160 is hereby amended to read as follows:

607.160 1. The Labor Commissioner:

(a) Shall enforce all labor laws of the State of Nevada:

(1) Without regard to whether an employee or worker is lawfully or unlawfully employed; and

(2) The enforcement of which is not specifically and exclusively vested in any other officer, board or commission.

(b) May adopt regulations to carry out the provisions of paragraph (a).

2. If the Labor Commissioner has reason to believe that a person is violating or has violated a labor law or regulation, the Labor Commissioner may take any appropriate action against the person to enforce the labor law or regulation whether or not a claim or complaint has been made to the Labor Commissioner concerning the violation.

3. Before the Labor Commissioner may enforce an administrative penalty against a person who violates a labor law or regulation, the Labor Commissioner must provide the person with notice and an opportunity for a hearing as set forth in NRS 607.207.

4. In determining the amount of any administrative penalty to be imposed against a person who violates a labor law or regulation, the Labor Commissioner shall consider the person's previous record of compliance with the labor laws and regulations and the severity of the violation.

5. All money collected by the Labor Commissioner as an administrative penalty must be deposited in the State General Fund. Money collected as an administrative penalty imposed pursuant to section 1.3 or 1.4 of this act

must be accounted for separately and used only for awards made by the Labor Commissioner pursuant to sections 1.3 and 1.4 of this act.

6. The actions and remedies authorized by the labor laws are cumulative. If a person violates a labor law or regulation, the Labor Commissioner may seek a civil remedy, impose an administrative penalty or take other administrative action against the person whether or not the person is prosecuted, convicted or punished for the violation in a criminal proceeding. The imposition of a civil remedy, an administrative penalty or other administrative action against the person does not operate as a defense in any criminal proceeding brought against the person.

7. If, after due inquiry, the Labor Commissioner believes that a person who is financially unable to employ counsel has a valid and enforceable claim for wages, commissions or other demands, the Labor Commissioner may present the facts to the Attorney General. The Attorney General shall prosecute the claim if the Attorney General determines that the claim is valid and enforceable.

Sec. 1.2. Chapter 608 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.4 of this act.

Sec. 1.3. 1. If an employer violates any provision of NRS 608.005 to 608.195, inclusive, or any regulation adopted pursuant thereto, the Labor Commissioner, in addition to any other remedy or penalty, may impose against the employer an administrative penalty of not more than \$10,000 for each such violation.

2. Upon receipt of the proceeds of an administrative penalty imposed pursuant to subsection 1, the Labor Commissioner may, if he or she determines that it is in the best interest of this State, award to a person harmed by the violation for which the administrative penalty was imposed an amount of money that is equal to the lesser of:

(a) Three times the amount of the wages and benefits lost as a result of the violation; or

(b) The amount of the proceeds of the administrative penalty.

3. If the Labor Commissioner determines that an employer's violation of NRS 608.005 to 608.195, inclusive, or any regulation adopted pursuant thereto was willful, the Labor Commissioner shall post the business name and address of the employer on an Internet website maintained by the Labor Commissioner.

4. The Labor Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 1.4. 1. If an employer violates any provision of NRS 608.250 or any regulation adopted pursuant thereto, the Labor Commissioner, in addition to any other remedy or penalty, may impose against the employer an administrative penalty of not more than \$10,000 for each such violation.

2. Upon receipt of the proceeds of an administrative penalty imposed pursuant to subsection 1, the Labor Commissioner may, if he or she determines that it is in the best interest of this State, award to a person

harmful by the violation for which the administrative penalty was imposed an amount of money that is equal to the lesser of:

(a) Three times the amount of the wages and benefits lost as a result of the violation; or

(b) The amount of the proceeds of the administrative penalty.

3. If the Labor Commissioner determines that an employer's violation of NRS 608.250 or any regulation adopted pursuant thereto was willful, the Labor Commissioner shall post the business name and address of the employer on an Internet website maintained by the Labor Commissioner.

4. The Labor Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 2. NRS 608.180 is hereby amended to read as follows:

608.180 The Labor Commissioner or the representative of the Labor Commissioner shall cause the provisions of NRS 608.005 to 608.195, inclusive, **and section 1.3 of this act** to be enforced, and upon notice from the Labor Commissioner or the representative:

1. The district attorney of any county in which a violation of those sections has occurred;

2. The Deputy Labor Commissioner, as provided in NRS 607.050;

3. The Attorney General, as provided in NRS 607.160 or 607.220; or

4. The special counsel, as provided in NRS 607.065,

↪ shall prosecute the action for enforcement according to law.

Sec. 2.3. NRS 608.195 is hereby amended to read as follows:

608.195 ~~{1-}~~ Except as otherwise provided in NRS 608.0165, any person who violates any provision of NRS 608.005 to 608.195, inclusive, **and section 1.3 of this act** or any regulation adopted pursuant thereto, is guilty of a misdemeanor.

~~{2. In addition to any other remedy or penalty, the Labor Commissioner may impose against the person an administrative penalty of not more than \$5,000 for each such violation.}~~

Sec. 2.5. NRS 608.290 is hereby amended to read as follows:

608.290 ~~{1-}~~ Any person who violates any provision of NRS 608.250 or any regulation adopted pursuant thereto is guilty of a misdemeanor.

~~{2. In addition to any other remedy or penalty, the Labor Commissioner may impose against the person an administrative penalty of not more than \$5,000 for each such violation.}~~

Sec. 3. The provisions of this act apply to any action or proceeding ~~to recover unpaid wages~~ **brought** pursuant to chapter 608 of NRS in which a final decision has not been rendered before, on or after July 1, 2017.

Sec. 4. This act becomes effective on July 1, 2017.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 379.

Bill read second time.

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

Amendment No. 366.

SUMMARY—~~[Amends provisions relating to general improvement districts created for the purpose of furnishing recreational facilities.]~~
Authorizes certain local governments to create a parks, trails and open space district. (BDR 25-211)

AN ACT relating to ~~[general improvement districts; revising provisions relating to the formation of a general improvement district that is organized to furnish recreational facilities; expanding the authority of the board of trustees of a general improvement district that is organized to furnish recreational facilities; providing that watersheds,]~~ **local governments; authorizing, under certain circumstances, the governing body of a county, city or town to create a parks, trails, and open spaces, lakes, ponds and rivers are recreational facilities,]** **space district; setting forth the duties and authority of the board of trustees of such a district; providing penalties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Under existing law, a board of county commissioners cannot begin the organization of a general improvement district that includes any real property within 7 miles from the boundary of an incorporated city or unincorporated town unless one of five conditions is met. (NRS 318.055) Section 1 of this bill provides that these conditions do not apply to a proposed district which will furnish recreational facilities if each board of county commissioners and governing body of an incorporated city, unincorporated town and existing general improvement district with territory included within the boundaries of the proposed district consent to the formation of the district by resolution.~~

~~Existing law authorizes the board of trustees of a general improvement district to acquire, construct, reconstruct, improve, extend and better one or more of the following types of facilities for recreation: exposition buildings, museums, skating rinks, other type rinks, fieldhouses, sports arenas, bowling alleys, swimming pools, stadiums, golf courses, tennis courts, squash courts, other courts, ball fields, other athletic fields, tracks, playgrounds, bowling greens, ball parks, public parks, promenades, beaches, marinas, levees, piers, docks, wharves, boat basins, boathouses, harbors, anchorages, gymnasiums, appurtenant shower, locker and other bathhouse facilities, amusement halls, dance halls, concert halls, theaters, auditoriums, aviaries, aquariums, zoological gardens, biological gardens and vivariums. Section 2 of this bill authorizes a board to: (1) also acquire, operate, maintain, manage and restore these recreational facilities; (2) design, compile or administer certain environmental or cultural reports; (3) take measures to reduce wildfire, restore native vegetation and conserve and manage natural resources; (4) establish or fund the establishment of educational programs at~~

~~facilities for recreation, including, without limitation, funding for personnel who provide such educational programs; (5) enter into certain agreements with a nonprofit corporation; and (6) establish a fund and accept gifts, grants and donations for deposit in the fund. Section 2 also provides that recreational facilities include watersheds, trails, open spaces, lakes, ponds and rivers.]~~

This bill authorizes, under certain circumstances, the governing body of a county, city or town to create a parks, trails and open space district.

Sections 7-12 of this bill set forth the process for such a governing body to create such a district. Section 7 provides general authority for the creation of such a district. Section 8 provides that the creation of a district is initiated by: (1) a resolution adopted by the governing body; or (2) a petition to a governing body by an owner of property within the proposed boundaries of the district. Section 9 provides that after the creation of a district is initiated, the relevant county or city clerk must mail written notice to all property owners within the proposed district. Section 10 authorizes any owner of property within the proposed district to protest the creation of the district. Section 11 sets forth certain circumstances where the creation of a district is prohibited.

Section 13 of this bill provides for the appointment of initial members of the board of trustees of a district. Sections 16 and 17 of this bill set forth how members of the board of trustees will be elected after the initial appointment of members.

Sections 19 and 20 of this bill prohibit members of the board of trustees of a district from being interested in the purchase or sale of property belonging to the district or entering into certain contracts.

Sections 25-29 of this bill set forth the various powers of a board in relation to parks, trails and open space.

Section 30 of this bill authorizes a board to establish fees or special assessments for facilities, improvements or projects of the district. Sections 34 and 35 of this bill authorize a board to impose ad valorem taxes. Sections 30, 31 and 34-38 of this bill set forth the process for imposing and collecting any such fees, special assessments or ad valorem taxes.

Sections 40-42 of this bill set forth the procedure for changing the boundaries of a district.

Sections 43-47 of this bill authorize a board, under certain circumstances, to issue bonds and borrow money.

Sections 32 and 49-51 of this bill set forth the requirements for the dissolution, merger or consolidation of a district.

WHEREAS, ~~[Recreational facilities]~~ Parks, trails and open spaces are essential to the health, quality of life and economic prosperity of the residents of this State; and

WHEREAS, Well-maintained ~~[recreational facilities]~~ **parks, trails and open spaces** stimulate economic growth and enhance the vitality of local and regional communities; and

WHEREAS, Protecting water quality and wildlife habitat and ensuring safety in ~~[recreational facilities]~~ **parks, trails and open spaces** encourage participation in healthy outdoor activities; and

WHEREAS, It is necessary to provide sustainable and reliable funding for the creation and maintenance of ~~[recreational facilities]~~ **parks, trails and open spaces**; now, therefore,

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

Delete existing sections 1 through 3 of this bill and replace with the following new sections 1 through 54:

Section 1. Title 25 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 53, inclusive, of this act.

Sec. 2. This chapter shall be known and may be cited as the Nevada Parks, Trails and Open Space District Act.

Sec. 3. 1. It is hereby declared as a matter of legislative determination that:

(a) The organization of parks, trails and open space districts having the purposes, powers, rights, privileges and immunities provided in this chapter will serve a public use and will promote the health, safety, prosperity, security and general welfare of the inhabitants thereof and of the State of Nevada;

(b) The acquisition, construction, reconstruction, restoration, improvement, maintenance and operation of any facility, improvement or project authorized in this chapter is in the public interest and constitutes a part of the established and permanent policy of the State of Nevada; and

(c) Each district organized pursuant to the provisions of this chapter shall be a body corporate and politic and a quasi-municipal corporation. For the accomplishment of these purposes the provisions of this chapter shall be broadly construed.

2. It is hereby further declared that the provisions of this chapter are not intended to provide a method for financing the costs of developing private property.

3. It is hereby further declared as a matter of legislative determination that the notice provided for in this chapter for each hearing and action to be taken is reasonably calculated to inform the parties of all proceedings which may directly and adversely affect their legally protected interests.

Sec. 4. As used in this chapter, unless the context otherwise requires:

1. "Board of trustees" and "board" alone each means the board of trustees of a district.

2. "Clerk" means:

(a) If a district is created or proposed to be created by a county or town, the county clerk.

(b) If a district is created or proposed to be created by a city, the city clerk.

3. "Facility", "improvement" and "project" includes, without limitation, any structure, undertaking or system which a district is authorized to acquire, improve, equip, maintain or operate. A project may consist of all kinds of personal and real property, including, without limitation, land, elements, improvements and fixtures thereon, property of any nature appurtenant thereto or used in connection therewith, and every estate, interest and right therein, legal or equitable, including terms for years, or any combination thereof.

4. "Governing body" means the governing body of the county, city and town that creates a district pursuant to this chapter.

5. "Mail" means a single mailing first class or its equivalent, postage prepaid, by deposit in the United States mail, at least 15 days before the designated time or event.

6. "Parks, trails and open space district" and "district" each means any parks, trails and open space district organized or, in the case of organizational provisions, proposed to be organized pursuant to this chapter.

7. "Trustee" means a member of a board of trustees.

Sec. 5. For the purpose of computing any period of time prescribed in this chapter, the first day of the designated action or time must be excluded and the last day of the designated action or time must be included.

Sec. 6. 1. This chapter being necessary to secure the public health, safety, convenience and welfare, it shall be liberally construed to effect its purposes.

2. This chapter, without reference to other statutes of the State, except as specifically provided in this chapter, shall constitute full authority for the authorization and issuance of bonds hereunder. No other law with regard to the authorization or issuance of bonds that provides for an election, requires an approval, or in any way impedes or restricts the carrying out of the acts authorized by this chapter to be done shall be construed as applying to any proceedings taken under this chapter or acts done pursuant thereto, it being intended that this chapter shall provide a separate method of accomplishing its objectives, and not an exclusive one. This chapter must not be construed as repealing, amending or changing any such other law.

Sec. 7. 1. Except as otherwise provided in this chapter, the governing body of any county, city or town within this State is hereby vested with jurisdiction, power and authority to create one or more districts within the county, city or town which it serves.

2. No member of a governing body shall be disqualified to perform any duty imposed by this chapter by reason of ownership of property within any proposed district.

Sec. 8. 1. The creation of a district may be initiated by:

(a) A resolution adopted by the governing body of any county, city or town; or

(b) Except as otherwise provided in subsection 2, a petition submitted by any owner of property proposed to be located in the district to the governing body of a county, city or town.

2. If the proposed boundaries of a district include areas within more than one county, city or town and the creation of the district is initiated by petition pursuant to paragraph (b) of subsection 1, the petition must be submitted to the governing body of the county, city or town in which is located the largest proportion of the geographic area of the proposed district.

3. A resolution adopted pursuant to paragraph (a) of subsection 1 or a petition submitted pursuant to paragraph (b) of subsection 1 must set forth the proposed name, powers, purpose and boundaries of the district.

4. A district may be entirely within or entirely without, or partly within or partly without, one or more counties, cities and towns and the district may consist of noncontiguous tracts or parcels of property.

Sec. 9. After the creation of a district is initiated pursuant to section 8 of this act, the clerk shall mail written notice to all property owners within the proposed district informing the property owners of the proposed creation of a district. The notice must set forth the proposed name, powers, purpose and boundaries of the district and the time and place of the hearing that will be held by the governing body to determine whether to create the district and where the person may protest its creation.

Sec. 10. 1. Any person who owns property which is located within the proposed area of the district may, on or before the date of the hearing, submit a written protest to the creation of the district.

2. The governing body shall give full consideration to all protests which have been submitted and hear all persons desiring to be heard and, thereafter, adopt an ordinance creating the district or determining that the district must not be created.

3. Except as otherwise provided in section 11 of this act, at the hearing to consider the creation of the district or at a subsequent hearing to which the hearing is adjourned, the governing body may create the district by ordinance if the governing body makes findings that the creation of the district is economically sound and feasible.

4. Any ordinance creating a district may contain changes to the proposed name, powers, purpose or boundaries of the district as may be considered by the governing body to be equitable and necessary.

Sec. 11. A governing body shall not create a district pursuant to the provisions of this chapter:

1. If, at or before the hearing held pursuant to section 10 of this act, a majority of property owners within the proposed district submit written protests to the creation of the district pursuant to that section;

2. If the proposed boundaries of a district include areas within more than one county, city or town and the governing bodies of all such counties, cities and towns have not entered into an interlocal agreement that includes, without limitation, the consent of each governing body to the creation of the district; or

3. If the proposed boundaries of a district overlap with the boundaries of one or more general improvement districts created pursuant to chapter 318 of NRS and the board of trustees of each such general improvement district has not by resolution consented to the creation of the district.

Sec. 12. 1. Except as otherwise provided in subsection 2, the adoption of an ordinance creating a district establishes the regular organization of the district, which is a governmental subdivision of this State, a body corporate and politic and a quasi-municipal corporation.

2. Within 30 days immediately following the effective date of such ordinance any person who has filed a written protest, as provided in section 10 of this act, shall have the right to commence an action in any court of competent jurisdiction to set aside such determination. Thereafter all actions or suits attacking the regularity, validity and correctness of that ordinance and all proceedings, determinations and instruments taken, adopted or made before such ordinance's final passage, shall be perpetually barred.

3. Within 30 days immediately following the effective date of the ordinance creating the district, the governing body shall cause to be filed a copy of the ordinance in the office of the clerk and shall cause to be filed an additional copy of the ordinance in the Office of the Secretary of State, which filings shall be without fee and be otherwise in the same manner as articles of incorporation are required to be filed under chapter 78 of NRS.

Sec. 13. 1. After adopting an ordinance creating a district and before appointing the first board of trustees for the district, the governing body is, ex officio, the board of trustees for the district.

2. While acting as the board of trustees, the governing body shall establish:

(a) Accounting practices and procedures for the district;

(b) Auditing practices and procedures to be used by the district;

(c) A budget for the district; and

(d) Management standards for the district.

3. After the governing body has performed the duties required by subsection 2, it must appoint five persons to serve as the first board of trustees of the district. The persons appointed to the board of trustees pursuant to this section must be qualified electors of the district. The appointed trustees must determine by lot which three appointed trustees serve 4 year terms and which two appointed trustees serve 2 year terms.

4. The governing body may remove any appointed trustee for cause shown.

5. The members of the board of trustees must file with the clerk their oaths of office and corporate surety bonds, at the expense of the district, the bonds to be in an amount not more than \$10,000 each, the form and exact amount thereof to be approved and determined, respectively, by the governing body, conditioned for the faithful performance of their duties as trustees. The governing body may from time to time, upon good cause shown, increase or decrease the amount of the bond.

Sec. 14. 1. The board shall choose one of its members as chair of the board and president of the district, and shall elect a secretary and a treasurer of the board and of the district, who may or may not be members of the board. The secretary and the treasurer may be one person.

2. The board shall adopt a seal.

3. The secretary shall keep a record of all of the board's proceedings, minutes of all meetings, any certificates, contracts, bonds given by employees and all corporate acts. Except as otherwise provided in NRS 241.035, the records must be open to inspection of all owners of real property in the district as well as to all other interested persons. A copy of the minutes or audio recordings, if any, must be made available to a member of the public upon request at no charge pursuant to NRS 241.035.

4. The treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on behalf of the district in permanent records. The treasurer shall file with the clerk, at the expense of the district, a corporate surety bond in an amount not more than \$50,000, the form and exact amount thereof to be approved and determined, respectively, by the governing body, conditioned for the faithful performance of the duties of his or her office. Any other officer or trustee who actually receives or disburses money of the district shall furnish a bond as provided in this subsection. The governing body may, upon good cause shown, increase or decrease the amount of that bond.

5. Except as otherwise provided in this subsection, each member of a board of trustees of a district organized pursuant to this chapter may receive as compensation for his or her service not more than \$6,000 per year. The compensation of the members of a board is payable monthly, if the budget is adequate and a majority of the members of the board vote in favor of such compensation, but no member of the board may receive any other compensation for his or her service to the district as an employee or otherwise. Each member of the board must receive the same amount of compensation. If a majority of the members of the board vote in favor of an increase in the compensation of the trustees, the increase may not become effective until January 1 of the calendar year immediately following the next biennial election of the district as set forth in section 16 of this act.

Sec. 15. 1. The board shall, by resolution, designate the place where the office or principal place of the district is to be located, which must be

within the corporate limits of the district and which may be changed by resolution of the board. Copies of all those resolutions must be filed with the clerk within 5 days after their adoption. The official records and files of the district must be kept at that office and must be open to public inspection as provided in NRS 239.010.

2. The board of trustees shall meet regularly at least once each year, and at such other times at the office or principal place of the district as provided in the bylaws.

3. Special meetings may be held on notice to each member of the board as often as, and at such places within the district as, the needs of the district require.

4. Three members of the board constitute a quorum at any meeting.

5. A vacancy on the board must be filled by a qualified elector of the district chosen by the remaining members of the board.

Sec. 16. 1. Except as otherwise provided in this section, the general election for trustees of the district must be conducted by the county clerk and held simultaneously with the general election of the county in which the district is located.

2. If a district is located:

(a) In more than one county, the general election for trustees of the district must be conducted by the county clerk of the county in which is located the largest proportion of the geographic area of the district simultaneously with the general election of that county.

(b) Wholly within the boundaries of a city, the general election for trustees of the district must be conducted by the city clerk and held simultaneously with the general city election of the city.

3. The first biennial election of the district must be held simultaneously with the first general election described in subsection 1 that is held after the creation of the district.

4. At the first biennial election, there must be elected by the qualified electors of the district three qualified electors to serve as trustees of the board. At the second biennial election, there must be elected by the qualified electors of the district two qualified electors.

5. The term of office of an elected trustee is 4 years and begins on the first Monday in January next following the biennial election.

6. The office of trustee is a nonpartisan office.

7. The general election laws of this State govern the candidacy, nominations and election of a trustee of the board.

Sec. 17. 1. If there are two regular terms which end on the first Monday in January next following the biennial election, the two qualified electors receiving the highest and next highest number of votes must be elected. If there are three regular terms so ending, the three qualified electors receiving the highest, next highest and third highest number of votes must be elected.

2. If there is a vacancy in an unexpired regular term to be filled at the biennial election, the candidate who receives the highest number of votes, after there are chosen the successful candidates to fill the vacancies in expired regular terms as provided in subsection 1, must be elected.

Sec. 18. Members of the board of trustees are subject to recall from office pursuant to the provisions of the Constitution and statutes of this State.

Sec. 19. 1. No trustee may be interested, directly or indirectly, in any property purchased for the use of the district, or in any purchase or sale of property belonging to the district.

2. Any contract made in violation of the provisions of subsection 1 may be declared void.

3. A trustee who violates the provisions of subsection 1 is guilty of a gross misdemeanor and shall be further punished as provided in NRS 197.230.

Sec. 20. 1. Except as otherwise provided in subsection 2, no trustee may:

(a) Become a contractor under any contract or order for supplies or any other kind of contract authorized by the board, or to be in any manner interested, directly or indirectly, as principal, in any kind of contract so authorized.

(b) Be interested in any contract made by the board or to be a purchaser or to be interested in any purchase or sale made by the board.

2. The board may purchase supplies or contract for services for the district from one of its members, when not to do so would be a great inconvenience, but the member from whom the supplies are to be bought or with whom the contract for services is to be made shall not vote upon the allowance of the purchase or contract. If the purchase is made or contract let by competitive bidding, the bid of a member of the board may be accepted only if the member is the lowest responsible bidder.

3. Any contract made in violation of the provisions of subsection 1 may be declared void.

4. A trustee who violates the provisions of subsection 1, directly or indirectly, is guilty of a gross misdemeanor and shall be further punished as provided in NRS 197.230.

Sec. 21. 1. A board may request, in writing, assistance from any elected or appointed officer of any county, city or town in which all or a part of the district is located.

2. The officer shall furnish the requested assistance, after an agreement has been reached concerning the amount of money which the board must pay for the assistance. The cost shall not be more than the actual additional expense necessitated by the request.

Sec. 22. A board has each of the basic powers enumerated in this chapter and designated in the organizational proceedings of the district

and other provisions supplemental thereto in this chapter, or otherwise authorized by law.

Sec. 23. 1. In any region of this State for which there has been established by interstate compact a regional planning agency, the powers of any district created pursuant to this chapter with respect to the location and construction of all facilities, improvements or projects are subordinate to the powers of such regional planning agency.

2. If the boundaries of a district overlap with the boundaries of a conservation district formed pursuant to chapter 548 of NRS, the board of the district must coordinate and consult with the board of supervisors of the conservation district on matters that may impact the conservation district.

Sec. 24. 1. Subject to the limitations of this chapter, the board shall have perpetual existence.

2. The board shall have the power to have and use a corporate seal.

3. The board shall have the power to sue and be sued, and be a party to suits, actions and proceedings.

Sec. 25. 1. Subject to the provisions of subsection 2, a board may:

(a) Acquire, construct, reconstruct, improve, operate, maintain, manage, restore, extend and better lands, works, systems and facilities, improvements and projects for parks, trails and open space.

(b) Design, compile or administer environmental or cultural reports related to parks, trails and open space.

(c) Take measures to reduce wildfire, restore native vegetation and conserve and manage natural resources.

(d) Establish or fund the establishment of educational programs at facilities, improvements and projects for parks, trails and open space, including, without limitation, granting funding for personnel who provide such educational programs.

(e) Enter into an agreement with a nonprofit corporation to take one or more of the actions described in paragraph (a), (b), (c) or (d).

(f) Establish a fund consisting of contributions from private sources, the State or the county, cities and towns in which the district is located for the purpose of matching federal money from any federal source.

(g) Accept gifts, grants and donations for deposit in any fund established pursuant to paragraph (f).

2. Such parks, trails and open space facilities, improvements and projects may include, without limitation, playgrounds, bowling greens, ball parks, public parks, promenades, beaches, marinas, levees, piers, docks, wharves, boat basins, boathouses, harborages, anchorages, gymnasiums, appurtenant shower, locker and other bathhouse facilities, concert halls, theaters, auditoriums, aviaries, aquariums, zoological gardens, biological gardens, vivariums, watersheds, trails, open spaces, lakes, ponds and rivers.

Sec. 26. 1. A board may operate, maintain and repair the facilities, improvements and projects acquired by the district.

2. The board shall have the power to acquire, dispose of and encumber real and personal property, and any interest therein, including leases, easements and revenues derived from the operation thereof.

3. The board may enter on any lands, waters and premises for the purposes of making surveys, soundings, examinations, tests and inspections.

Sec. 27. A board may:

1. Manage, control and supervise all the business and affairs of the district.

2. Acquire, improve, equip, operate and maintain any district project.

3. Hire and retain agents, employees, servants, engineers and attorneys, and any other persons necessary or desirable to effect the purposes of this chapter.

4. Adopt and amend bylaws:

(a) For carrying on the business, objects and affairs of the board and of the district.

(b) Regulating the use or right of use of any facility, improvement or project.

5. Exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this chapter.

Sec. 28. The board may exercise the power of eminent domain in the manner provided by law for the condemnation by a city of private property for public use to take any property necessary to the exercise of the powers granted within the district.

Sec. 29. 1. A board may construct and maintain works and establish and maintain facilities, improvements or projects across or along any public street or highway, and in, upon or over any vacant public lands, which public lands are, or may become, the property of this State, and to construct works and establish and maintain facilities, improvements or projects across any stream of water or watercourse.

2. The board shall promptly restore any such street or highway to its former state of usefulness as nearly as may be, and shall not use the same in such manner as to impair completely or unnecessarily the usefulness thereof.

Sec. 30. 1. A board may establish, and from time to time increase or decrease, fees or special assessments for facilities, improvements or projects and pledge the revenue for the payment of any indebtedness or special obligations of the district.

2. All fees or special assessments constitute a perpetual lien on and against the property located within the district. A perpetual lien is prior and superior to all liens, claims and titles other than liens of general taxes and other special assessments and is not subject to extinguishment by the sale of any property on account of nonpayment of any liens, claims and titles

including the liens of general taxes and other special assessments. A perpetual lien must be foreclosed in the same manner as provided by the laws of this State for the foreclosure of mechanics' liens. Before any lien is foreclosed, the board shall hold a hearing thereon after providing notice thereof by publication and by registered or certified first-class mail, postage prepaid, addressed to the last known owner at his or her last known address according to the records of the district and the real property assessment roll in the county in which the property is located.

3. The board may provide for a basic penalty for nonpayment of the charges within the time and in the manner prescribed by it. The basic penalty must not be more than 10 percent of each month's charges for the first month delinquent. In addition to the basic penalty, the board may provide for a penalty of not more than 1.5 percent per month for nonpayment of the charges and basic penalty. The board may prescribe and enforce regulations that set forth the date on which a charge becomes delinquent. The board may provide for collection of the penalties provided for in this section.

4. A lien against the property served is not effective until a notice of the lien, separately prepared for each lot affected, is:

(a) Mailed to the last known owner at his or her last known address according to the records of the district and the real property assessment roll of the county in which the property is located;

(b) Delivered by the board to the office of the county recorder of the county within which the property subject to such lien is located;

(c) Recorded by the county recorder in a book kept by the county recorder for the purpose of recording instruments encumbering land; and

(d) Indexed in the real estate index as deeds and other conveyances are required by law to be indexed.

Sec. 31. 1. Any board which has adopted fees or special assessments pursuant to this chapter may, by resolution or by separate resolutions, elect to have such charges for the forthcoming fiscal year collected on the tax roll in the same manner, by the same persons, and at the same time as, together with and not separately from, the county's general taxes. In such event, it shall cause a written report to be prepared and filed with the secretary, which shall contain a description of each parcel of real property in the district and the amount of the charge for each parcel for such year, computed in conformity with the charges prescribed by the resolution.

2. The real property may be described by reference to maps prepared by and on file in the office of the county assessor or by descriptions used by the county assessor, or by reference to plats or maps on file in the office of the secretary.

3. The secretary shall cause notice of the filing of the report and of a time and place of hearing thereon to be published once a week for 2 weeks prior to the date set for hearing, in a newspaper of general circulation printed and published within the district if there is one and if not then in

such paper printed and published in a county within which the district is located.

4. Before the board may have such charges collected on the tax roll, the secretary shall cause a notice in writing of the filing of the report proposing to have such charges for the forthcoming fiscal year collected on the tax roll and of the time and place of hearing thereon, to be mailed to each person to whom any parcel or parcels of real property described in the report is assessed in the last equalized assessment roll available on the date the report is prepared, at the address shown on the assessment roll or as known to the secretary. If the board adopts the report, then the requirements for notice in writing to the persons to whom parcels of real property are assessed does not apply to hearings on reports prepared in subsequent fiscal years but notice by publication as provided in this section is adequate.

5. At the time stated in the notice, the board shall hear and consider all objections or protests, if any, to the report referred to in the notice and may continue the hearing from time to time. If the board finds that protest is made by the owners of a majority of separate parcels of property described in the report, then the report must not be adopted and the charges must be collected separately from the tax roll and must not constitute a lien against any parcel or parcels of land.

6. Upon the conclusion of the hearing, the board may adopt, revise, change, reduce or modify any charge or overrule any or all objections and shall make its determination upon each charge as described in the report, which determination is final.

7. After the hearing, when the board has made a final decision on a fee or special assessment to be collected on the county tax roll, the secretary shall prepare and file a final report, which shall contain a description of each parcel in the district and the amount of the charge, with the county assessor for inclusion on the assessment roll. If a report is filed after the closing of the assessment roll but before the extension of the tax roll, the auditor shall insert the charges in such extension.

8. The amount of the charges shall constitute a lien against the lot or parcel of land against which the charge has been imposed as of the time when the lien of taxes on the roll attach.

9. The county treasurer shall include the amount of the charges on bills for taxes levied against the respective lots and parcels of land. Thereafter the amount of the charges shall be collected at the same time and in the same manner and by the same persons as, together with and not separately from, the general taxes for the county. The charges shall become delinquent at the same time as such taxes and are subject to the same delinquency penalties.

10. All laws applicable to the levy, collection and enforcement of general taxes of the county, including, without limitation, those pertaining

to the matters of delinquency, correction, cancellation, refund, redemption and sale, are applicable to such charges.

11. The county treasurer may issue separate bills for such charges and separate receipts for collection on account of such charges.

Sec. 32. 1. When a district is contained wholly within a city or town, the board may convey to such city or town, at the discretion of the district and with the consent of the governing body of the city or town, all of the property of the district upon the condition that such city or town:

(a) Will operate and maintain such property; and

(b) Assumes all of the indebtedness of such district upon such conditions as the governing body of the city or town and the board of the district may agree.

2. Upon such conveyance and assumption of indebtedness the district shall be dissolved and a certificate to such effect shall be signed by the clerical officer of the city or town and filed with the Secretary of State and clerk of the county or city in which the ordinance creating the district was filed.

Sec. 33. 1. Any county, city, town, special district or owner may sell, lease, grant, convey, transfer or pay over to any district, with or without consideration, any facility, improvement or project, or any part thereof, or any interest in real or personal property or any money available for the construction, improvement, maintenance or operation of any facility, improvement or project.

2. Any county, city, town or special district may transfer, assign and set over to any district any contracts which may have been awarded by the county, city, town or special district for the construction of facilities, improvements or projects not begun or completed.

Sec. 34. In addition to the other means for providing revenue for the district, a board may levy and collect ad valorem taxes on and against all taxable property within the district.

Sec. 35. 1. To levy and collect ad valorem taxes, a board shall determine, in each year, the amount of money necessary to be raised by taxation, taking into consideration other sources of revenue of the district, and shall fix a rate of levy which, when levied upon every dollar of assessed valuation of taxable property within the district, and together with other revenues, will raise the amount required by the district annually to supply money for paying:

(a) The expenses of organization and the costs of operating and maintaining the facilities, improvements and projects of the district; and

(b) The costs of facilities, improvements and projects of the district and, when due, all interest on and principal of general obligation bonds and other general obligations of the district.

➤ In the event of accruing defaults or deficiencies, an additional levy may be made as provided in section 36 of this act. The board shall identify separately the rate of tax which is levied pursuant to paragraph (a) and the

rate which is levied pursuant to paragraph (b) and shall make such information available to the public upon request. The board shall not continue to levy a rate of tax pursuant to paragraph (b) after the cost to the district of acquiring the particular facility, improvement or project for which the rate was levied has been recovered in full.

2. The board shall certify to the board of county commissioners, at the same time as fixed by law for certifying thereto tax levies of incorporated cities, the rate so fixed with directions that at the time and in the manner required by law for levying taxes for county purposes such board of county commissioners shall levy such tax upon the assessed valuation of all taxable property within the district, in addition to such other taxes as may be levied by such board of county commissioners at the rate so fixed and determined.

Sec. 36. 1. A board, in certifying annual levies, must take into account the maturing general obligation indebtedness for the ensuing year as provided in its contracts, maturing general obligation bonds and interest on such bonds, and deficiencies and defaults of prior years, and make ample provision for the payment thereof.

2. If the money produced from such levies, together with other revenues of the district, is not sufficient punctually to pay the annual installments on such obligations, and interest thereon, and to pay defaults and deficiencies, the board shall make such additional levies of taxes as may be necessary for such purposes, and such taxes must be made and continue to be levied until the general obligation indebtedness of the district is fully paid but must not continue after that date.

Sec. 37. 1. The body having authority to levy taxes within each county shall levy the taxes provided in this chapter.

2. All officials charged with the duty of collecting taxes shall collect such taxes at the time and in the same form and manner, and with like interest and penalties, as other taxes are collected and when collected shall pay the same to the district ordering its levy and collection. The payment of such collections shall be made monthly to the treasurer of the district and paid into the depository thereof to the credit of the district.

3. All taxes levied under this chapter, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same, shall constitute, until paid, a perpetual lien on and against the property taxed; and such lien shall be on a parity with the tax lien of other general taxes.

Sec. 38. If the taxes levied are not paid as provided in this chapter, the property subject to the tax lien shall be sold and the proceeds thereof shall be paid over to the district according to the provisions of the laws applicable to tax sales and redemptions.

Sec. 39. Whenever any indebtedness or other obligations have been incurred by a district, it shall be lawful for the board to levy taxes and collect revenue for the purpose of creating funds in such amount as the

board may determine, which may be used to meet the obligations of the district, for maintenance and operating charges and depreciation, and provide extension of and betterments to the improvements of the district.

Sec. 40. 1. The boundary of any district organized under the provisions of this chapter may be changed in the manner prescribed in sections 41 and 42 of this act, but the change of boundaries of the district must not impair nor affect its organization, nor shall it affect, impair or discharge any contract, obligation, lien or charge on which it or the property therein might be liable or chargeable had such change of boundaries not been made.

2. Property included within or annexed to a district shall be subject to the payment of taxes, assessments and charges, as provided in section 42 of this act. Real property excluded from a district shall thereafter be subject to the levy of taxes for the payment of its proportionate share of any indebtedness of the district outstanding at the time of such exclusion, and shall be subject to any outstanding special assessment lien thereon. Personal property may be excluded from a district on such terms and conditions as may be prescribed by the board of the district involved.

Sec. 41. 1. A fee owner of real property located in the district, or the fee owners of any real properties which are contiguous to each other and which constitute a portion of the district may file with the board a petition requesting that such lands be excluded from the district.

2. Petitions must:

(a) Describe the property which the petitioners desire to have excluded.

(b) State that the property is not capable of being served with facilities, improvements or projects of the district, or would not be benefited by remaining in the district.

(c) Be acknowledged in the same manner and form as required in case of a conveyance of land.

(d) Be accompanied by a deposit of money sufficient to pay all costs of the exclusion proceedings.

3. The secretary of the board shall cause a notice of filing of such petition to be published, which notice must:

(a) State the filing of such petition.

(b) State the names of the petitioners.

(c) Describe the property mentioned in the petition.

(d) State the request of the petitioners.

(e) Notify all persons interested to appear at the office of the board at the time named in the notice, showing cause in writing, if any they have, why the petition should not be granted.

4. The board at the time and place mentioned in the notice, or at the times to which the hearing of the petition may be adjourned, shall proceed to hear the petition and all objections thereto, presented in writing by any person showing cause why the request of the petition should not be granted.

5. The filing of such petition shall be deemed and taken as an assent by each and all such petitioners to the exclusion from the district of the property mentioned in the petition, or any part thereof.

6. The board, if it deems it not for the best interest of the district that the property mentioned in the petition, or portion thereof, be excluded from the district, must order that the petition be denied in whole or in part, as the case may be.

7. If the board deems it for the best interest of the district that the property mentioned in the petition, or some portion thereof be excluded from the district, the board must order that the petition be granted in whole or in part, as the case may be.

8. There shall be no withdrawal from a petition after consideration by the board nor shall further objection be filed except in case of fraud or misrepresentation.

9. Upon allowance of such petition, the board shall file for record a certified copy of its resolution making such change, as provided in section 12 of this act.

Sec. 42. The boundaries of a district may be enlarged by the inclusion of additional real property therein in the following manner:

1. The fee owner or owners of any real property capable of being served with facilities, improvements or projects of the district may file with the board a petition in writing requesting that such property be included in the district.

2. The petition must:

(a) Set forth an accurate legal description of the property owned by the petitioners.

(b) State that assent to the inclusion of such property in the district is given by the signers thereto, constituting all the fee owners of such property.

(c) Be acknowledged in the same manner required for a conveyance of land.

3. There shall be no withdrawal from a petition after consideration by the board nor shall further objections be filed except in case of fraud or misrepresentation.

4. The board shall hear the petition at an open meeting after publishing the notice of the filing of such petition, and of the place, time and date of such meeting, and the names and addresses of the petitioners. The board shall grant or deny the petition and the action of the board is final and conclusive. If the petition is granted as to all or any of the real property therein described, the board must make an order to that effect, and file it for record as provided in section 12 of this act.

5. If the costs of extending the facilities, improvements or projects of the district are paid by the property owners of the area to be included within the district, these property owners are entitled to receive any money

charged and collected by the district when additional property owners utilize the facilities, improvements or projects which were extended.

6. The board of trustees of the district shall pay to the property owners pro rata shares of the money charged and collected.

7. After the date of its inclusion in such district, such property is subject to all of the taxes and charges imposed by the district, and is liable for its proportionate share of existing general obligation bonded indebtedness of the district but it is not liable for any taxes or charges levied or assessed prior to its inclusion in the district, nor shall its entry into the district be made subject to or contingent upon the payment or assumption of any penalty, toll or charge, other than any reasonable annexation charge which the board may fix and uniformly assess and the tolls and charges which are uniformly made, assessed or levied for the entire district. Such charges shall be computed in such a manner as not to place a new charge against the district members nor penalize the area annexed.

Sec. 43. 1. Upon the conditions and under the circumstances set forth in this chapter, a district may borrow money and issue the following securities to evidence such borrowing:

(a) Short-term notes, warrants and interim debentures.

(b) General obligation bonds.

(c) Revenue bonds.

(d) Special assessment bonds.

2. The board of trustees of a district whose population within its boundaries is less than 5,000, shall not borrow money or issue securities to evidence such borrowing unless the board has obtained the approval of the debt management commission of the county in which the district is located.

3. The board of trustees of a district whose population within its boundaries is less than 5,000, shall not forward a resolution authorizing medium-term obligations to the Executive Director of the Department of Taxation unless such financing is approved by the debt management commission pursuant to subsection 2.

Sec. 44. A district may borrow money and incur or assume indebtedness therefor, as provided in this chapter, so long as the total of all such indebtedness, excluding revenue bonds, special assessment bonds and other securities constituting special obligations which are not debts, does not exceed an amount equal to 50 percent of the total of the last assessed valuation of taxable property, excluding motor vehicles, situated within such district.

Sec. 45. 1. A district, upon the affirmative vote of four trustees, is authorized to borrow money without an election in anticipation of the collection of taxes or other revenues, excluding special assessments, and to issue short-term notes, warrants and interim debentures to evidence the amount so borrowed.

2. Such short-term notes, warrants and interim debentures:

- (a) Shall be payable from the fund for which the money was borrowed.
- (b) Shall mature before the close of the fiscal year in which the money is so borrowed, except for interim debentures.
- (c) Shall not be extended or funded except in compliance with the Local Government Securities Law.

Sec. 46. A district with revenues from the operation of facilities, improvements or projects of the district may issue bonds without the necessity of holding an election and as an alternative or in addition to other forms of borrowing authorized in this chapter, for the purpose of acquiring or improving the facilities, improvements or projects and such bonds must be made payable solely out of the net revenues derived from the operation of such facilities, improvements or projects. A single bond issue may be had for more than one of such facilities, improvements or projects and the revenues for any and all of the income-producing facilities, improvements and projects may be pledged to pay for any other such facilities, improvements or projects. To that end, a single fund may be established and maintained.

Sec. 47. 1. Subject to the limitations and other provisions in this chapter, a board may issue on its behalf and in its name at any time or from time to time, as the board may determine, the following types of securities in accordance with the provisions of the Local Government Securities Law, except as otherwise provided in subsection 2:

- (a) General obligation bonds and other general obligation securities payable from ad valorem taxes;
- (b) General obligation bonds and other general obligation securities payable from ad valorem taxes, the payment of which securities is additionally secured by a pledge of and lien on net revenues;
- (c) Revenue bonds and other securities constituting special obligations and payable from net revenues, but excluding the proceeds of any ad valorem taxes or any special assessments, which payment is secured by a pledge of and lien on such net revenues; or
- (d) Any combination of such securities.

2. General obligation or revenue bonds may be sold at a discount only if the amount of discount permitted by the board has been capitalized as a cost of the project.

Sec. 48. 1. Except as otherwise provided in subsection 2, such part of the expenses of making any public improvement, as the board determines by an affirmative vote of at least two-thirds of its members, may be defrayed by special assessments upon lands and premises abutting upon that part of the street or alley so improved or proposed so to be, or the lands abutting upon the improvement and the other lands as in the opinion of the board may be specially benefited by the improvement.

2. All property owned and used by a school district is exempt from any assessment made pursuant to the provisions of this chapter.

Sec. 49. 1. Except as otherwise provided in section 32 of this act, the dissolution, merger or consolidation of a district may be initiated by resolution of a majority of the members of the governing body that created the district upon a finding that the dissolution, merger or consolidation is in the best interests of the district. Upon adoption of the resolution, the governing body must mail written notice to all property owners within the district setting forth the time and place for the hearing on the proposed dissolution, merger or consolidation.

2. Any person who owns property which is located within the district may, on or before the date of the hearing, protest against the dissolution of such district, in writing.

3. If, at or before the hearing, written protest is filed signed by a majority of the owners of property within the district, the district may not be dissolved, merged or consolidated.

Sec. 50. 1. At the place, date and hour specified for the hearing in the notice or at any subsequent time to which the hearing may be adjourned, the governing body must give full consideration to all protests which may have been filed, hear all persons desiring to be heard and, except as otherwise provided in subsection 2, thereafter approve the dissolution, merger or consolidation or make a determination that district may not be dissolved, merged or consolidated.

2. Before a district that includes areas within more than one county, city or town may be dissolved, merged or consolidated, the governing bodies of the counties, cities and towns must approve the dissolution, merger or consolidation and negotiate the distribution of property and funds of the district upon dissolution, merger or consolidation.

3. Within 30 days after the effective date of the dissolution, merger or consolidation of a district, the clerk must file a copy of the action of the governing body in the clerk's office and the Office of the Secretary of State, which filings shall be without fee and be otherwise in the same manner as articles of incorporation are required to be filed under chapter 78 of NRS.

Sec. 51. If a district located wholly within a county, city or town is dissolved or merged into or consolidated with another district, all property and all funds remaining in the treasury of any district must be:

1. Surrendered and transferred to the governing body of the county, city or town in which the district exists and become a part of the general fund of the county, city or town, as applicable, if the district is dissolved;

2. Transferred to the district which assumes its obligations and functions, if the district is merged; or

3. Transferred to the consolidated district, if the district is consolidated.

Sec. 52. 1. If, at the time of the dissolution, merger or consolidation of a district there are any outstanding loans or bonded indebtedness of the district, the taxes, fees or special assessments for the payment of the bonds or other indebtedness must continue to be levied and collected in the same

manner as if the district had not been dissolved, merged or consolidated until all outstanding indebtedness is repaid.

2. All outstanding and unpaid tax sales and levies and all special assessment liens of a dissolved district are valid and remain a lien against the property against which they are assessed or levied until paid, subject to the limitations of liens provided by general law. Taxes and special assessments paid after dissolution must be placed in the general fund of the county in which the property was assessed.

3. The governing body of the county, city or town, as applicable, has the same power to enforce the collection of all special assessments and outstanding tax sales of the district as the district had if it had not been dissolved, merged or consolidated.

Sec. 53. 1. Upon notification by the Department of Taxation or upon receipt of a petition signed by 20 percent of the qualified electors of the district, that:

(a) A district is not being properly managed by the board of trustees; or

(b) The board of trustees is not complying with the provisions of this chapter or with any other law,

↪ the governing body that created the district must hold a hearing to consider the notification or petition.

2. The clerk shall mail written notice to all persons who own property within the district and to all qualified electors of the district, which notice shall set forth the substance of the notification or petition and the time and place of the hearing.

3. At the place, date and hour specified for the hearing, or at any subsequent time to which the hearing may be adjourned, the governing body must give full consideration to all persons desiring to be heard and shall thereafter:

(a) Adopt an ordinance constituting the governing body, ex officio, as the board of trustees of the district;

(b) Adopt an ordinance providing for the merger, consolidation or dissolution of the district pursuant to sections 49 to 52, inclusive, of this act;

(c) File a petition in the district court for the county in which the district is located for the appointment of a receiver for the district; or

(d) Determine by resolution that management and organization of the district will remain unchanged.

4. The Department of Taxation or any interested person may, within 30 days immediately following the effective date of the ordinance adopted under paragraph (a) of subsection 3 or resolution adopted under paragraph (d) of subsection 3, commence an action in any court of competent jurisdiction to set aside the ordinance or resolution. After the expiration of 30 days, all actions attacking the regularity, validity and correctness of that ordinance or resolution are barred.

Sec. 54. NRS 308.020 is hereby amended to read as follows:

308.020 1. The Special District Control Law applies to:

(a) Any special district whose formation is initiated by a board of county commissioners; and

(b) Any petition for the formation of any proposed special district filed with any board of county commissioners.

2. As used in this chapter "special district" means any water district, sanitation district, water and sanitation district, municipal power district, mosquito abatement district, public cemetery district, swimming pool district, television maintenance district, weed control district, 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, but excludes:

(a) All local improvement districts created pursuant to chapter 309 of NRS; ~~and~~

(b) **All parks, trails and open space districts created pursuant to sections 2 to 53, inclusive, of this act; and**

(c) All housing authorities.

Sec. 55. NRS 318.0954 is hereby amended to read as follows:

318.0954 1. The governing body of any district organized or reorganized under and operating as provided in any chapter in title 25 of NRS, excluding chapters 309, 315 and 318 of NRS, must be designated a board of trustees and shall reorganize as provided in this section so that after the transitional period the board consists of five qualified electors from time to time chosen as provided in NRS 318.095 and other provisions of this chapter supplemental thereto.

2. No existing member of any such governing body may be required to resign from the board before the termination of his or her current term of office in the absence of any disqualification as a member of the governing body under such chapter in title 25 of NRS, excluding chapters 309, 315 and 318 of NRS. ~~It~~ **and sections 2 to 53, inclusive, of this act.** If a regular term of office of any member of any such governing body would terminate on other than the first Monday of January next following a biennial election in the absence of the adoption of this law, the term must be extended to and terminate on the first Monday in January next following a biennial election and following the date on which the term would have ended.

3. If the members of any such governing body at any time number less than five, the number of trustees must be increased to five by appointment, or by both appointment and election, as provided in NRS 318.090, 318.095 and 318.0951.

4. In no event may any successor trustee be elected or appointed to fill any purported vacancy in any unexpired term or in any regular term which successor will increase the trustees on a board to a number exceeding five nor which will result in less than two regular terms of office or more than

three regular terms of office ending on the first Monday in January next following any biennial election.

5. Nothing in this section:

(a) Prevents the reorganization of a board by division of the district into district trustee election districts pursuant to NRS 318.0952.

(b) Supersedes the provisions of NRS 318.0953 or 318.09533.

Sec. 56. NRS 332.015 is hereby amended to read as follows:

332.015 1. For the purpose of this chapter, unless the context otherwise requires, “local government” means:

(a) Every political subdivision or other entity which has the right to levy or receive money from ad valorem taxes or other taxes or from any mandatory assessments, including counties, cities, towns, school districts and other districts organized pursuant to chapters 244, 309, 318, 379, 450, 474, 539, 541, 543 and 555 of NRS ~~1-1~~ **and sections 2 to 53, inclusive, of this act.**

(b) The Las Vegas Valley Water District created pursuant to the provisions of chapter 167, Statutes of Nevada 1947, as amended.

(c) County fair and recreation boards and convention authorities created pursuant to the provisions of NRS 244A.597 to 244A.655, inclusive.

(d) District boards of health created pursuant to the provisions of NRS 439.362 or 439.370.

2. The term does not include the Nevada Rural Housing Authority.

Sec. 57. 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. “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 sections 2 to 53, inclusive, of this act** 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.

13. “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.

14. “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.

15. “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.

16. “Public work” means any project for the new construction, repair or reconstruction of a project financed in whole or in part from public money for:

- (a) Public buildings;
- (b) Jails and prisons;
- (c) Public roads;
- (d) Public highways;
- (e) Public streets and alleys;
- (f) Public utilities;
- (g) Publicly owned water mains and sewers;
- (h) Public parks and playgrounds;
- (i) Public convention facilities which are financed at least in part with public money; and
- (j) All other publicly owned works and property.

17. “Specialty contractor” means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

18. “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.

19. "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.

20. "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.

21. "Supplier" means a person who provides materials, equipment or supplies for a construction project.

22. "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.

23. "Worker" means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker or unskilled worker in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Sec. 58. NRS 350.115 is hereby amended to read as follows:

350.115 "Bond" means any evidence of borrowing by a municipality that is issued pursuant to the provisions of this chapter or chapter 244, 244A, 268, 269, 271, 318 or 387 of NRS, **and sections 2 to 53, inclusive, of this act,** whether general or special obligations, including, without limitation, bonds, notes, debentures, warrants and certificates.

Sec. 59. NRS 354.474 is hereby amended to read as follows:

354.474 1. Except as otherwise provided in subsections 2 and 3, the provisions of NRS 354.470 to 354.626, inclusive, apply to all local governments. For the purpose of NRS 354.470 to 354.626, inclusive:

(a) "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 and 379 of NRS, NRS 450.550 to 450.750, inclusive, and chapters 474, 541, 543 and 555 of NRS, **and sections 2 to 53,**

inclusive, of this act, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.

(b) “Local government” includes the Nevada Rural Housing Authority for the purpose of loans of money from a local government in a county whose population is less than 100,000 to the Nevada Rural Housing Authority in accordance with NRS 354.6118. The term does not include the Nevada Rural Housing Authority for any other purpose.

2. An irrigation district organized pursuant to chapter 539 of NRS shall fix rates and levy assessments as provided in NRS 539.667 to 539.683, inclusive. The levy of such assessments and the posting and publication of claims and annual financial statements as required by chapter 539 of NRS shall be deemed compliance with the budgeting, filing and publication requirements of NRS 354.470 to 354.626, inclusive, but any such irrigation district which levies an ad valorem tax shall comply with the filing and publication requirements of NRS 354.470 to 354.626, inclusive, in addition to the requirements of chapter 539 of NRS.

3. An electric light and power district created pursuant to chapter 318 of NRS shall be deemed to have fulfilled the requirements of NRS 354.470 to 354.626, inclusive, for a year in which the district does not issue bonds or levy an assessment if the district files with the Department of Taxation a copy of all documents relating to its budget for that year which the district submitted to the Rural Utilities Service of the United States Department of Agriculture.

Sec. 60. NRS 354.760 is hereby amended to read as follows:

354.760 1. All invoices or other notices issued by a local government to collect an account receivable must state that if the debtor wishes to pay by check or other negotiable instrument, such negotiable instrument must name as payee:

(a) The local government; or

(b) The title of the governmental official charged by law with the collection of such accounts.

➡ In no event may the invoice or other notice state that a check or other negotiable instrument may name a natural person as payee.

2. Notwithstanding the provisions of subsection 1, a local government may deposit into the appropriate account a check or other negotiable instrument which it determines is intended as payment for an account receivable.

3. As used in this section, “local government” means every political subdivision or other entity which has the right to levy or receive money from ad valorem taxes or other taxes or from any mandatory assessments, including, without limitation, counties, cities, towns, boards, authorities, school districts and other districts organized pursuant to chapters 244, 244A, 309, 318, 379, 439, 450, 474, 539, 541, 543 and 555 of NRS ~~1-4~~ **and sections 2 to 53, inclusive, of this act.**

Sec. 61. NRS 378.160 is hereby amended to read as follows:

378.160 As used in NRS 378.150 to 378.210, inclusive:

1. "Center" means the State Publications Distribution Center created by NRS 378.170.

2. "Depository library" means a library with which the Center has entered into an agreement pursuant to NRS 378.190.

3. "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, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, **and sections 2 to 53, inclusive, of this act** 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 the Nevada Rural Housing Authority.

4. "Publication" includes any information in any format or medium that is produced pursuant to the authority of or at the total or partial expense of a state agency or local government, is required by law to be distributed by a state agency or local government, or is distributed publicly by a state agency or local government outside that state agency or local government. The term does not include:

(a) Nevada Revised Statutes with annotations;

(b) Nevada Reports;

(c) Bound volumes of the Statutes of Nevada;

(d) Items published by the University of Nevada Press and other information disseminated by the Nevada System of Higher Education which is not designed for public distribution;

(e) Official state records scheduled for retention and disposition pursuant to NRS 239.080; or

(f) Records of a local government which have been scheduled for disposition pursuant to NRS 239.124 or retention pursuant to NRS 239.125.

5. "State agency" includes the Legislature, constitutional officers or any department, division, bureau, board, commission or agency of the State of Nevada.

Sec. 62. This act becomes effective on July 1, 2017.

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 384.

Bill read second time.

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

Amendment No. 364.

SUMMARY—Revises provisions governing the consideration of the criminal history of an applicant for employment by the State or a county, ~~for~~ city, ~~or~~ or unincorporated town. (BDR 23-33)

AN ACT relating to public employment; providing generally that the criminal history of an applicant or other qualified person under consideration for a position in the unclassified or classified service of the State may be considered only after the applicant has been certified by the Administrator of the Division of Human Resource Management of the Department of Administration or after a conditional offer of employment has been made to the applicant; prohibiting the Administrator, when examining an applicant for a position in the classified service of the State, from considering the criminal history of the applicant; providing that, except in certain circumstances, the criminal history of a person may serve as the basis for the Administrator to refuse to certify an applicant or for rescission of a conditional offer of employment in the unclassified or classified service of the State only after consideration of certain factors relating to the criminal history of the person; providing for written notice to a person if the criminal history of the person is the basis for the Administrator's refusal to certify the person or for the rescission of a conditional offer of employment; establishing similar provisions relating to the consideration by the governing body of a county, ~~for~~ incorporated city or unincorporated town of the criminal history of an applicant for employment by a county, ~~for~~ incorporated city, ~~or~~ unincorporated town; authorizing the filing of a complaint with the Nevada Equal Rights Commission under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs generally the employment of persons in the classified and unclassified service of the State. Existing law further establishes the duties of the Administrator of the Division of Human Resource Management of the Department of Administration with regard to administering competitive examinations of persons seeking employment in the classified service of the State and maintaining a list of eligible persons for employment in the classified service. (Chapter 284 of NRS) Under existing law, the Administrator may refuse to examine an applicant or refuse to certify an eligible person if the person has been found guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct. (NRS 284.240)

Section 2 of this bill provides, with exceptions, that the criminal history of an applicant or other qualified person under consideration for employment in the unclassified service of the State may be considered only after an appointing authority has made a conditional offer of employment to the applicant or, if applicable, the applicant has been certified by the Administrator. **Section 3** of this bill prohibits the Administrator from considering the criminal history of an applicant in examining the applicant.

Additionally, **section 3** provides, with exceptions, that the criminal history of an applicant for a position in the classified service may be considered only after the applicant has been certified by the Administrator or an appointing authority has made a conditional offer of employment to the applicant. **Sections 2 and 3** set forth specific factors that must be considered by an appointing authority or the Administrator before the criminal history of an applicant may be used as the basis for rescinding a conditional offer of employment or for rejection of the applicant, including: (1) whether any criminal offense committed by the person directly relates to the responsibilities of the position for which the person has applied; (2) the nature and severity of each criminal offense committed by the person; (3) the age of the person at the time of the commission of each criminal offense; (4) the period of time between the commission of each criminal offense and the date of the application for employment; and (5) any information or documentation demonstrating the person's rehabilitation. **Sections 5, ~~and~~ 6 and 6.3** of this bill establish similar provisions relating to the consideration by the governing body of a county, ~~for~~ incorporated city or unincorporated town, respectively, of the criminal history of an applicant for employment by the county, ~~for~~ incorporated city ~~or~~ or unincorporated town. **Sections 2, 3, 5, ~~and~~ 6 and 6.3** provide that if the criminal history of an applicant is used as the basis for rejecting the applicant or rescinding a conditional offer of employment extended to the applicant, the appointing authority or the governing body of the county ~~for~~ incorporated city or unincorporated town, as applicable, must provide to the applicant a written statement which must specifically state the evidence presented and the reason for the rejection of the applicant or rescission of the conditional offer of employment. **Sections 2, 3, 5, 6 and 6.3 also prohibit the appointing authority or the governing body of a county, incorporated city or unincorporated town from considering certain criminal records. Sections 2, 3, 5, 6 and 6.3 also require the appointing authority or the governing body of a county, incorporated city or unincorporated town to include certain information in an application for employment. Sections 2, 3, 5, 6 and 6.3 do not apply to applicants for employment with a public safety agency.**

Existing law declares certain employment practices to be unlawful and authorizes any person injured by such a practice to file a complaint with the Nevada Equal Rights Commission. Generally, the Commission has jurisdiction only over practices involving discrimination on the basis of race, color, sex and certain other enumerated characteristics. (NRS 613.330, 613.405) Section 6.5 of this bill provides that an employer that is subject to the requirements of section 2, 3, 5, 6 or 6.3 and fails to follow the procedure required by those sections in considering the criminal history of an applicant for employment thereby engages in an unlawful employment practice. Section 6.7 of this bill provides that the applicant in such a case may file a complaint with the Commission, regardless of

whether the complaint is based on race, color, sex or some other characteristic enumerated in existing law.

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

Section 1. Chapter 284 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *Except as otherwise authorized by specific statute, the criminal history of an applicant or other qualified person for a position in the unclassified service of the State may be considered only after an appointing authority has extended to the applicant a conditional offer of employment or, if applicable, the applicant has been certified by the Administrator.*

2. *An appointing authority may, before examining an applicant or extending to an applicant a conditional offer of employment, notify the applicant of any provision of state or federal law that disqualifies a person with a particular criminal history from employment in a particular position.*

3. *Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person, an appointing authority may rescind a conditional offer of employment extended to an otherwise qualified person who has been convicted of a criminal offense only after considering:*

(a) Whether any criminal offense committed by the person directly relates to the responsibilities of the position for which the person has applied or is being considered;

(b) The nature and severity of each criminal offense committed by the person;

(c) The age of the person at the time of the commission of each criminal offense;

(d) The period between the commission of each criminal offense and the date of the application for employment in the unclassified service; and

(e) Any information or documentation demonstrating the person's rehabilitation.

4. An appointing authority shall not consider any of the following criminal records in connection with an application for employment:

(a) An arrest of the applicant which did not result in a conviction;

(b) A record of conviction which was dismissed, expunged or sealed; or

(c) An infraction or misdemeanor for which a sentence of imprisonment in a county jail was not imposed.

5. If the criminal history of an applicant is used as a basis for rescinding a conditional offer of employment, rescission of the conditional offer of employment must ~~be~~ :

(a) Be made in writing ~~and specifically state the evidence presented and the reasons~~;

(b) Include a statement indicating that the criminal history of the applicant was the basis for the rescission of the offer ~~for~~; and

(c) Provide an opportunity for the applicant to discuss the basis for the rescission of the offer with the appointing authority.

6. An application for employment must include a statement that:

(a) A record of conviction will not necessarily bar the applicant from employment; and

(b) The appointing authority will consider factors such as:

(1) The length of time that has passed since the offense;

(2) The age of the applicant at the time of the offense;

(3) The severity and nature of the offense;

(4) The relationship of the offense to the position for which the applicant has applied; and

(5) Evidence of the rehabilitation of the applicant.

7. This section does not apply to applicants for employment with a public safety agency, as defined in NRS 239B.020.

Sec. 3. 1. Except as otherwise authorized by specific statute:

(a) The Administrator shall not consider the criminal history of an applicant in examining the applicant.

(b) The criminal history of an applicant for a position in the classified service may be considered only after the applicant has been certified by the Administrator or an appointing authority has extended to the applicant a conditional offer of employment.

2. The Administrator may, before examining an applicant or certifying an eligible person, notify the applicant or eligible person of any provision of state or federal law that disqualifies a person with a particular criminal history from employment in a particular position.

3. Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person, the Administrator may refuse to certify an eligible person and an appointing authority may rescind a conditional offer of employment extended to an otherwise qualified person who has been convicted of a criminal offense only after considering:

(a) Whether any criminal offense committed by the person directly relates to the responsibilities of the position for which the person has applied or is being considered;

(b) The nature and severity of each criminal offense committed by the person;

(c) The age of the person at the time of the commission of each criminal offense;

(d) The period between the commission of each criminal offense and the date of the application for or consideration of employment in the classified service; and

(e) Any information or documentation demonstrating the person's rehabilitation.

4. The Administrator shall not consider any of the following criminal records in connection with an application for employment:

- (a) An arrest of the applicant which did not result in a conviction;
- (b) A record of conviction which was dismissed, expunged or sealed; or
- (c) An infraction or misdemeanor for which a sentence of imprisonment in a county jail was not imposed.

5. If the criminal history of an applicant is used as a basis for rejecting an applicant or rescinding a conditional offer of employment, such rejection or rescission of a conditional offer of employment must be:

(a) Be made in writing and specifically state the evidence presented and the reasons;

(b) Include a statement indicating that the criminal history of the applicant was the basis for the rejection or rescission of the offer; and

(c) Provide an opportunity for the applicant to discuss the basis for the rejection or rescission of the offer with the Administrator.

6. An application for employment must include a statement that:

(a) A record of conviction will not necessarily bar the applicant from employment; and

(b) The Administrator will consider factors such as:

- (1) The length of time that has passed since the offense;
- (2) The age of the applicant at the time of the offense;
- (3) The severity and nature of the offense;
- (4) The relationship of the offense to the position for which the applicant has applied; and

(5) Evidence of the rehabilitation of the applicant.

7. This section does not apply to applicants for employment with a public safety agency, as defined in NRS 239B.020.

Sec. 4. NRS 284.240 is hereby amended to read as follows:

284.240 The Administrator may refuse to examine an applicant or, after examination, may refuse to certify an eligible person who:

1. Lacks any of the preliminary requirements established for the examination for the position or employment for which the applicant or eligible person applies.

2. Submitted to a screening test administered pursuant to NRS 284.4066, the results of which indicated the presence of a controlled substance ~~other than marijuana,~~ and the person did not provide the proof required by NRS 284.4066.

3. ~~Has been guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct.~~

~~4.~~ Has been dismissed from the public service for delinquency or misconduct.

~~5.~~ 4. Has made a false statement of any material fact.

~~{6.}~~ 5. Has, directly or indirectly, given, rendered or paid, or promised to give, render or pay, any money, service or other valuable thing to any person for, or on account of or in connection with, the examination, appointment or proposed appointment of the applicant or eligible person.

~~{7.}~~ 6. Has practiced, or attempted to practice, any deception or fraud in the application, certificate or examination of the applicant or eligible person, or in securing the eligibility or appointment of the applicant or eligible person.

Sec. 5. Chapter 245 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise authorized by specific statute, the criminal history of an applicant for employment by a county may be considered only after the applicant is a finalist for a position or the county has extended to the applicant a conditional offer of employment.

2. The board of county commissioners, a county officer or any other person acting on behalf of a county may, before selecting an applicant as a finalist for a position or extending to an applicant a conditional offer of employment, notify the applicant of any provision of state or federal law that disqualifies a person with a particular criminal history from employment in a particular position.

3. Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person, the board of county commissioners, a county officer or any other person acting on behalf of a county may decline to make an offer of employment or rescind a conditional offer of employment extended to an otherwise qualified applicant who has been convicted of a criminal offense only after considering:

(a) Whether any criminal offense committed by the applicant directly relates to the responsibilities of the position for which the applicant has applied;

(b) The nature and severity of each criminal offense committed by the applicant;

(c) The age of the applicant at the time of the commission of each criminal offense;

(d) The period between the commission of each criminal offense and the date of the application for employment; and

(e) Any information or documentation demonstrating the applicant's rehabilitation.

4. The board of county commissioners, a county officer or any other person acting on behalf of a county shall not consider any of the following criminal records in connection with an application for employment:

(a) An arrest of the applicant which did not result in a conviction;

(b) A record of conviction which was dismissed, expunged or sealed; or

(c) An infraction or misdemeanor for which a sentence of imprisonment in a county jail was not imposed.

5. If the criminal history of an applicant is used as a basis for rejecting an applicant or rescinding a conditional offer of employment, such rejection or rescission of a conditional offer of employment must ~~be~~ :

(a) Be made in writing ~~and specifically state the evidence presented and the reasons~~ ;

(b) Include a statement indicating that the criminal history of the applicant was the basis for the rejection or rescission of the offer ~~it~~ ; and

(c) Provide an opportunity for the applicant to discuss the basis for the rejection or rescission of the offer with the board of county commissioners, a county officer or other person acting on behalf of the county.

6. An application for employment must include a statement that:

(a) A record of conviction will not necessarily bar the applicant from employment; and

(b) The board of county commissioners, a county officer or any other person acting on behalf of the county will consider factors such as:

(1) The length of time that has passed since the offense;

(2) The age of the applicant at the time of the offense;

(3) The severity and nature of the offense;

(4) The relationship of the offense to the position for which the applicant has applied; and

(5) Evidence of the rehabilitation of the applicant.

7. This section does not apply to applicants for employment with a public safety agency, as defined in NRS 239B.020.

Sec. 6. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise authorized by specific statute, the criminal history of an applicant for employment by an incorporated city may be considered only after the applicant is a finalist for a position or the incorporated city has extended to the applicant a conditional offer of employment.

2. The governing body of an incorporated city or a city officer may, before selecting an applicant as a finalist for a position or extending to an applicant a conditional offer of employment, notify the applicant of any provision of state or federal law that disqualifies a person with a particular criminal history from employment in a particular position.

3. Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person, the governing body or a city officer may decline to make an offer of employment or rescind a conditional offer of employment extended to an otherwise qualified applicant who has been convicted of a criminal offense only after considering:

(a) Whether any criminal offense committed by the applicant directly relates to the responsibilities of the position for which the applicant has applied;

(b) The nature and severity of each criminal offense committed by the applicant;

(c) The age of the applicant at the time of the commission of each criminal offense;

(d) The period between the commission of each criminal offense and the date of the application for employment; and

(e) Any information or documentation demonstrating the applicant's rehabilitation.

4. The governing body of an incorporated city or a city officer shall not consider any of the following criminal records in connection with an application for employment:

(a) An arrest of the applicant which did not result in a conviction;

(b) A record of conviction which was dismissed, expunged or sealed; or

(c) An infraction or misdemeanor for which a sentence of imprisonment in a county jail was not imposed.

5. If the criminal history of an applicant is used as a basis for rejecting an applicant or rescinding a conditional offer of employment, such rejection or rescission of a conditional offer of employment must be:

(a) Be made in writing ~~and specifically state the evidence presented and the reasons~~;

(b) Include a statement indicating that the criminal history of the applicant was the basis for the rejection or rescission of the offer ~~for~~; and

(c) Provide an opportunity for the applicant to discuss the basis for the rejection or rescission of the offer with the governing body of an incorporated city or a city officer.

6. An application for employment must include a statement that:

(a) A record of conviction will not necessarily bar the applicant from employment; and

(b) The governing body of an incorporated city or a city officer will consider factors such as:

(1) The length of time that has passed since the offense;

(2) The age of the applicant at the time of the offense;

(3) The severity and nature of the offense;

(4) The relationship of the offense to the position for which the applicant has applied; and

(5) Evidence of the rehabilitation of the applicant.

7. This section does not apply to applicants for employment with a public safety agency, as defined in NRS 239B.020.

Sec. 6.3. Chapter 269 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise authorized by specific statute, the criminal history of an applicant for employment by an unincorporated town may be

considered only after the applicant is a finalist for a position or the unincorporated town has extended to the applicant a conditional offer of employment.

2. The town board, the board of county commissioners or any other person acting on behalf of an unincorporated town may, before selecting an applicant as a finalist for a position or extending to an applicant a conditional offer of employment, notify the applicant of any provision of state or federal law that disqualifies a person with a particular criminal history from employment in a particular position.

3. Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person, the town board, the board of county commissioners or any other person acting on behalf of an unincorporated town may decline to make an offer of employment or rescind a conditional offer of employment extended to an otherwise qualified applicant who has been convicted of a criminal offense only after considering:

(a) Whether any criminal offense committed by the applicant directly relates to the responsibilities of the position for which the applicant has applied;

(b) The nature and severity of each criminal offense committed by the applicant;

(c) The age of the applicant at the time of the commission of each offense;

(d) The period between the commission of each criminal offense and the date of the application for employment; and

(e) Any information or documentation demonstrating the applicant's rehabilitation.

4. A town board, the board of county commissioners or any other person acting on behalf of an unincorporated town shall not consider any of the following criminal records in connection with an application for employment:

(a) An arrest of the applicant which did not result in a conviction;

(b) A record of conviction which was dismissed, expunged or sealed; or

(c) An infraction or misdemeanor in which a sentence of imprisonment in a county jail was not imposed.

5. If the criminal history of an applicant is used as a basis for rejecting an applicant or rescinding a conditional offer of employment, such rejection or rescission of the offer of employment must:

(a) Be made in writing;

(b) Include a statement indicating that the criminal history of the applicant was the basis for the rejection or rescission of the offer; and

(c) Provide an opportunity for the applicant to discuss the basis for the rejection or rescission of the offer with the town board, the board of county

commissioners or any other person acting on behalf of the unincorporated town.

6. An application for employment must include a statement that:

(a) A record of conviction will not necessarily bar the applicant from employment; and

(b) The town board, the board of county commissioners or any other person acting on behalf of the unincorporated town will consider factors such as:

(1) The length of time that has passed since the offense;

(2) The age of the applicant at the time of the offense;

(3) The severity and nature of the offense;

(4) The relationship of the offense to the position for which the applicant has applied; and

(5) Evidence of the rehabilitation of the applicant.

7. This section does not apply to applicants for employment with a public safety agency, as defined in NRS 239B.020.

Sec. 6.5. NRS 613.330 is hereby amended to read as follows:

613.330 1. Except as otherwise provided in NRS 613.350, it is an unlawful employment practice for an employer:

(a) To fail or refuse to hire or to discharge any person, or otherwise to discriminate against any person with respect to the person's compensation, terms, conditions or privileges of employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; or

(b) To limit, segregate or classify an employee in a way which would deprive or tend to deprive the employee of employment opportunities or otherwise adversely affect his or her status as an employee, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin.

2. It is an unlawful employment practice for an employment agency to:

(a) Fail or refuse to refer for employment, or otherwise to discriminate against, any person because of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person; or

(b) Classify or refer for employment any person on the basis of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person.

3. It is an unlawful employment practice for a labor organization:

(a) To exclude or to expel from its membership, or otherwise to discriminate against, any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin;

(b) To limit, segregate or classify its membership, or to classify or fail or refuse to refer for employment any person, in any way which would deprive or tend to deprive the person of employment opportunities, or would limit the

person's employment opportunities or otherwise adversely affect the person's status as an employee or as an applicant for employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; or

(c) To cause or attempt to cause an employer to discriminate against any person in violation of this section.

4. It is an unlawful employment practice for any employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including, without limitation, on-the-job training programs, to discriminate against any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

5. Except as otherwise provided in subsection 6, it is an unlawful employment practice for any employer, employment agency, labor organization or joint labor-management committee to discriminate against a person with a disability by interfering, directly or indirectly, with the use of an aid or appliance, including, without limitation, a service animal, by such a person.

6. It is an unlawful employment practice for an employer, directly or indirectly, to refuse to permit an employee with a disability to keep the employee's service animal with him or her at all times in his or her place of employment, except that an employer may refuse to permit an employee to keep a service animal that is a miniature horse with him or her if the employer determines that it is not reasonable to comply, using the assessment factors set forth in 28 C.F.R. § 36.302.

7. **It is an unlawful employment practice for an appointing authority governed by the provisions of chapter 284 of NRS, the Administrator of the Division of Human Resource Management of the Department of Administration or the governing body of a county, incorporated city or unincorporated town to consider the criminal history of an applicant for employment without following the procedure required in section 2, 3, 5, 6 or 6.3 of this act, as applicable.**

8. As used in this section, "service animal" has the meaning ascribed to it in NRS 426.097.

Sec. 6.7. NRS 613.405 is hereby amended to read as follows:

613.405 ~~{Any}~~

1. Except as otherwise provided in subsection 2, any person injured by an unlawful employment practice within the scope of NRS 613.310 to 613.435, inclusive, may file a complaint to that effect with the Nevada Equal Rights Commission if the complaint is based on discrimination because of race, color, sex, sexual orientation, gender identity or expression, age, disability, religion or national origin.

2. Any person injured by an unlawful employment practice within the scope of subsection 7 of NRS 613.330 may file a complaint to that effect

with the Nevada Equal Rights Commission regardless of whether the complaint is based on discrimination because of race, color, sex, sexual orientation, gender identity or expression, age, disability, religion or national origin.

Sec. 7. This act becomes effective on January 1, 2018.

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 390.

Bill read second time.

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

Amendment No. 262.

AN ACT relating to state governmental administration; ~~authorizing a state officer or state employee to communicate with the Legislature or a Legislator;~~ prohibiting a state agency from taking certain actions against a state officer or ~~state~~ employee ~~on account of such communication; revising provisions relating to~~ **who makes certain** disclosures of improper governmental action ~~;~~ ~~revising the salary to which a member of the Board of Regents of the University of Nevada is entitled;~~ **to the Legislature;** creating the Spending and Government Efficiency Commission for the Nevada System of Higher Education; prescribing the membership and duties of the Commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill ~~authorizes a state officer or employee who acts in good faith to communicate or seek to communicate, personally or in his or her official capacity, with the Legislature or a Legislator on any matter. Section 1 further~~ prohibits a state agency which is the employer of ~~such~~ a state officer or employee from depriving the state officer or employee of his or her employment or taking any other reprisal or retaliatory action or other threatening or intimidating action against the state officer or employee ~~with respect to such communication or attempted communication.~~ **for disclosing: (1) that false information has been disseminated by or on behalf of the employing agency; or (2) evidence of illegal activity of the agency.**

Section 1 also prohibits a state agency from taking any of those actions against one state officer or employee in an attempt to affect the behavior of another state officer or employee with respect to that person's communications or attempted communications with the Legislature or a Legislator.

Existing law encourages state officers and employees to disclose improper governmental action and protects the rights of a state officer or employee who makes such a disclosure. (NRS 281.611-281.671) **Section 2** of this bill provides that making a false statement or misrepresentation of facts to the Legislature or to a Legislator is an improper governmental action if the

statement or misrepresentation is made by a state officer or employee or local governmental officer or employee in the performance of the officer's or employee's official duties.

~~[Under existing law, each member of the Board of Regents of the University of Nevada is entitled to receive a salary of \$80 for each meeting of the Board that he or she attends. (NRS 396.070) Section 3 of this bill provides instead that each member of the Board of Regents is entitled to receive an annual salary of \$20,000.]~~

Section 4 of this bill creates the Spending and Government Efficiency Commission for the Nevada System of Higher Education. The Commission is required to make periodic recommendations to the Governor identifying: (1) areas in which the public costs of the System may be reduced; (2) areas in which increased efficiencies in the System may be found; and (3) any means by which the System may be improved.

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

Section 1. Chapter 281 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. [A state officer or state employee, acting in good faith, may communicate or seek to communicate, personally or in his or her official capacity, with the Legislature or a Legislator on any matter.]~~

~~2. It is unlawful for a state agency which is the employer of~~ If a state officer or [state] employee [who] employed by a state agency communicates or seeks to communicate with the Legislature or a Legislator [in accordance with subsection 1 to:] to disclose that false information has been disseminated by or on behalf of the state agency or disclose evidence of illegal activity of the state agency, it is unlawful for the state agency to:

(a) Deprive the state officer or ~~state~~ employee of employment with the state agency or ~~to~~ take any reprisal or retaliatory action against the state officer or ~~state~~ employee as a consequence of the actual or attempted communication;

(b) Threaten the state officer or ~~state~~ employee that the actual or attempted communication will result in the termination of employment ~~[with the state agency]~~ or in any reprisal or retaliatory action against the state officer or ~~state~~ employee; or

(c) Directly or indirectly intimidate, threaten, coerce, command or influence or attempt to intimidate, threaten, coerce, command or influence the state officer or ~~state~~ employee in an effort to interfere with or prevent such actual or attempted communication by the state officer or ~~state~~ employee.

~~2.~~ 2. It is unlawful for a state agency to:

(a) Deprive or threaten to deprive a state officer or ~~state~~ employee of employment with the state agency;

(b) Take or threaten to take any reprisal or retaliatory action against a state officer or ~~state~~ employee; or

(c) Directly or indirectly intimidate, threaten, coerce, command or influence or attempt to intimidate, threaten, coerce, command or influence a state officer or ~~state~~ employee,

↪ in an attempt to affect the behavior of another state officer or ~~state~~ employee who may communicate or may seek to communicate with the Legislature or a Legislator ~~to~~ to disclose that false information has been disseminated by or on behalf of the state agency or disclose evidence of illegal activity of the state agency.

~~4.3.~~ 3. Any provision in a contract of employment or other agreement between a state agency and a state officer or ~~state~~ employee that conflicts with, or purports to waive, the provisions of this section is against public policy and is void and unenforceable.

~~5.4.~~ 4. For the purposes of this section:

(a) "Legislator" means any:

(1) Current or former member of the Senate or Assembly of the State of Nevada; or

(2) Other person who takes or performs any actions within the sphere of legitimate legislative activity that would be protected if taken or performed by any member of the Senate or Assembly, including, without limitation, any such actions taken or performed by any current or former officer or employee of the Legislature.

(b) "Legislature" means:

(1) The Legislature or either House;

(2) Any committee of either House;

(3) Any joint committee of both Houses; or

(4) Any other committee, subcommittee, commission, agency or entity created or authorized by the Legislature to perform legislative functions at the direction of the Legislature, including, without limitation, the Legislative Commission, the Legislative Counsel Bureau or any other agency or entity of the Legislative Department of State Government.

(c) "State agency" means an agency, bureau, board, commission, department, division, officer, employee or agent or any other unit of the Executive Department, including, without limitation, the Nevada System of Higher Education and the Board of Regents of the University of Nevada.

Sec. 2. NRS 281.611 is hereby amended to read as follows:

281.611 As used in NRS 281.611 to 281.671, inclusive, unless the context otherwise requires:

1. "Improper governmental action" means any action taken by a state officer or employee or local governmental officer or employee in the performance of the officer's or employee's official duties, whether or not the action is within the scope of employment of the officer or employee, which is:

- (a) In violation of any state law or regulation;
- (b) If the officer or employee is a local governmental officer or employee, in violation of an ordinance of the local government;
- (c) An abuse of authority;
- (d) Of substantial and specific danger to the public health or safety; ~~for~~
- (e) A gross waste of public money ~~to~~; **or**
- (f) A false statement or misrepresentation of facts to the Legislature or a Legislator.**

2. ***“Legislator” means any:***

- (a) Current or former member of the Senate or Assembly of the State of Nevada; or**
- (b) Other person who takes or performs any actions within the sphere of legitimate legislative activity that would be protected if taken or performed by any member of the Senate or Assembly, including, without limitation, any such actions taken or performed by any current or former officer or employee of the Legislature.**

3. ***“Legislature” means:***

- (a) The Legislature or either House;**
- (b) Any committee of either House;**
- (c) Any joint committee of both Houses; or**
- (d) Any other committee, subcommittee, commission, agency or entity created or authorized by the Legislature to perform legislative functions at the direction of the Legislature, including, without limitation, the Legislative Commission, the Legislative Counsel Bureau or any other agency or entity of the Legislative Department of State Government.**

4. “Local government” means a county in this State, an incorporated city in this State and Carson City.

~~3.1~~ 5. “Local governmental employee” means any person who performs public duties under the direction and control of a local governmental officer for compensation paid by or through a local government.

~~4.1~~ 6. “Local governmental officer” means a person elected or appointed to a position with a local government that involves the exercise of a local governmental power, trust or duty, including:

- (a) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of local governmental policy;
- (b) The expenditure of money of a local government; and
- (c) The enforcement of laws and regulations of the State or a local government.

~~5.1~~ 7. “Reprisal or retaliatory action” includes:

- (a) The denial of adequate personnel to perform duties;
- (b) Frequent replacement of members of the staff;
- (c) Frequent and undesirable changes in the location of an office;
- (d) The refusal to assign meaningful work;

(e) The issuance of letters of reprimand or evaluations of poor performance;

(f) A demotion;

(g) A reduction in pay;

(h) The denial of a promotion;

(i) A suspension;

(j) A dismissal;

(k) A transfer;

(l) Frequent changes in working hours or workdays; or

(m) If the employee is licensed or certified by an occupational licensing board, the filing with that board, by or on behalf of the employer, of a complaint concerning the employee,

↪ if such action is taken, in whole or in part, because the state officer or employee or local governmental officer or employee disclosed information concerning improper governmental action.

~~{6.}~~ **8. “State” includes, without limitation, the Nevada System of Higher Education and the Board of Regents of the University of Nevada.**

9. “State employee” means any person who performs public duties under the direction and control of a state officer for compensation paid by or through the State.

~~{7.}~~ **10. “State officer” means a person elected or appointed to a position with the State which involves the exercise of a state power, trust or duty, including:**

(a) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of state policy;

(b) The expenditure of state money; and

(c) The enforcement of laws and regulations of the State.

Sec. 3. ~~INRS 396.070 is hereby amended to read as follows:~~

~~396.070 1. Each member of the Board of Regents is entitled to receive [a] an annual salary of [\$80 for each meeting of the Board that he or she attends.] \$20,000.~~

~~2. Each member of the Board of Regents is entitled to receive in attending meetings of the Board, or while on Board of Regents’ business within the State:~~

~~(a) A per diem expense allowance not to exceed the greater of:~~

~~(1) The rate of \$60; or~~

~~(2) The maximum rate established by the Federal Government for the locality in which the travel is performed.~~

~~(b) The travel allowance provided for state officers and employees generally.~~

~~3. If an account is established for a member of the Board of Regents to pay for hosting expenditures of the member:~~

~~(a) The annual expenditures from the account may not exceed \$2,500.~~

~~(b) The account may be used only to pay for activities that are directly related to the duties of the member of the Board of Regents, including reasonable expenses for meals, beverages and small gifts. The account must not be used to pay for expenses associated with attending a sporting event or a political fundraising event.~~

~~(c) The member of the Board of Regents must submit a monthly report of expenditures from the account to the Chancellor of the System. The report must include, without limitation, the amount of money expended from the account, the specific purpose and activity for which the money was expended and, if applicable, the person for whom the money was expended.~~

~~(d) The Chancellor of the System shall compile the monthly reports into an annual report on or before January 30 of each year. The monthly reports and annual reports are public records and must be made available for public inspection.~~

~~4. As used in this section, "hosting expenditures" means reasonable expenses by or on behalf of a member of the Board of Regents who is conducting business activities necessary to provide a benefit to the System by establishing goodwill, promoting programs of the System or otherwise advancing the mission of the System.~~ **(Deleted by amendment.)**

Sec. 4. 1. There is hereby created the Spending and Government Efficiency Commission for the Nevada System of Higher Education. The Commission consists of 12 members appointed as follows:

(a) Six members appointed by the Governor;

(b) Two members appointed by the Governor from a list of six recommendations provided by the Senate Majority Leader;

(c) Two members appointed by the Governor from a list of six recommendations provided by the Speaker of the Assembly;

(d) One member appointed by the Governor from a list of three recommendations provided by the Senate Minority Leader; and

(e) One member appointed by the Governor from a list of three recommendations provided by the Assembly Minority Leader.

➡ To the extent practicable, in appointing members to the Commission, the Governor shall ensure that the membership reflects the ethnic, gender and geographic diversity of this State.

2. The Governor shall appoint the Chair of the Commission from among its members.

3. The members of the Commission must be persons with expertise and experience in the operation of a business. A member may not have a personal or professional conflict of interest that would prevent the member from fully and objectively discharging his or her duties. A member may not derive any financial benefit from the work of the Commission, other than the general benefit received by all residents of this State from increased efficiency in the Nevada System of Higher Education.

4. Members of the Commission serve at the pleasure of the Governor.

5. Members of the Commission serve without salary or compensation for their travel or per diem expenses.

6. A majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Commission.

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

8. The Department of Education shall provide administrative support to the Commission.

9. The Commission may appoint committees or subcommittees of its members to study the Nevada System of Higher Education and any means by which the Nevada System of Higher Education may be improved.

10. The Commission shall, not less frequently than every 90 days, meet and:

(a) Submit recommendations to the Governor identifying:

(1) Areas in which the public costs of the Nevada System of Higher Education may be reduced;

(2) Areas in which increased efficiencies in the Nevada System of Higher Education may be found; and

(3) Means by which the Nevada System of Higher Education may be improved; or

(b) If the Commission does not have any recommendations, submit to the Governor a status report regarding the activities of the Commission for the period from the date on which the Commission last submitted to the Governor a status report or recommendations to the date on which the status report is submitted.

11. The Commission shall, on or before February 1, 2019, prepare and submit a final report to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the 80th Session of the Nevada Legislature concerning its findings and recommendations.

Sec. 5. 1. This act becomes effective on July 1, 2017.

2. Section 4 of this act expires by limitation on June 30, 2019.

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 399.

Bill read second time.

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

Amendment No. 604.

SUMMARY—Establishes the Nevada State Infrastructure Bank. (BDR ~~(28-1129)~~ **35-1129**)

AN ACT relating to ~~public works;~~ **transportation;** establishing the Nevada State Infrastructure Bank; providing for the governance of the Bank

by a Board of Directors; establishing the powers and duties of the Board of Directors; providing for the administration of the Bank by an Executive Director; establishing the powers and duties of the Executive Director; establishing the Nevada State Infrastructure Bank Fund; authorizing the Bank to perform certain acts in connection with the financing of certain transportation facilities and utility infrastructure projects; providing civil immunity for certain persons for certain official actions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2- ~~37~~ 36.5 of this bill establish the Nevada State Infrastructure Bank. The purpose of the Bank is to provide loans and other financial assistance to various units of state and local government for the development, construction, repair, improvement, maintenance, decommissioning, operation and ownership of certain transportation facilities and utility infrastructure projects. **Sections 20 and ~~37~~ 37.1** of this bill create the Bank within the ~~[State Public Works Division of the]~~ Department of ~~[Administration]~~ Transportation and ~~[provides]~~ provide for its governance by a Board of Directors. **Section 21** of this bill establishes certain powers and duties of the Board of Directors. **Section 21** further authorizes the Board of Directors to issue bonds or other securities to raise money to carry out its statutory purposes and powers. **Section 22** of this bill requires the Governor to appoint an Executive Director to administer, manage and conduct the affairs of the Bank and establishes the powers and duties of the Executive Director. **Section 23** of this bill creates the Nevada State Infrastructure Bank Fund to be administered by the Board of Directors and used exclusively to capitalize and carry out the statutory powers and purpose of the Bank.

Section 24 of this bill establishes certain procedures relating to: (1) applications for a loan or other financial assistance from the Bank in connection with a project to develop, construct, repair, improve, operate, maintain, decommission or own a transportation facility or utility infrastructure project; (2) the determination by the Executive Director of eligible projects; and (3) selection by the Board of Directors of projects that qualify to obtain such a loan or assistance. **Section 25** of this bill requires a borrower whose project is qualified to receive a loan or other financial assistance to enter into a financing agreement with the Bank and, in case of a loan, to issue some kind of security to the Bank that evidences the borrower's obligation to repay the loan.

Section 26 of this bill authorizes the Bank to act as an insurer or reinsurer in connection with a loan or satisfaction of a related obligation made by the Bank. **Section 27** of this bill authorizes the Bank to provide security for any revenue bonds issued by the Bank.

Section 28 of this bill provides that any debt or obligation issued by the Bank is not a debt, liability or obligation of this State or of any political subdivision thereof, or a pledge of the faith and credit of this State or a political subdivision, other than the Bank itself.

If a borrower who has received a loan from the Bank fails to make a payment of any money owed to the Bank, **section 29** of this bill authorizes the Bank, under certain circumstances, to require other state agencies that are in possession of money of the State or other money that is allotted or appropriated to the borrower to withhold that money from that borrower and remit it to the Bank to use the money to make the necessary payment to the Bank.

Section 30 of this bill provides a grant of immunity from civil liability to the Board of Directors of the Bank or the officers and employees of the Bank for certain official acts under certain circumstances. **Section 31** of this bill exempts the Bank from certain procedural prerequisites that would otherwise be applicable to its actions. **Section 32** of this bill exempts the property of the Bank and its income from taxation. **Section 33** of this bill exempts the bonds and other securities issued by the Bank from most forms of taxation.

Section 34 of this bill provides that any authority given to a governmental borrower to issue bonds by this bill is supplemental to, and not in lieu of, any existing authority to issue bonds.

Section 35 of this bill also provides that the provisions of this bill are intended to supplement, not supplant, other existing laws concerning the development, construction, repair, improvement, maintenance, decommissioning, operation and ownership of transportation facilities and utility infrastructure and the issuance of bonds and other securities by this State and political subdivisions thereof. However, **section 35** also provides that if there is a conflict between those laws and this bill, the provisions of this bill control. **Section 35 also provides that a contract for construction on a qualified project funded in whole or in part by a loan or other financial assistance from the Bank is subject to the prevailing wage requirement.**

Section 36 of this bill requires the Bank to submit an annual report concerning its activities to the Governor and the Legislature. **Section 36.5 of this bill authorizes the divisions of the Department of Transportation, to the extent that money is available for that purpose, to provide technical advice, support and assistance to the Bank.**

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

Section 1. Chapter ~~408~~ **408** of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~36.5~~ **36.5**, inclusive, of this act.

Sec. 2. *As used in sections 2 to ~~36.5~~ 36.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 19, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Bank” means the Nevada State Infrastructure Bank.*

Sec. 4. *“Board of Directors” means the Board of Directors of the Bank.*

Sec. 5. *“Eligible costs” means, as applied to a qualified project to be financed from:*

1. *The federal highway account established by section 23 of this act, the costs that are allowed under applicable federal laws, requirements, procedures and guidelines in regard to establishing, operating and providing assistance from the Bank.*

2. *The state and local highway account established by section 23 of this act, costs including, without limitation, the cost of preliminary engineering, traffic and revenue studies, environmental studies, right-of-way acquisition, legal and financial services associated with the development of the qualified project, construction, construction management, facilities , sustainability certification and other costs necessary for the qualified project.*

3. *The federal utility infrastructure account established by section 23 of this act, costs including, without limitation, the cost of preliminary engineering, environmental studies, property right acquisition, legal and financial services associated with the development of the qualified project, construction, construction management, equipment, facilities and other nonoperating costs necessary for the qualified project.*

4. *A federal or state and local nonhighway account established by section 23 of this act, costs including, without limitation, the cost of preliminary engineering, traffic and revenue studies, environmental studies, right-of-way acquisition, legal and financial services associated with the development of the qualified project, construction, construction management, equipment, facilities and other nonoperating costs necessary for the qualified project.*

5. *The state and local utility infrastructure account established by section 23 of this act, costs including, without limitation, the cost of preliminary engineering, environmental studies, property right acquisition, legal and financial services associated with the development of the qualified project, construction, construction management, equipment, facilities , sustainability certification and other nonoperating costs necessary for the qualified project.*

Sec. 6. *“Eligible project” means the development, construction, repair, improvement, operation , maintenance, decommissioning or ownership of a transportation facility project or utility infrastructure project.*

Sec. 7. *“Executive Director” means the Executive Director of the Bank.*

Sec. 8. *“Federal accounts” means the federal highway account, federal nonhighway account and federal utility infrastructure account established pursuant to section 23 of this act.*

Sec. 9. 1. *“Financing agreement” means any agreement entered into between the Bank and a qualified borrower pertaining to a loan or other*

financial assistance for a qualified project, which may or may not include nonfinancial provisions relating to the qualified project, including, without limitation, terms and conditions relating to the regulation and supervision of the qualified project.

2. The term includes, without limitation:

- (a) A loan agreement;
- (b) A trust indenture;
- (c) A security agreement;
- (d) A reimbursement agreement;
- (e) A guarantee agreement;
- (f) A bond or note; and
- (g) An ordinance or a resolution or similar instrument.

Sec. 10. "Governmental unit" means:

1. The State of Nevada, including, without limitation, any board, commission, agency, department, division or instrumentality thereof;

2. A political subdivision of the State of Nevada, including, without limitation, a county, city, town, school district, general or local improvement district or a combination of two or more of those entities acting jointly ~~for in conjunction with an operator of public transit or a public utility~~, including, without limitation, as a regional transportation commission as defined in NRS 482.1825; and

3. A public or private utility.

Sec. 11. "Loan" means any form of direct financial assistance that is provided by the Bank to a qualified borrower to defray all or part of the anticipated or actual costs of a qualified project and is required to be repaid by the borrower over a period of time.

Sec. 12. "Loan obligation" means a bond, note or other evidence of a qualified borrower's obligation to repay a loan given by the Bank.

Sec. 13. "Other financial assistance" means any use of money by the Bank for the benefit of a qualified borrower, including, without limitation, a grant, contribution, credit enhancement, capital or debt reserve for bonds or other debt instrument financing, an interest rate subsidy, letter of credit or other credit instrument, security for a bond or other debt financing instrument and other lawful forms of financing and methods of leveraging funds that are approved by the Board of Directors and, in the case of money made available to the State by the Federal Government, as allowed by applicable federal law.

Sec. 14. "Project revenue" means any rate, rent, fee, assessment ~~and~~ related specifically to the project, charge or other receipt derived or to be derived by a qualified borrower from a qualified project ~~for made available from a special source~~ and, if so provided in the applicable financing agreement, derived from any system of which the qualified project is a part or from any other revenue producing facility under the ownership or control of the qualified borrower, including, without limitation, the proceeds of a grant, gift, appropriation or loan, including, without

limitation, the proceeds of a loan made by the Bank, investment earnings, payments to a reserve for capital or current expenses, proceeds of insurance or condemnation and proceeds from the sale or other disposition of property, ~~and from any other special source as may be provided by the qualified borrower.~~

Sec. 15. “Qualified borrower” means a governmental unit, or an entity established by an agreement between a governmental unit and a private entity, that is authorized to develop, construct, repair, improve, maintain, decommission, operate or own a qualified project.

Sec. 16. “Qualified project” means an eligible project that has been selected by the Bank to receive a loan or other financial assistance.

Sec. 17. “State and local accounts” means the state and local highway account, state and local nonhighway account and state and local utility infrastructure account established by the Bank pursuant to section 23 of this act.

Sec. 18. “Transportation facility” ~~has the meaning ascribed to it in NRS 408.5471 and also includes all~~ means any existing, enhanced, upgraded or new facility that is used or useful for the safe transport of people, information or goods via one or more modes of transport, including, without limitation, any of the following:

1. A road, railroad, bridge, tunnel, overpass, airport, mass transit, light or commuter rail, conduit, ferry, boat, vessel, parking facility, intermodal or multimodal system or any other mode of transport, including, without limitation, those utilizing autonomous technology, and any rights of way necessary for any eligible transportation facility.

2. Related or ancillary to, or used or useful to provide, operate, maintain or generate revenue for, a facility described in subsection 1, including, without limitation, administrative buildings and other buildings, structures, rest areas, maintenance yards, rail yards, ports of entry or storage facilities, vehicles, rolling stock, energy systems, control, communications and information systems, parking facilities and similar commercial facilities used for the support of or the transportation of persons, information or goods or other related equipment, items or property, including, without limitation, any other property that is needed to operate the facility.

3. All improvements, including equipment necessary to the full utilization ~~thereof~~ of a transportation facility, including, without limitation, site preparation, roads and streets, sidewalks, water supply, outdoor lighting, belt line railroad sidings and lead tracks, bridges, causeways, terminals for railroad, automotive and air transportation ~~for~~ and transportation facilities incidental to the project, ~~and the dredging and improving of harbors and waterways.~~

Sec. 19. “Utility infrastructure project” means off-site infrastructure which allows for the engineering and construction of utilities from the

point of connection of existing utilities to the boundary of a master-planned industrial or business park.

Sec. 20. 1. The Nevada State Infrastructure Bank is hereby created within the ~~{Division}~~ Department.

2. The purpose of the Bank is to provide loans and other financial assistance to various governmental units for the development, construction, repair, improvement, operation, maintenance, decommissioning and ownership of transportation facilities and utility infrastructure projects as necessary for public purposes, including, without limitation, economic development.

3. The Bank is administered by a Board of Directors consisting of:

- (a) ~~{The Administrator or his or her designee;~~
- ~~{(b)}~~ The Director of the Department of ~~{Business and Industry}~~ Transportation or his or her designee;
- ~~{(c)}~~ (b) The State Treasurer or his or her designee;
- ~~{(d)}~~ (c) The Director of the Department of ~~{Transportation}~~ Business and Industry or his or her designee;
- ~~{(e)}~~ (d) The Executive Director of the Office of Economic Development or his or her designee; and
- ~~{(f)}~~ (e) Two representatives of the general public, at least one of whom must reside in a county whose population is 700,000 or more, appointed by the Governor.

4. Each member of the Board of Directors who is appointed pursuant to subsection 3 serves at the pleasure of the appointing authority.

5. A vacancy on the Board of Directors in an appointed position must be filled by the appointing authority in the same manner as the original appointment.

6. The ~~{Governor}~~ Board of Directors shall ~~{appoint the}~~ elect annually from among its members a Chair ~~{of the Board of Directors from among its members}~~ and a Vice Chair.

7. Four members of the Board of Directors constitute a quorum for the transaction of business, and the affirmative vote of at least four members of the Board of Directors is required to take action.

8. ~~{The members of the Board of Directors serve without compensation but must be reimbursed the actual amounts of their reasonable and necessary expenses incurred in attending meetings and in performing the duties of their office, unless such expenses are payable by another public agency.}~~ Each member of the Board of Directors who is not otherwise an officer or employee of this State is entitled to receive \$100 for each full day of attending a meeting of the Board of Directors. Each member of the Board of Directors is entitled, while engaged in the business of the Board of Directors, to receive the per diem allowance and travel expenses provided for state officers and employees generally. The per diem allowance and travel expenses provided to a member of the Board of Directors who is an officer or employee of this State or a political

subdivision of this State must be paid by the state agency or political subdivision that employs him or her.

9. A member of the Board of Directors who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation so that he or she may prepare for and attend meetings of the Board of Directors and perform any work necessary to carry out the duties of the Board of Directors in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Board of Directors to:

(a) Make up the time the member is absent from work to carry out his or her duties as a member of the Board of Directors; or

(b) Take annual leave or compensatory time for the absence.

Sec. 21. 1. The Board of Directors may:

(a) Make, and from time to time amend and repeal, bylaws not inconsistent with ~~this chapter,~~ sections 2 to 36.5, inclusive, of this act to carry into effect the powers and purposes of sections 2 to 36.5, inclusive, of this ~~chapter,~~ act.

(b) Sue and be sued ~~in~~ in the name of the Bank.

(c) Have a seal and alter the same at the pleasure of the Board of Directors, but the failure to affix the seal does not affect the validity of an instrument executed on behalf of the Bank.

(d) Make loans to qualified borrowers to finance all or part of the eligible costs of a qualified project.

(e) Provide qualified borrowers with other financial assistance necessary to defray all or part of the eligible costs of a qualified project.

(f) Acquire, hold and sell loan obligations at such prices and in such a manner as the Board of Directors deems advisable.

(g) Enter into contracts, arrangements and agreements with qualified borrowers and other persons and execute and deliver all financing agreements and other instruments necessary or convenient to carry out the powers and duties of the Board of Directors.

(h) Enter into agreements with a department, agency or instrumentality of the United States or governmental unit of this State or another state for the purpose of providing for the financing of qualified projects.

(i) Establish:

(1) Policies and procedures to govern the selection of qualified projects and the issuance and administration of loans and other financial assistance provided by the Bank; and

(2) Fiscal controls and accounting procedures to ensure proper accounting and reporting by the Bank and qualified borrowers.

(j) Acquire, by purchase, lease, donation or other lawful means, real or personal property and any interest therein.

(k) Sell, convey, pledge, lease, exchange, transfer and dispose of all or any part of the property and assets of the Bank.

(l) Procure insurance, guarantees, letters of credit and other forms of collateral or security or credit support for the payment of bonds or other securities issued by the Bank and the payment of premiums or fees on such insurance, guarantees, letters of credit and other forms of collateral or security or credit support.

(m) Collect or authorize the trustee under any trust indenture that secures any bonds or other securities issued by the Bank to collect amounts due from a qualified borrower under any loan obligation owned by the Bank, including, without limitation, taking any lawful action required to obtain payment of any sums in default.

(n) Unless restricted by the terms of an agreement with the holders of bonds or other securities issued by the Bank, consent to any modification of the terms of any loan obligations owned by the Bank, including, without limitation, the rate of interest, period of repayment and payment of any installment of principal or interest.

(o) Borrow money through the issuance of bonds and other securities as provided in sections 2 to ~~36.1~~ 36.5, inclusive, of this act.

(p) Incur expenses to obtain accounting, management, legal or financial consulting and other professional services necessary to the operations of the Bank.

(q) Pay any costs incurred for the administration of the operations of the Bank.

(r) Establish advisory committees, which may include persons from the private sector with civil engineering, banking and financial expertise.

(s) Procure insurance against losses in connection with the Bank's property, assets or activities, including, without limitation, insurance against liability for any act of the Bank or its employees or agents, or establish cash reserves to enable the Bank to act as a self-insurer against such losses.

(t) Impose and collect fees and charges in connection with the activities of the Bank.

(u) Apply for, receive and accept from any source aid grants or contributions of money, property, labor or other things of value to be used to carry out the statutory purposes and powers of the Bank.

(v) Enter into contracts, arrangements or agreements for the servicing and processing of financial agreements.

(w) Accept and hold, with payment of interest, money deposited with the Bank.

(x) Request technical advice, support and assistance from the divisions of the Department.

(y) Do all other things necessary or convenient to exercise any power granted or reasonably implied by sections 2 to ~~36.1~~ 36.5, inclusive, of this act.

2. Except as otherwise provided in sections 2 to ~~36.1~~ 36.5, inclusive, of this act, the Bank may exercise any fiscal power granted to the Bank in

sections 2 to ~~36~~ 36.5, inclusive, of this act, without the review or approval of any other department, division or agency of the State or any political subdivision thereof, except for the Board of Directors.

3. This section does not authorize the Bank to be or conduct business as a:

(a) Bank or trust company within the jurisdiction of title 55 of NRS or under the control of an agency of United States or this State; or

(b) Bank, banker or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange or securities dealers' laws of the United States or of this State.

4. The Bank must, before accepting a deposit from any person or governmental unit, provide a notice to the depositor stating that the deposit is not insured by the Federal Deposit Insurance Corporation.

5. The provisions of ~~title~~ titles 55, 56 and 57 of NRS do not apply to the Bank.

Sec. 22. 1. The Governor shall appoint an Executive Director of the Bank. The Executive Director is in the unclassified service of the State and serves at the pleasure of the Governor.

2. The Executive Director shall administer, manage and conduct the business and affairs of the Bank subject to the direction of the Board of Directors, any conditions that the Board of Directors may from time to time prescribe or as delegated by the Board of Directors. Except as otherwise provided in this subsection, the Executive Director may exercise any power, function or duty conferred by law on the Bank in connection with the administration, management and conduct of the business and affairs of the Bank, including, without limitation:

(a) Hiring such employees in either the classified or unclassified service of the State as are necessary to carry out the statutory purposes and powers of the Bank.

(b) Entering into contracts concerning investments, guarantees or credit enhancements.

(c) Establishing procedures, guidelines, criteria, terms, conditions or other requirements of any contract, bond, loan, grant or program in order to carry out the intents and purposes of the Bank in authorizing the contract, bond, loan, grant or other program.

(d) Declining to guarantee any risk or to enter into any contract.

(e) Reinsuring any risk or any part of any risk, as provided in section 26 of this act.

(f) Making rules for payments through the Bank and determining to whom and through whom the payments are to be made.

(g) Investing and reinvesting any money belonging to the Bank.

(h) Entering into any contract or agreement, executing any instrument, conducting all business and affairs and performing any act necessary or convenient to carrying out the statutory purposes and powers of the Bank.

(i) Executing any instrument or performing any act necessary or convenient to carry out his or her duties pursuant to sections 2 to ~~26~~ 36.5, inclusive, of this act.

Sec. 23. 1. The Nevada State Infrastructure Bank Fund is hereby created as an enterprise fund. The Fund is a continuing fund without reversion.

2. The Fund is administered by the Board of Directors.

3. The Board of Directors may establish accounts and subaccounts within the Fund, but shall establish, without limitation:

- (a) A federal highway account;*
- (b) A federal nonhighway account;*
- (c) A state and local highway account;*
- (d) A state and local nonhighway account;*
- (e) A state and local utility infrastructure account; and*
- (f) A federal utility infrastructure account.*

4. Except as otherwise provided in subsection 7, all money received by the Bank pursuant to sections 2 to ~~26~~ 36.5, inclusive, of this act must be deposited in the Fund.

5. The Bank may accept for deposit into the Fund:

- (a) Any money appropriated by the Legislature or authorized for allocation by the Interim Finance Committee;*
- (b) Federal funds made available to the State;*
- (c) Gifts, grants, donations and contributions from a governmental unit, private entity or any other source;*

(d) Any money paid or credited to the Bank, by contract or otherwise, including, without limitation:

(1) Payment of principal and interest on a loan or other financial assistance provided to a qualified borrower by the Bank; and

(2) Interest earned from the investment or reinvestment of the Bank's money pursuant to section 26 of this act;

(e) Proceeds from the issuance of bonds or other securities pursuant to section 21 of this act; and

(f) Any other lawful source of money that is made available to the Bank and is not already dedicated for another purpose.

6. The Bank shall comply with all applicable federal laws governing the use of federal funds, including, without limitation, statutes and regulations governing:

- (a) Any conditions or limitations on expenditures;*
- (b) Reporting; and*
- (c) The commingling of federal funds.*

7. Earnings on balances in the federal accounts must be credited and invested in accordance with federal law. Earnings on state and local accounts must be deposited in the Fund to the credit of the state and local highway account, state and local nonhighway account or state and local utility infrastructure account that generates the earnings.

8. *Money in the Fund may be used only:*

(a) *For the capitalization of the Bank; and*

(b) *To carry out the statutory purposes and powers of the Bank.*

9. *A local government may use money from any source that is made available to the local government for the purposes of developing, constructing, repairing, improving, operating, maintaining, decommissioning or owning a transportation facility or utility infrastructure project or for any other purpose set forth in sections 2 to ~~36~~, 36.5, inclusive, of this act, to make a gift, grant, donation or contribution to the Bank or to satisfy any obligation owed by the local government to the Bank, including, without limitation, payments of principal and interest.*

Sec. 24. 1. *A governmental unit, or an entity established by agreement between a governmental unit and a private entity, that wishes to obtain a loan or other financial assistance from the Bank to develop, construct, repair, improve, operate, maintain, decommission or own an eligible project must apply to the Bank in the manner prescribed by the Bank.*

2. *The Executive Director shall:*

(a) *Review each application and determine whether the transportation facility or utility infrastructure project described in the application is an eligible project; and*

(b) *At the request of the Board of Directors, submit information to the Board of Directors concerning any eligible project.*

3. *The Board of Directors shall, from time to time, designate qualified projects from among the eligible projects. The Board of Directors may give preference to an eligible project that has demonstrated local financial support.*

4. *The Bank may provide a loan and other financial assistance to a qualified borrower to pay for all or part of the eligible costs of a qualified project. The term of the loan or other financial assistance may not exceed the anticipated useful life of the qualified project. A loan or other financial assistance may be provided in anticipation of reimbursement for or direct payment of all or part of the eligible costs of a qualified project.*

5. *The Bank shall determine the form and content of a loan application, financing agreement or loan obligation, including, without limitation:*

(a) *The period for repayment and the rate or rates of interest on a loan; and*

(b) *Any nonfinancial provisions included in a financing statement or loan obligation, including, without limitation, terms and conditions relating to the regulation and supervision of a qualified project.*

6. *The terms and conditions set forth in a financing agreement or loan obligation for a loan or other financial assistance provided by the Bank*

using money from a federal account must comply with all applicable federal requirements.

Sec. 25. 1. A qualified borrower that wishes to obtain a loan or other financial assistance from the Bank must enter into a financing agreement with the Bank and may be required to issue a loan obligation to the Bank. Except as otherwise provided by specific statute, a qualified borrower entering into a financing agreement with the Bank or issuing a loan obligation to the Bank may perform any act, take any action, adopt any proceedings and make and carry out any contract or agreement with the Bank as may be agreed to by the Bank and the qualified borrower for carrying out the purposes contemplated by sections 2 to 36.5, inclusive, of this act.

2. A qualified borrower may, in addition to any authorization set forth in this section, use any authorization granted by any other statute that allows the qualified borrower to borrow money and issue obligations in obtaining a loan or other financial assistance from the Bank to the extent determined necessary or useful by the qualified borrower in connection with any financing agreement or the issuance, securing or sale of a loan obligation to the Bank.

3. A qualified borrower may:

(a) Receive, apply, pledge, assign and grant security interests in its project revenues to secure its loan obligations as provided in sections 2 to ~~36.1~~ 36.5, inclusive, of this act; and

(b) Impose and collect fees, rates, rents, assessments and other charges of general or special application for the operation of a qualified project, the system of which the qualified project is a part and any other revenue producing facilities from which the qualified borrower derives project revenues to meet its loan obligations under a financing agreement or to otherwise provide for the development, construction, repair, improvement, operation, maintenance, decommissioning or ownership of a qualified project.

Sec. 26. 1. The Bank may provide insurance or reinsurance of loans or portions thereof, or their debt service, including, without limitation, amounts payable as premiums or penalties in the event of mandatory or optional prepayment, made to finance a qualified project, and to provide insurance or reinsurance or reserves, or portions thereof, or the yield therefrom, established to secure bonds or other securities issued to fund those loans or reserves.

2. The Bank may:

(a) Arrange an agreement for insurance or reinsurance with a user, mortgagor, lending institution, insurer or any other entity authorized to arrange such agreements in this State; and

(b) Enter into an agreement for insurance or reinsurance with any insurer authorized to reinsure or insure such risks in this State.

3. The Bank may fix a rate or rates of premium for insurance or reinsurance. The rates are not required to be uniform and may reflect any risk and classification of risk that the Bank determines to be reasonable.

4. The Bank may exercise any other power that is necessary or incidental to insurance, reinsurance and related matters.

5. The Bank shall make reasonable provisions for the security of loans made by the Bank, and any insurance, reinsurance and other financing arrangements negotiated by the Bank.

6. Any insurance or reinsurance provided by the Bank does not constitute a debt or pledge of the faith and credit of the State or any subdivision of the State.

~~[7. For the purposes of this section, the Bank shall be deemed to be an authorized insurer, as defined in NRS 679A.030, and a reinsurer, as defined in NRS 681A.370, and authorized to transact insurance or reinsurance on the same basis as the holder of a certificate of authority issued by the Commissioner of Insurance pursuant to chapter 679B of NRS.]~~

Sec. 27. The Bank may provide security for any issue of revenue bonds by the Bank through any commonly accepted financial instrument, including, without limitation:

1. A deed of trust on the resources, facilities and revenues of one or more qualified projects financed by the Bank;

2. A credit enhancement, including, without limitation, a letter of credit, bond insurance or surety bond provided by a private financial institution; and

3. Insurance, reinsurance or a guarantee provided by the Bank itself.

Sec. 28. 1. Any obligation to a third person made by the Bank, including, without limitation, a bond or other security issued by the Bank pursuant to section 21 of this act and any insurance, reinsurance or reserve provided by the Bank pursuant to section 26 of this act:

(a) Does not constitute a debt, liability or obligation of this State or any political subdivision thereof, or a pledge of the faith and credit of this State or any political subdivision thereof, but is payable solely from the revenues or assets of the Bank; and

(b) Must contain on the face thereof a statement to the effect that the Bank is not obligated to pay the obligation or any interest thereon except from the revenues or assets, if any, pledged therefor and that neither the faith and credit nor the taxing power of this State or any political subdivision thereof is pledged to the payment of the principal of or the interest on the obligation.

2. Except as otherwise provided in subsection 3, this section does not prohibit the Bank from:

(a) Pledging the full faith and credit of the Bank for the satisfaction of any obligation to a third person made by the Bank; or

(b) Issuing a bond guarantee or credit enhancement for bonds issued by a qualified borrower.

3. Notwithstanding any provision in sections 2 to ~~36.1~~ 36.5, inclusive, of this act to the contrary, the Bank shall not act as a surety or guarantor for a private utility or any other private company, association or corporation.

Sec. 29. 1. Except as otherwise provided in this section, if a qualified borrower that has obtained a loan or other financial assistance from the Bank fails to remit in full any amount due to the Bank on the date on which the amount is due under the terms of any note or other loan obligation given to the Bank by the qualified borrower, the Bank shall notify the appropriate state agencies or officers, including, without limitation, the State Controller, who shall withhold all or a portion of any state money or other money administered by the State and its agencies, boards and instrumentalities that is allotted or appropriated to the qualified borrower and apply an amount necessary to the payment of the amount due.

2. This section does not authorize the State or an agency, board or instrumentality thereof, or the State Controller, to withhold any money allocated or appropriated to a qualified borrower if to do so would violate the terms of:

- (a) An appropriation by the Legislature;
- (b) The terms of any federal law;
- (c) The terms of a contract to which the State is a party; ~~for~~
- (d) A contract to which a governmental unit or qualified borrower is a party; or

(e) A judgment of a court that is binding upon the State.

Sec. 30. The Board of Directors and any member thereof, and any officer, employee, agent or committee member of the Bank is not liable in a civil action for any act performed on behalf of the Bank in good faith and within the scope of their duties or the exercise of their authority pursuant to sections 2 to ~~36.1~~ 36.5, inclusive, of this act.

Sec. 31. Except as otherwise provided in sections 2 to ~~36.1~~ 36.5, inclusive, of this act, and notwithstanding any other provision of law, the Bank is not required to provide any notice or publication or to conduct any hearing or other proceeding before performing any act authorized in sections 2 to ~~36.1~~ 36.5, inclusive, of this act.

Sec. 32. The Bank is an instrumentality of this State, and its property and income are exempt from all taxation by this State and any political subdivision thereof.

Sec. 33. 1. Except as otherwise provided in subsection 2, bonds and other securities issued by the Bank pursuant to the provisions of sections 2 to ~~36.1~~ 36.5, inclusive, of this act, their transfer and the income therefrom must forever be and remain free and exempt from taxation by this State or any subdivision thereof.

2. The provisions of subsection 1 do not apply to the tax on estates imposed pursuant to the provisions of chapter 375A of NRS or the tax on generation-skipping transfers imposed pursuant to the provisions of chapter 375B of NRS.

Sec. 34. Notwithstanding any provision in sections 2 to ~~36.1~~ 36.5, inclusive, of this act to the contrary, sections 2 to ~~36.1~~ 36.5, inclusive, of this act are supplemental to, and not in lieu of, the right of any qualified borrower to issue general obligation bonds or other bonds that the qualified borrower is otherwise lawfully authorized to issue.

Sec. 35. 1. To the extent possible, the provisions of sections 2 to ~~36.1~~ 36.5, inclusive, of this act are intended to supplement other statutory provisions governing the development, construction, repair, improvement, maintenance, decommissioning, operation and ownership of transportation facilities and utility infrastructure projects and the issuance of bonds and other securities by this State or a political subdivision thereof, and such other provisions must be given effect to the extent that those provisions do not conflict with the provisions of sections 2 to ~~36.1~~ 36.5, inclusive, of this act. If there is a conflict between such other provisions and the provisions of sections 2 to ~~36.1~~ 36.5, inclusive, of this act, the provisions of sections 2 to ~~36.1~~ 36.5, inclusive, of this act control.

2. The provisions of NRS 338.013 to 338.090, inclusive, apply to any contract for construction work on a qualified project if all or part of the costs of the qualified project are paid for using a loan or other financial assistance from the Bank. The Bank, the qualified borrower, any contractor who is awarded a contract or enters into an agreement to perform construction work on the qualified project, and any subcontractor who performs any portion of the construction work shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if a public body had undertaken the qualified project or had awarded the contract.

Sec. 36. The Board of Directors shall, not later than 90 days after the end of each fiscal year:

1. Prepare a report on the operations of the Bank during that year.
2. Submit the report prepared pursuant to subsection 1 to:
 - (a) The Governor; and
 - (b) The Director of the Legislative Counsel Bureau for transmittal to:
 - (1) If the report is prepared in an even-numbered year, the next regular session of the Legislature; or
 - (2) If the report is prepared in an odd-numbered year, the Legislative Commission.

Sec. 36.5. Any division of the Department may, to the extent that money is available for that purpose, provide technical advice, support and assistance to the Bank.

Sec. 36.6. NRS 408.111 is hereby amended to read as follows:

408.111 1. The Department consists of a Director, two Deputy Directors, a Chief Engineer and the following ~~divisions~~:

- (a) Administrative Division.
- (b) Operations Division.
- (c) Engineering Division.
- (d) Planning Division.

(e) Nevada State Infrastructure Bank.

2. The head of a Division is an assistant director. Assistant directors are in the unclassified service of the State.

Sec. 36.7. NRS 408.116 is hereby amended to read as follows:

408.116 **Except as otherwise provided in sections 2 to 36.5, inclusive, of this act:**

1. All legal notices, writs, service and process issued or ordered by a court of competent jurisdiction wherein the Department is named as a defendant must be personally served upon both the Director and the Chair of the Board or, in the absence of the Director and the Chair of the Board, the process must be served personally upon both the Secretary of State and one of the Deputy Directors.

2. All legal actions brought and defended by the Department must be in the name of the State of Nevada on relation of its Department.

3. This section is not a consent on the part of the Department to be sued.

Sec. 36.8. NRS 408.131 is hereby amended to read as follows:

408.131 ~~The~~ **Except as otherwise provided in sections 2 to 36.5, inclusive, of this act, the** Board shall:

1. Consider, at its meetings, all questions relating to the general policy of the Department and transact such business as properly comes before it.

2. Receive and consider, at such time as the Board selects, an annual report by the Director.

3. Except as otherwise provided in NRS 408.203, act for the Department in all matters relating to recommendations, reports and such other matters as the Board finds advisable to submit to the Legislature.

4. Maintain a record of all proceedings of the Board.

5. Execute or approve all instruments and documents in the name of the State or the Department necessary to carry out the provisions of this chapter.

6. Except as otherwise provided in NRS 408.389, delegate to the Director such authority as it deems necessary under the provisions of this chapter.

7. Act by resolution, vote or order entered in its records.

Sec. 36.9. NRS 408.172 is hereby amended to read as follows:

408.172 1. Subject to the approval of the Board, the Attorney General shall, immediately upon request by the Board, appoint an attorney at law as the Chief Counsel of the Department, and such assistant attorneys as are necessary. Attorneys so appointed are deputy attorneys general.

2. ~~The~~ **Except as otherwise provided in sections 2 to 36.5, inclusive, of this act, the** Chief Counsel shall act as the attorney and legal adviser of the

Department in all actions, proceedings, hearings and all matters relating to the Department and to the powers and duties of its officers.

3. Under the direction of or in the absence of the Chief Counsel, the assistant attorneys may perform any duty required or permitted by law to be performed by the Chief Counsel.

4. The Chief Counsel and assistant attorneys are in the unclassified service of the State.

5. ~~[[All]]~~ **Except as otherwise provided in sections 2 to 36.5, inclusive, of this act, all** contracts, instruments and documents executed by the Department must be first approved and endorsed as to legality and form by the Chief Counsel.

Sec. 37. ~~[NRS 341.017 is hereby amended to read as follows:~~

~~341.017 1. There is hereby created the State Public Works Division of the Department of Administration;~~

~~2. The Division consists of:~~

~~(a) The Administrator;~~

~~(b) The Buildings and Grounds Section;~~

~~(c) The Public Works Compliance and Code Enforcement Section;~~

~~(d) The Public Works Professional Services Section; [and]~~

~~(e) The State Public Works Board [.]; and~~

~~(f) The Board of Directors of the Nevada State Infrastructure Bank.~~

~~3. The Division shall, subject to the administrative supervision of the Director of the Department, administer the provisions of this chapter and NRS 331.010 to 331.145, inclusive.] (Deleted by amendment.)~~

Sec. 37.1. NRS 408.175 is hereby amended to read as follows:

408.175 1. The Director shall:

(a) Appoint one Deputy Director who in the absence, inability or failure of the Director has full authority to perform any duty required or permitted by law to be performed by the Director.

(b) Appoint one Deputy Director for southern Nevada whose principal office must be located in an urban area in southern Nevada.

(c) Appoint one Deputy Director with full authority to perform any duty required or allowed by law to be performed by the Director to implement, manage, oversee and enforce any environmental program of the Department. The Deputy Director described in this paragraph shall coordinate the implementation of NRS 408.441 to 408.451, inclusive, with the State Department of Conservation and Natural Resources.

(d) ~~[Employ]~~ **Except as otherwise provided in section 22 of this act, employ** such engineers, engineering and technical assistants, clerks and other personnel as in the Director's judgment may be necessary to the proper conduct of the Department and to carry out the provisions of this chapter.

2. Except as otherwise provided in NRS 284.143, the Deputy Directors shall devote their entire time and attention to the business of the office and shall not pursue any other business or occupation or hold any other office of profit.

3. The Director may delegate such authority as may be necessary for the Deputy Director appointed pursuant to paragraph (b) of subsection 1 to carry out his or her duties.

Sec. 37.2. NRS 408.205 is hereby amended to read as follows:

408.205 1. With the approval of the Board, the Director may execute all plans, specifications, contracts and instruments in the name of the State of Nevada necessary for the carrying out of the provisions of this chapter, except **as otherwise provided in sections 2 to 36.5, inclusive, of this act and except** those construction contracts as provided in NRS 408.327 and 408.347.

2. The Director has such other power and authority as is necessary and proper under the provisions of this chapter, or as the Board delegates to the Director.

3. The Director shall provide for the purchase of United States Savings Bonds or similar United States obligations by salary or wage deductions for officers and employees of the Department who make written requests for such deductions and purchases. To allow all Department officers and employees the opportunity of requesting salary or wage deductions for the purchase of United States obligations, the Director shall provide forms authorizing the deductions and purchases and shall make them readily available to all Department officers and employees.

Sec. 37.3. NRS 408.215 is hereby amended to read as follows:

408.215 1. The Director has charge of all the records of the Department, keeping records of all proceedings pertaining to the Department and keeping on file information, plans, specifications, estimates, statistics and records prepared by the Department, except **as otherwise provided in sections 2 to 36.5, inclusive, of this act and except** those financial statements described in NRS 408.333 and the financial or proprietary information described in paragraph (c) of subsection 6 of NRS 408.3886, which must not become matters of public record.

2. The Director may photograph, film, place an image of on microfilm, save as an image in an electronic recordkeeping system or dispose of the records of the Department referred to in subsection 1 as provided in NRS 239.051, 239.080 and 239.085.

3. The Director shall maintain an index or record of deeds or other references of title or interests in and to all lands or interests in land owned or acquired by the Department.

4. The Director shall adopt such regulations as may be necessary to carry out and enforce the provisions of this chapter.

Sec. 37.4. NRS 408.225 is hereby amended to read as follows:

408.225 Except as otherwise provided in NRS 408.323 ~~and~~ **and in sections 2 to 36.5, inclusive, of this act**, the Director, with the approval of the Board, may rent, lease, purchase and contract for all equipment, materials, supplies, vehicles, road machinery, tools, implements and technical services required for the purpose of this chapter. Such equipment,

supplies and services must be managed and used under the control of the Director.

Sec. 37.5. NRS 408.265 is hereby amended to read as follows:

408.265 ~~All~~ **Except as otherwise provided in sections 2 to 36.5, inclusive, of this act, all** money received from the Government of the United States and by virtue of the provisions of any Act of Congress for the engineering, planning, surveying, acquiring of property, constructing, reconstructing or improving of any highway in the State must be put into the State Treasury and become a part of the State Highway Fund and that Fund must not be used for any other purpose.

Sec. 37.6. NRS 408.389 is hereby amended to read as follows:

408.389 1. Except as otherwise provided in subsection 2 ~~to~~ **and sections 2 to 36.5, inclusive, of this act,** the Department shall not purchase any equipment which exceeds \$50,000, unless the purchase is first approved by the Board.

2. Before the Board may approve the purchase of any mobile equipment which exceeds \$50,000, the Department shall:

(a) Prepare and present to the Board an analysis of the costs and benefits, including, without limitation, all related personnel costs, that are associated with:

(1) Purchasing, operating and maintaining the same item of equipment;

(2) Leasing, operating and maintaining the same item of mobile equipment; or

(3) Contracting for the performance of the work which would have been performed using the mobile equipment; and

(b) Justify the need for the purchase based on that analysis.

3. The Board shall not:

(a) Delegate to the Director its authority to approve purchases of equipment pursuant to subsection 1; or

(b) Approve any purchase of mobile equipment which exceeds \$50,000 and for which the Department is unable to provide justification pursuant to subsection 2.

Sec. 37.7. NRS 338.080 is hereby amended to read as follows:

338.080 ~~None~~ **Except as otherwise provided in section 35 of this act, none** of the provisions of NRS 338.020 to 338.090, inclusive, apply to:

1. Any work, construction, alteration, repair or other employment performed, undertaken or carried out, by or for any railroad company or any person operating the same, whether such work, construction, alteration or repair is incident to or in conjunction with a contract to which a public body is a party, or otherwise.

2. Apprentices recorded under the provisions of chapter 610 of NRS.

3. Any contract for a public work whose cost is less than \$250,000. A unit of the project must not be separated from the total project, even if that unit is to be completed at a later time, in order to lower the cost of the project below \$250,000.

4. Any contract for a public work or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property to which a charter school is a party, notwithstanding any other provision of law.

5. A public work of, or constructed by, a charter school, or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property of or constructed by a charter school, notwithstanding any other provision of law.

Sec. 38. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 39. 1. This act becomes effective upon passage and approval for the purposes of establishing the Nevada State Infrastructure Bank and appointing the Board of Directors.

2. For all other purposes, this act becomes effective on the date on which the ~~Administrator of the Public Works Division~~ **Director** of the Department of ~~Administration~~ **Transportation** notifies the Governor and the Director of the Legislative Counsel Bureau that sufficient money is available to capitalize and carry out the business of the Nevada State Infrastructure Bank created by section 20 of this act.

Assemblyman Flores moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 421.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 621.

AN ACT relating to corrections; authorizing the residential confinement of certain offenders who have been granted parole but are not yet eligible for release on parole; requiring the ~~provision of psychiatric care or other mental health~~ **coordination and oversight of certain** care for a prisoner ~~in the custody of~~ **by** a sheriff, chief of police or town marshal in certain counties ~~it~~ **and the Department of Health and Human Services;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill: (1) requires the Director of the Department of Corrections, with the approval of the Board of State Prison Commissioners, to establish a program for the residential confinement of offenders who have been granted parole but are not yet eligible for release on parole; (2) authorizes the Director to assign an offender who has been granted parole but is not yet eligible for release on parole to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement under certain circumstances; (3) requires the Director to notify the Division and certain victims of the offender of the Director's

intent to assign the offender to the custody of the Division for residential confinement; (4) prohibits the Director from assigning an offender to the custody of the Division until the Division has approved the offender's proposed plan for placement upon release; (5) requires an offender to submit to the Division a signed document concerning his or her compliance with the terms or conditions of the residential confinement; and (6) sets forth certain terms, limitations and effects applicable to an offender who is assigned to the custody of the Division to serve a term of residential confinement.

Existing law imposes upon sheriffs, chiefs of police and town marshals certain duties relating to the control and care of prisoners in their custody. (NRS 211.140) **Section 4** of this bill requires, in a county whose population is 700,000 or more (currently Clark County), a sheriff, chief of police or town marshal to arrange for ~~psychiatric care or other mental health care for a prisoner to be provided by, and at the expense of, the Division of Public and Behavioral Health of~~ , and the Department of Health and Human Services [] to provide, for the purpose of maintaining continuity of care, coordination and oversight of certain care provided to a prisoner while the prisoner is in custody and after the prisoner is released from custody. Section 4 also requires each such sheriff and the Director of the Department to report to the Legislative Committee on Health Care regarding such coordination and oversight.

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

Section 1. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director shall, with the approval of the Board, establish a program for the residential confinement of offenders who have been granted parole but are not yet eligible for release on parole.

2. The program established pursuant to this section may authorize the payment by the State of any costs and expenses related to the residential confinement and active electronic monitoring of an offender who is placed in the program.

3. Except as otherwise provided in subsection 5, and in accordance with the program established by the Director pursuant to subsection 1, the Director may assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement pursuant to NRS 213.380 if the offender:

(a) Has been granted parole by the State Board of Parole Commissioners pursuant to NRS 213.1099 or 213.1215;

(b) Does not have a consecutive sentence to serve;

(c) Is not under another jurisdiction's order to be detained; and

(d) Is not yet eligible for release on parole.

4. *If the Director intends to assign an offender to the custody of the Division of Parole and Probation pursuant to this section, the Director shall notify:*

(a) The Division of Parole and Probation; and

(b) In accordance with the provisions of NRS 209.521, every victim of the offender who has requested notification of the release of the offender.

5. *The Director shall not assign an offender to the custody of the Division of Parole and Probation pursuant to this section until the Division has approved the offender's proposed plan for placement upon release in accordance with subsection 2 of NRS 213.140.*

6. *Before an offender may be assigned to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section, he or she must submit to the Division a signed document stating that:*

(a) He or she will comply with the terms or conditions of the residential confinement; and

(b) If he or she fails to comply with the terms or conditions of the residential confinement and is taken into custody outside of this State, he or she waives all rights relating to extradition proceedings.

7. *If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his or her residential confinement or other appropriate supervision as determined by the Division:*

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department. If the offender is returned to the custody of the Department, the Division shall provide to the Department a copy of the allegations and findings made pursuant to NRS 213.410 within 1 business day after the return of the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by the offender before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as the Director considers proper. The decision of the Director regarding such a forfeiture is final.

8. *The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:*

(a) A continuation of the offender's imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↪ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

9. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

10. The Division of Parole and Probation may receive and distribute restitution paid by an offender assigned to the custody of the Division pursuant to this section.

Sec. 2. NRS 209.241 is hereby amended to read as follows:

209.241 1. The Director may accept money, including the net amount of any wages earned during the incarceration of an offender after any deductions made by the Director and valuables belonging to an offender at the time of his or her incarceration or afterward received by gift, inheritance or the like or earned during the incarceration of an offender, and shall deposit the money in the Prisoners' Personal Property Fund, which is hereby created as a trust fund.

2. An offender shall deposit all money that the offender receives into his or her individual account in the Prisoners' Personal Property Fund.

3. The Director:

(a) Shall keep, or cause to be kept, a full and accurate account of the money and valuables, and shall submit reports to the Board relating to the money and valuables as may be required from time to time.

(b) May permit withdrawals for immediate expenditure by an offender for personal needs.

(c) May permit the distribution of money to a governmental entity for any applicable deduction authorized pursuant to NRS 209.247 or any other deduction authorized by law from any money deposited in the individual account of an offender from any source other than the offender's wages.

(d) Shall pay over to each offender upon his or her release any remaining balance in his or her individual account.

4. The interest and income earned on the money in the Prisoners' Personal Property Fund, after deducting any applicable bank charges, must be credited each calendar quarter as follows:

(a) If an offender's share of the cost of administering the Prisoners' Personal Property Fund for the quarter is less than the amount of interest and income earned by the offender, the Director shall credit the individual account of the offender with an amount equal to the difference between the amount of interest and income earned by the offender and the offender's share of the cost of administering the Prisoners' Personal Property Fund.

(b) If an offender's share of the cost of administering the Prisoners' Personal Property Fund for the quarter is equal to or greater than the amount of interest and income earned by the offender, the Director shall credit the interest and income to the Offenders' Store Fund.

5. An offender who does not deposit all money that the offender receives into his or her individual account in the Prisoners' Personal Property Fund as required in this section is guilty of a gross misdemeanor.

6. A person who aids or encourages an offender not to deposit all money the offender receives into the individual account of the offender in the Prisoners' Personal Property Fund as required in this section is guilty of a gross misdemeanor.

7. The Director may exempt an offender from the provisions of this section if the offender is:

(a) Confined in an institution outside this State pursuant to chapter 215A of NRS; or

(b) Assigned to the custody of the Division of Parole and Probation of the Department of Public Safety to:

(1) Serve a term of residential confinement pursuant to NRS 209.392, 209.3925 or 209.429 ~~§~~ **or section 1 of this act**; or

(2) Participate in a correctional program for reentry into the community pursuant to NRS 209.4887.

Sec. 3. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429 ~~§~~ **and section 1 of this act**, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) Demonstrated a willingness and ability to establish a position of employment in the community;

(b) Demonstrated a willingness and ability to enroll in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of the offender's confinement and to meet any existing obligation for restitution to any victim of his or her crime,

➔ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his or her sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. Except as otherwise provided in NRS 213.10915, if any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.131, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that the victim may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.131, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former

address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to the offender in a faithful and orderly manner;

(c) Has been convicted of:

(1) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim within the immediately preceding 3 years;

(2) A sexual offense that is punishable as a felony; or

(3) Except as otherwise provided in subsection 4, a category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.420, 488.425 or 488.427; or

(e) Has escaped or attempted to escape from any jail or correctional institution for adults,

➤ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. The standards adopted by the Director pursuant to subsection 3 must provide that an offender who has been convicted of a category B felony is eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section if:

(a) The offender is not otherwise ineligible pursuant to subsection 3 for an assignment to serve a term of residential confinement; and

(b) The Director makes a written finding that such an assignment of the offender is not likely to pose a threat to the safety of the public.

5. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of the offender's residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by the offender before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as the Director considers proper. The decision of the Director regarding such a forfeiture is final.

6. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of the offender's imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➡ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

7. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

8. The Division of Parole and Probation may receive and distribute restitution paid by an offender assigned to the custody of the Division of Parole and Probation pursuant to this section.

Sec. 4. NRS 211.140 is hereby amended to read as follows:

211.140 1. The sheriff of each county has charge and control over all prisoners committed to his or her care in the respective county jails, and the chiefs of police and town marshals in the several cities and towns throughout this State have charge and control over all prisoners committed to their respective city and town jails and detention facilities.

2. A court shall not, at the request of any prisoner in a county, city or town jail, issue an order which affects the conditions of confinement of the prisoner unless, except as otherwise provided in this subsection, the court provides the sheriff, chief of police or town marshal having control over the prisoner with:

(a) Sufficient prior notice of the court's intention to enter the order. Notice by the court is not necessary if the prisoner has filed an action with the court challenging his or her conditions of confinement and has served a copy of the action on the sheriff, chief of police or town marshal.

(b) An opportunity to be heard on the issue.

➡ As used in this subsection, "conditions of confinement" includes, but is not limited to, a prisoner's access to the law library, privileges regarding visitation and the use of the telephone, the type of meals provided to the prisoner and the provision of medical care in situations which are not emergencies.

3. The sheriffs, chiefs of police and town marshals shall see that the prisoners under their care are kept at labor for reasonable amounts of time within the jail or detention facility, on public works in the county, city or town, or as part of a program of release for work established pursuant to NRS 211.120 or 211.171 to 211.200, inclusive.

4. The sheriff, chief of police or town marshal shall arrange for the administration of medical care required by prisoners while in his or her custody. The county, city or town shall pay the cost of appropriate medical:

(a) Treatment provided to a prisoner while in custody for injuries incurred by a prisoner while the prisoner is in custody and for injuries incurred during the prisoner's arrest for commission of a public offense if the prisoner is not convicted of that offense;

(b) Treatment provided to a prisoner while in custody for any infectious, contagious or communicable disease which the prisoner contracts while the prisoner is in custody; and

(c) Examinations required by law or by court order conducted while the prisoner is in custody unless the order otherwise provides.

5. A prisoner shall pay the cost of medical treatment for:

(a) Injuries incurred by the prisoner during his or her commission of a public offense or for injuries incurred during his or her arrest for commission of a public offense if the prisoner is convicted of that offense;

(b) ~~Injuries~~ ~~Except treatment provided pursuant to subsection 8,~~ ~~injuries~~ or illnesses which existed before the prisoner was taken into custody;

(c) Self-inflicted injuries; and

(d) Except treatment provided pursuant to subsection 4 ~~for 8,~~ any other injury or illness incurred by the prisoner.

6. ~~Except as otherwise provided in subsection 8,~~

~~(a)~~ A medical facility furnishing treatment pursuant to subsection 5 shall attempt to collect the cost of the treatment from the prisoner or the prisoner's insurance carrier. ~~‡~~

~~(b)~~ If the facility is unable to collect the cost and certifies to the appropriate board of county commissioners that it is unable to collect the cost of the medical treatment, the board of county commissioners shall pay the cost of the medical treatment.

7. ~~Except as otherwise provided in subsection 8,~~

~~(a)~~ A sheriff, chief of police or town marshal who arranges for the administration of medical care pursuant to this section may attempt to collect from the prisoner or the insurance carrier of the prisoner the cost of arranging for the administration of medical care including the cost of any transportation of the prisoner for the purpose of medical care. ~~‡~~

~~(b)~~ The prisoner shall obey the requests of, and fully cooperate with the sheriff, chief of police or town marshal in collecting the costs from the prisoner or the prisoner's insurance carrier.

8. *In a county whose population is 700,000 or more, a sheriff, chief of police or town marshal shall arrange for, and ~~the Division of Public and Behavioral Health of~~ the Department of Health and Human Services and the various divisions thereof shall provide, for the purpose of maintaining continuity of care, ~~the psychiatric care or other mental health~~ coordination and oversight of the care ~~required by~~ for mental health and*

~~substance abuse treatment provided to a prisoner while in the custody of the sheriff, chief of police or town marshal. The Division shall bear the cost of that care, by:~~

(a) All providers of such care in the county, city or town jail or detention facility while the prisoner is in custody; and

(b) All providers of such care after the prisoner is released from custody. ↗ Each such sheriff, or his or her representative, and the Director of the Department of Health and Human Services, or his or her representative, shall, at each meeting of the Legislative Committee on Health Care, appear before the Committee to report on the coordination and oversight provided pursuant to this subsection.

Sec. 5. NRS 213.10915 is hereby amended to read as follows:

213.10915 1. The Board, in consultation with the Division, may enter into an agreement with the manager of an automated victim notification system to notify victims of the information described in NRS 209.392 and 209.3925 **and section 1 of this act** and subsections 4 and 7 of NRS 213.131 through the system if the system is capable of:

(a) Automatically notifying by telephone or electronic means a victim registered with the system of the information described in NRS 209.392 and 209.3925 **and section 1 of this act** and subsections 4 and 7 of NRS 213.131 with the timeliness required by NRS 209.392 and 209.3925 **and section 1 of this act** and subsections 4 and 7 of NRS 213.131; and

(b) Notifying victims registered with the system, using language provided by the Board, if the Board decides that it will discontinue the use of the system to notify victims of the information described in NRS 209.392 and 209.3925 **and section 1 of this act** and subsections 4 and 7 of NRS 213.131. The notice must:

(1) Be provided to each victim registered with the system not less than 90 days before the date on which the Board will discontinue use of the system; and

(2) Advise each victim to submit a written request for notification pursuant to subsection 4 of NRS 213.131 if the victim wishes to receive notice of the information described in NRS 209.392 and 209.3925 **and section 1 of this act** and subsections 4 and 7 of NRS 213.131.

2. The Division is not required to notify the victim of an offender of the information described in NRS 209.392 and 209.3925 **and section 1 of this act** and the Board is not required to notify the victim of a prisoner of the information described in subsections 4 and 7 of NRS 213.131 if:

(a) The Board has entered into an agreement pursuant to subsection 1; and

(b) Before discontinuing the notification of victims pursuant to NRS 209.392 and 209.3925 **and section 1 of this act** and subsections 4 and 7 of NRS 213.131, the Board, not less than two times and not less than 60 days apart, has notified each victim who has requested notification pursuant to subsection 4 of NRS 213.131 and who has provided his or her current address or whose current address is otherwise known by the Board of the

change in the manner in which a victim is notified of the information described in NRS 209.392 and 209.3925 **and section 1 of this act** and subsections 4 and 7 of NRS 213.131. The notice must:

(1) Advise the victim that the Division will no longer notify the victim of the information described in NRS 209.392 and 209.3925 ~~§~~ **and section 1 of this act**, that the Board will no longer notify the victim of the information described in subsections 4 and 7 of NRS 213.131, and that the victim may register with the automated victim notification system if he or she wishes to be notified of the information described in NRS 209.392 and 209.3925 **and section 1 of this act** and subsections 4 and 7 of NRS 213.131; and

(2) Include instructions for registering with the automated victim notification system to receive notice of the information described in NRS 209.392 and 209.3925 **and section 1 of this act** and subsections 4 and 7 of NRS 213.131.

3. For the purposes of this section, “victim” has the meaning ascribed to it in NRS 213.005.

Sec. 6. NRS 213.371 is hereby amended to read as follows:

213.371 As used in NRS 213.371 to 213.410, inclusive, unless the context otherwise requires:

1. “Division” means the Division of Parole and Probation of the Department of Public Safety.

2. “Offender” means a prisoner assigned to the custody of the Division pursuant to NRS 209.392, 209.3925 or 209.429 ~~§~~ **or section 1 of this act**.

3. “Residential confinement” means the confinement of an offender to his or her place of residence under the terms and conditions established by the Division.

Sec. 7. NRS 213.380 is hereby amended to read as follows:

213.380 1. The Division shall establish procedures for the residential confinement of offenders.

2. The Division may establish, and at any time modify, the terms and conditions of the residential confinement, except that the Division shall:

(a) Require the offender to participate in regular sessions of education, counseling and any other necessary or desirable treatment in the community, unless the offender is assigned to the custody of the Division pursuant to NRS 209.3925 ~~§~~ **or section 1 of this act**;

(b) Require the offender to be confined to his or her residence during the time the offender is not:

(1) Engaged in employment or an activity listed in paragraph (a) that is authorized by the Division;

(2) Receiving medical treatment that is authorized by the Division; or

(3) Engaged in any other activity that is authorized by the Division; and

(c) Require intensive supervision of the offender, including unannounced visits to his or her residence or other locations where the offender is expected to be in order to determine whether the offender is complying with the terms and conditions of his or her confinement.

3. An electronic device approved by the Division may be used to supervise an offender. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the offender's location, including, but not limited to, the transmission of still visual images which do not concern the offender's activities, and producing, upon request, reports or records of the offender's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

- (a) Oral or wire communications or any auditory sound; or
- (b) Information concerning the offender's activities,

↪ must not be used.

Sec. 8. NRS 178.5698 is hereby amended to read as follows:

178.5698 1. The prosecuting attorney, sheriff or chief of police shall, upon the request of a victim or witness, inform the victim or witness:

(a) When the defendant is released from custody at any time before or during the trial, including, without limitation, when the defendant is released pending trial or subject to electronic supervision;

(b) If the defendant is so released, the amount of bail required, if any; and

(c) Of the final disposition of the criminal case in which the victim or witness was directly involved.

2. A request for information pursuant to subsection 1 must be made:

(a) In writing; or

(b) By telephone through an automated or computerized system of notification, if such a system is available.

3. If an offender is convicted of a sexual offense or an offense involving the use or threatened use of force or violence against the victim, the court shall provide:

(a) To each witness, documentation that includes:

(1) A form advising the witness of the right to be notified pursuant to subsection 5;

(2) The form that the witness must use to request notification in writing; and

(3) The form or procedure that the witness must use to provide a change of address after a request for notification has been submitted.

(b) To each person listed in subsection 4, documentation that includes:

(1) A form advising the person of the right to be notified pursuant to subsection 5 or 6 and NRS 176.015, 176A.630, 178.4715, 209.392, 209.3925, 209.521, 213.010, 213.040, 213.095 and 213.131 **and section 1 of this act** or NRS 213.10915;

(2) The forms that the person must use to request notification; and

(3) The forms or procedures that the person must use to provide a change of address after a request for notification has been submitted.

4. The following persons are entitled to receive documentation pursuant to paragraph (b) of subsection 3:

- (a) A person against whom the offense is committed.
- (b) A person who is injured as a direct result of the commission of the offense.
- (c) If a person listed in paragraph (a) or (b) is under the age of 18 years, each parent or guardian who is not the offender.
- (d) Each surviving spouse, parent and child of a person who is killed as a direct result of the commission of the offense.
- (e) A relative of a person listed in paragraphs (a) to (d), inclusive, if the relative requests in writing to be provided with the documentation.

5. Except as otherwise provided in subsection 6, if the offense was a felony and the offender is imprisoned, the warden of the prison shall, if the victim or witness so requests in writing and provides a current address, notify the victim or witness at that address when the offender is released from the prison.

6. If the offender was convicted of a violation of subsection 3 of NRS 200.366 or a violation of subsection 1, paragraph (a) of subsection 2 or subparagraph (2) of paragraph (b) of subsection 2 of NRS 200.508, the warden of the prison shall notify:

- (a) The immediate family of the victim if the immediate family provides their current address;
- (b) Any member of the victim's family related within the third degree of consanguinity, if the member of the victim's family so requests in writing and provides a current address; and
- (c) The victim, if the victim will be 18 years of age or older at the time of the release and has provided a current address,
↪ before the offender is released from prison.

7. The warden must not be held responsible for any injury proximately caused by the failure to give any notice required pursuant to this section if no address was provided to the warden or if the address provided is inaccurate or not current.

8. As used in this section:

- (a) "Immediate family" means any adult relative of the victim living in the victim's household.
- (b) "Sexual offense" means:
 - (1) Sexual assault pursuant to NRS 200.366;
 - (2) Statutory sexual seduction pursuant to NRS 200.368;
 - (3) Battery with intent to commit sexual assault pursuant to NRS 200.400;
 - (4) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;
 - (5) Incest pursuant to NRS 201.180;
 - (6) Open or gross lewdness pursuant to NRS 201.210;
 - (7) Indecent or obscene exposure pursuant to NRS 201.220;
 - (8) Lewdness with a child pursuant to NRS 201.230;
 - (9) Sexual penetration of a dead human body pursuant to NRS 201.450;

(10) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540;

(11) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550;

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

(13) An offense that, pursuant to a specific statute, is determined to be sexually motivated; or

(14) An attempt to commit an offense listed in this paragraph.

Sec. 9. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **and section 1 of this act**, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the

confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 10. This act becomes effective on July 1, 2017.

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Carlton moved that upon return from the printer, Assembly Bills Nos. 16, 29, 41, 49, 94, 97, 104, 106, 109, 122, 130, 159, 186, 266, 278, 303, 309, 348, 354, 362, 382, 399, 402, 404, 406, 407, 409, 413, 414, 416, 421, 422, 423, 434, 436, 440, 447, 449, 458, 474, 486, and 491 be rereferred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 83.

Bill read second time.

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

Amendment No. 619.

AN ACT relating to insurance; providing for administrative supervision of insurers and other entities by the Commissioner of Insurance; providing for the regulation of network plans; revising provisions relating to medical malpractice insurance, the general regulation of insurers, reinsurance, motor vehicle insurance, industrial insurance, health insurance in general, health benefit plans in general, funeral and burial services, individual health insurance, group and blanket health insurance, health insurance for small employers, service contracts, credit personal property insurance, nonprofit corporations for hospital, medical and dental service, health maintenance organizations, plans for dental care, prepaid limited health service organizations and managed care organizations; ~~exempting the Commissioner from the Nevada Administrative Procedure Act for certain purposes;~~ revising provisions relating to the confidentiality of certain documents and other information; revising various references to insurance

agents and brokers; repealing various provisions governing summaries of coverage, loss prevention, disclosures of certain information, continuation of coverage and insurance requirements for prepaid limited health service organizations; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Commissioner of Insurance to regulate insurance in this State. (NRS 679B.120) This bill adds to, revises and repeals various provisions of existing law, primarily in title 57 of NRS, relating to the regulation of insurance in this State.

Sections 2-13 of this bill authorize the Commissioner to place an insurer under administrative supervision and set forth the requirements for such supervision. **Section 6** authorizes the Commissioner to place an insurer under administrative supervision under specified circumstances, including, without limitation, when the insurer is in a hazardous financial condition, when the insurer appears to have exceeded its powers or if an insurer agrees to be placed under such supervision. **Section 6** further provides for the duration of the administrative supervision and the release of the insurer from administrative supervision. **Section 7** designates the Commissioner or an appointee thereof as the administrative supervisor of an insurer under administrative supervision, authorizes the Commissioner to limit the actions of such an insurer and lists various types of actions which the Commissioner may prohibit the insurer from taking without obtaining advance approval from the Commissioner or appointee. **Sections 3 and 4** define, for the purposes of **sections 2-13**, the terms "Commissioner" and "insurer." Both terms are currently defined for the purposes of existing law, but **sections 3 and 4** provide more expansive definitions for the purposes of **sections 2-13**. (NRS 679A.060, 679A.100) **Section 5** expressly makes **sections 2-13** apply to insurers and other persons, including, without limitation, a person purporting to be an insurer, organizing to be an insurer or holding himself or herself out as organizing to be an insurer. **Section 8** governs the use and confidentiality of information relating to the administrative supervision of an insurer. **Section 9** establishes provisions governing the contesting or reviewing of decisions made by the Commissioner or an appointee thereof pursuant to **sections 2-13**. **Section 10** ensures that the Commissioner may institute delinquency proceedings against an insurer without regard to whether the insurer is or was under administrative supervision. **Section 11** authorizes the Commissioner, a designee of the Commissioner and an attorney or other persons to meet, for specified purposes, outside the presence of other persons. **Section 12** authorizes the Commissioner to adopt regulations and to employ various persons to carry out the administrative supervision of an insurer. **Section 12** further authorizes the Commissioner to require the insurer under administrative supervision to pay the compensation and expenses of the persons the Commissioner appoints and employs for the purposes of the administrative supervision. **Section 13** provides that the

Commissioner and his or her employees and agents are not liable for actions taken pursuant to **sections 2-13**.

Section 14 of this bill revises the information the Commissioner is required to collect regarding closed claims for medical malpractice. (NRS 679B.144) **Sections 117 and 118** remove the requirement to report certain information regarding closed claims for medical malpractice. (NRS 690B.250, 690B.260) **Section 119** of this bill revises requirements concerning professional liability insurance for essential medical specialties. (NRS 690B.350) **Section 120** of this bill revises requirements concerning information to be gathered and reports to be provided by the Commissioner concerning medical malpractice insurance. (NRS 690B.360)

Sections 15, 21, 26, 27, 29-32, 164 and 165 of this bill replace various references to insurance agents, brokers and solicitors, which are undefined terms, with the term “producer of insurance,” which is defined as “a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance.” (NRS 679A.117)

Section 16 of this bill requires an insurer to which the Commissioner has issued a certificate of authority to notify the Commissioner of material changes to the information provided by the insurer to the Commissioner in the insurer’s application for a certificate of authority. **Section 18** of this bill authorizes a life insurer or multiple lines insurer to issue life or health insurance policies under its own name and under additional titles. (NRS 680A.240)

Existing law requires an authorized insurer annually to file with the Commissioner a full and true statement of the insurer’s financial condition, transactions and affairs as of the previous December 31 and makes confidential certain information submitted to the Division of Insurance of the Department of Business and Industry. (NRS 680A.270) **Section 19** of this bill expands the confidentiality provision to include all work papers, documents and materials prepared for the purpose of submitting the statement or by or on behalf of the Division. **Section 19** also authorizes the insurer to file, as an exhibit separate from the annual statement, specified disclosures of compensation paid to or on behalf of an insurer’s officers, directors or employees and makes such information confidential.

Section 20 of this bill expands the applicability of the monetary penalty required to be imposed for a delay by an insurer in properly filing an annual statement. (NRS 680A.280) **Section 24** of this bill narrows the definition of the term “managing general agent” to include the management of an underwriting office. (NRS 683A.060) **Section 25** of this bill removes the willfulness requirement from one of the grounds for which the Commissioner may suspend or revoke the certificate of registration of an administrator. ~~It~~ **and replaces it with a knowingly requirement.** (NRS 683A.0892) **Section 33** of this bill revises the duties of an insurer with regard to the use of information in a consumer credit report. (NRS 686A.680)

Section 22 of this bill authorizes the Commissioner to adopt regulations governing certain arrangements for reinsurance, including, without limitation, the amounts and forms of security which must be held pursuant to those arrangements.

Section 28 of this bill provides for the automatic suspension of the license of a motor vehicle physical damage appraiser if the appraiser does not file a replacement bond for a required surety bond in the event of the cancellation of the required surety bond. (NRS 684B.030) **Section 86** of this bill revises provisions governing the cancellation, nonrenewal or increase in premiums for renewal of a policy of motor vehicle insurance as the result of the filing of certain claims. (NRS 687B.385)

Section 35 of this bill defines the term “large-deductible agreement” as certain agreements in which the policyholder must bear the risk of loss of a specified amount of \$25,000 or more per claim or occurrence covered under the policy of industrial insurance. **Section 38** of this bill requires full collateralization of the outstanding obligations owed under a large-deductible agreement and limits the size of the policyholder’s obligations under the large-deductible agreement. **Section 39** of this bill generally prohibits an insurer from issuing or renewing a policy of industrial insurance which includes a large-deductible agreement if the insurer is in a hazardous financial condition. **Section 37** of this bill limits the applicability of **sections 38 and 39** to policies of industrial insurance with large-deductible agreements which are issued by insurers with both ratings below specified levels and surpluses below specified amounts. **Section 37** further specifies that **sections 38 and 39** only apply to policies of industrial insurance issued or renewed on or after January 1, 2018, and which are not issued to a governmental entity. **Section 166** of this bill revises the definition of the term “tangible net worth” in relation to industrial insurance, specifically self-insured employers and associations of self-insured employers. (NRS 616A.330)

Existing law provides for the Commissioner to consider each proposed increase or decrease in the rates of various kinds and lines of insurance. (NRS 686B.070) **Section 36** of this bill creates new procedures for the Commissioner to consider each proposed increase or decrease in the rates of health plans for individual health insurance, group and blanket health insurance, health insurance for small employers, nonprofit corporations for hospital, medical and dental services, health maintenance organizations, plans for dental care and prepaid limited health service organizations. **Section 44** of this bill clarifies that the existing procedures for considering a proposed increase or decrease do not apply to the insurers subject to the provisions of **section 36**. (NRS 686B.110)

Sections 88 and 89 of this bill revise existing provisions relating to health benefit plans by specifying that the group market and small group market being considered in these provisions must be the “small employer” group market. (NRS 687B.490, 687B.500)

Sections 51-85 of this bill establish provisions governing network plans. **Section 60** defines a network plan as a health benefit plan offered or issued by a health carrier under which the financing and delivery of health care services are provided, in whole or in part, through a defined set of providers of health care under contract with the health carrier. **Sections 52-59 and 61-64** define other terms for the regulation of network plans. **Section 65** requires a health carrier to comply with and ensure that network plans and related contracts comply with **sections 51-85**. **Sections 66, 71, 79, 81 and 84** require a health carrier to provide for notice to providers of health care concerning: (1) covered services; (2) the health carrier's policies and programs; (3) the providers' obligations to collect payments; (4) determinations of coverage; and (5) the inclusion of and status of a participating provider in the network plan. **Sections 67, 68, 70, 74, ~~75~~ and 77** require a contract between a provider of health care and a health carrier to contain provisions which: (1) prohibit the provider from collecting excess amounts from covered persons; (2) require the continuation of health care services in the event of cessation of the operations of the health carrier; (3) ~~prohibit the provider from collecting from covered persons any amounts owed to the provider by the health carrier;~~ **require that written notice be provided to a participating provider of health care in certain circumstances;** (4) require the provider to make health care records available under certain circumstances; **and** (5) ~~require good faith efforts to notify covered persons when a participating provider leaves the network; and (6)~~ prohibit the assignment or delegation of rights under the contract. **Section 69** provides that specified provisions in a contract between a provider of health care and a health carrier must be construed in favor of the covered person. **Section 72** prohibits a health carrier from offering inducement to a provider of health care to provide health care services which are less than medically necessary. **Section 73** requires that a health carrier allow a provider of health care to discuss all treatment options with a covered person and advocate for the covered person. ~~Section 76 sets forth requirements for the continuation of health care services for a covered person after the termination of the contract between the health carrier and the covered person's provider of health care.~~ **Section 78** governs the furnishing of covered services to all covered persons. **Section 80** prohibits a health carrier from penalizing a provider of health care who reports to state or federal authorities certain practices of the health carrier. **Section 82** requires a health carrier to establish procedures for dispute resolution between a provider of health care and the health carrier. **Section 83** prohibits a contract between a provider of health care and a health carrier from containing any provision which conflicts with the network plan or with any provision of **sections 51-85**. **Section 85** authorizes the Commissioner to adopt regulations to carry out **sections 51-85**.

Section 90 of this bill provides for the automatic suspension of the certificate of authority of a seller of prepaid contracts for funeral services if the seller does not file a replacement bond for a required surety bond in the

event of the cancellation of the required surety bond. (NRS 689.185) **Section 91** of this bill similarly provides for the automatic suspension of the permit of a seller of prepaid contracts for burial services if the seller does not file a replacement bond for a required surety bond in the event of the cancellation of the required surety bond. (NRS 689.495)

Section 92 of this bill provides, with certain exceptions, that unified rate review templates and rate filing documentation of individual carriers are considered proprietary, constitute a trade secret and are not subject to disclosure by the Commissioner. **Sections 98, 110, 112 and 114** of this bill remove the notice requirement regarding the discontinuance ~~(of a form)~~ of a product: (1) of a health benefit plan; (2) of group health insurance; (3) offered to small employers; and (4) offered to small employers or purchasers through a voluntary purchasing group. (NRS 689A.630, 689B.560, 689C.310, 689C.470) **Sections 109, 113 and 134** of this bill remove the requirement that certain policies of group health insurance, health benefit plans and group contracts for hospital, medical or dental services include a provision regarding the point at which an insured's payment of coinsurance for a provider of health care who is not preferred is no longer required to be paid. (NRS 689B.061, 689C.350, 695B.185)

Section 111 of this bill deletes provisions governing the determination of whether an employer is small or large, and the applicability of other provisions after an employer is deemed large. (NRS 689C.111)

Sections 122-124 and 127-129 of this bill revise provisions relating to service contracts which are contracts pursuant to which a provider is obligated to the purchaser of the service contract to repair, replace or perform maintenance on, or indemnify or reimburse the purchaser for the costs of repairing, replacing or performing maintenance on, goods that are described in the service contract. (NRS 690C.080) **Section 123** sets forth the qualifications of a controlling person for the purposes of determining the controlling person of a provider of service contracts. **Section 127** adds to the requirements for a provider to apply for and obtain a certificate of registration to issue, sell or offer for sale service contracts, including providing certain personal and criminal history information about the controlling persons of the provider and ~~providing an affidavit affirming~~ verifying that the information in the application for a certificate of registration is accurate ~~to the best of his or her knowledge~~. (NRS 690C.160) **Section 124** prohibits a provider from transferring its liability under a service contract except under specified conditions, including, without limitation, obtaining the approval of the Commissioner. **Section 128** revises the requirements governing the financial security which must be maintained by a provider, including, without limitation, expanded requirements concerning a reserve account. (NRS 690C.170) **Section 129** revises provisions which govern the notice required by a provider which ceases to do business in this State. (NRS 690C.240)

Section 130 of this bill deletes a requirement that the Commissioner is required to adopt regulations relating to reasonable rates for credit personal property insurance. (NRS 691C.340) However, **section 130** retains express authority for the Commissioner to adopt regulations concerning rates for credit personal property insurance an insurer may use without making certain filings. **Section 131** deletes a requirement that the Commissioner is required to adopt regulations relating to a refund of unearned premiums for credit personal property insurance. (NRS 691C.390)

Sections 132 and 142 of this bill require nonprofit corporations for hospital, medical or dental service and health maintenance organizations to contract with an insurance company to provide insurance, indemnity or reimbursement against the cost of services provided and sets forth requirements relating to the payment of claims made to insureds or enrollees, as applicable, in the case of the insolvency or impairment of such corporation or organization.

Existing law sets forth provisions regarding the insolvency of nonprofit corporation for hospital, medical or dental service. (NRS 695B.150) **Section 133** of this bill expands the requirements for determinations concerning the insolvency of such a corporation, adds provisions concerning the impairment of such a corporation and authorizes the Commissioner to adopt regulations concerning a determination that such a corporation is in a hazardous financial condition. **Sections 143, 152 and 156** of this bill establish similar provisions for health maintenance organizations, organizations for dental care and prepaid limited health service organizations.

Existing law clarifies that nonprofit hospital and medical or dental service corporations, health maintenance organizations, organizations for dental care and prepaid limited health service organizations are subject to certain other provisions of existing law. (NRS 695B.320, 695C.055, 695D.095, 695F.090) **Sections 138, 147, 154 and 157** of this bill revise such provisions to include additional requirements for applicability. **Section 144** of this bill requires each health maintenance organization to develop, submit to the Commissioner and put into effect a plan to provide for the continuation of benefits to enrollees in the event of the insolvency or impairment of the health maintenance organization. **Section 145** of this bill authorizes the Commissioner to take certain actions regarding the operation of a health maintenance organization if the Commissioner determines that, because of the financial condition of the health maintenance organization, the continued operation of the health maintenance organization may be hazardous to its enrollees or creditors or to the general public. **Section 146** of this bill addresses the conservation, rehabilitation and liquidation of health maintenance organizations. **Section 149** of this bill revises provisions governing examinations of health maintenance organizations by the Commissioner or an examiner designated by the Commissioner. (NRS 695C.310)

Section 153 of this bill requires an organization for dental care to maintain a capital account with a minimum net worth of not less than \$500,000 unless a different amount is authorized by the Commissioner. **Section 155 and 158** of this bill revise requirements for organizations for dental care and prepaid limited health service organizations to maintain surety bonds or deposits by increasing the amount of such bonds or deposits from \$250,000 to \$500,000 and authorizing the Commissioner to increase the amount of such bonds or deposits under certain circumstances. (NRS 695D.170, 695F.200) **Section 158** also increases the minimum net worth a prepaid limited health service organization must maintain in a capital account from \$200,000 to \$500,000.

Existing law requires a managed care organization to report annually to the Commissioner regarding its methods for reviewing the quality of health care services provided to its insureds. (NRS 695G.130) **Section 159** of this bill changes the timeline for submitting such a report and requires that the report be submitted on a form prescribed by the Commissioner.

~~[Section 162 of this bill exempts the Commissioner from the Nevada Administrative Procedure Act for the purposes of establishing and adjusting certain standards and requirements relating to health insurance. (NRS 233B.039)]~~

Sections 103-106, 139, 140, 148, 160 and 161 of this bill remove the State Board of Health from the provisions governing systems for resolving complaints of insureds. (NRS 689A.745, 689A.750, 689B.0285, 389B.029, 695B.380, 695B.390, 695C.080, 695G.200, 695G.220)

Section 168 repeals: (1) the requirement for certain insurers and the Commissioner to submit annual reports addressing loss prevention and control programs (NRS 680A.290, 690B.370); (2) the requirement for certain insurers to make certain disclosures (NRS 689A.390, 689A.400, 689A.690, 689B.027, 689B.028, 689C.270, 689C.280, 689C.440, 689C.450, 695B.172, 695B.174); and (3) the requirement for a prepaid limited health service organization to contract with an insurance company for certain purposes (NRS 695F.215).

Sections 17, 23, 40-43, 45-49, 87, 93-97, 99-102, 107, 108, 115, 116, 125, 126, 135, 136, 150 and 163 of this bill make conforming changes.

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

Section 1. Title 57 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 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Commissioner” means the Commissioner of Insurance and, if applicable:*

1. A deputy of the Commissioner; or

2. The Division.

Sec. 4. *"Insurer" includes, without limitation:*

1. A captive insurer that has been issued a certificate of authority pursuant to chapter 694C of NRS;

2. A fraternal benefit society that has been issued a certificate of authority pursuant to chapter 695A of NRS;

3. A health maintenance organization that has been issued a certificate of authority pursuant to chapter 695C of NRS;

4. A nonprofit corporation for hospital, medical or dental services that has been issued a certificate of authority pursuant to chapter 695B of NRS;

5. An organization for dental care that has been issued a certificate of authority pursuant to chapter 695D of NRS;

6. A prepaid limited health service organization that has been issued a certificate of authority pursuant to chapter 695F of NRS;

7. A risk retention group that has been issued a certificate of registration pursuant to chapter 695E of NRS;

8. Any person who is engaged as principal and as indemnitor, surety or contractor in the business of entering into contracts of insurance; and

9. Any person purporting to be an insurer listed in subsections 1 to 8, inclusive, or in the process of organizing, or holding himself or herself out as organizing, or proposing to organize in this State for the purpose of becoming an insurer listed in subsections 1 to 8, inclusive.

Sec. 5. *The provisions of this chapter apply to:*

1. All domestic insurers;

2. Any foreign insurer doing business in this State regarding whom an applicable official of the foreign insurer's state of domicile has requested that the Commissioner apply the provisions of this chapter to the foreign insurer;

3. All persons purporting to be an insurer, or in the process of organizing, or holding themselves out as organizing, or proposing to organize in this State for the purpose of becoming an insurer; and

4. All other persons to whom the provisions of this chapter are otherwise expressly made applicable by law.

Sec. 6. 1. The Commissioner may place an insurer under administrative supervision if:

(a) At any time, the Commissioner determines that:

(1) The insurer is in a hazardous financial condition as set forth in regulations adopted pursuant to NRS 680A.205 or 695B.150 or section 143, 152 or 156 of this act or any other applicable provision of this title;

(2) The insurer is in a hazardous financial condition pursuant to NRS 682A.510 or section 145 and 146 of this act or any other applicable provision of this title;

(3) *The continued operation of the insurer transacting business in this State may be hazardous to the insureds or creditors of the insurer or to the general public;*

(4) *As described in subsection 5, the insurer appears to have exceeded its powers as granted by its license or certificate of authority, as applicable, or as granted by applicable law; or*

(5) ~~*The insurer has failed or refused to comply with any applicable provision of this Code; or*~~

~~—(6) *The insurer is conducting its business fraudulently; or*~~

(b) *The insurer agrees to be placed under administrative supervision.*

2. *If the Commissioner places an insurer under administrative supervision pursuant to subsection 1:*

(a) *The Commissioner shall promptly notify the insurer that the insurer has been placed under administrative supervision, and include with that notice:*

(1) *The determination, if any, made by the Commissioner pursuant to paragraph (a) of subsection 1;*

(2) *A written list of the actions which the insurer must take to satisfy the Commissioner that the placement of the insurer under administrative supervision pursuant to subsection 1 is no longer appropriate;*

(3) *The initial period of administrative supervision established pursuant to paragraph (b);*

(4) *The actions, if any, identified by the Commissioner pursuant to subsection 2 of section 7 of this act; and*

(5) *A statement that the provisions of this chapter govern the administrative supervision of the insurer.*

(b) *Except as otherwise provided in this paragraph, the initial period of administrative supervision begins upon the insurer's receipt of the notice described in paragraph (a) and ends 60 days after the date of the Commissioner's determination pursuant to paragraph (a) of subsection 1 or the date of the insurer's agreement pursuant to paragraph (b) of subsection 1, as applicable. The Commissioner may designate a different date for the end of the initial period of administrative supervision, if the Commissioner determines that a different date is appropriate and includes that date in the notice required by paragraph (a).*

3. *The insurer remains under administrative supervision pursuant to this section from the beginning of the initial period of administrative supervision established pursuant to paragraph (b) of subsection 2 until the date on which the insurer is released from administrative supervision by the Commissioner pursuant to paragraph (a) of subsection 4.*

4. *At the end of the initial period of supervision established pursuant to paragraph (b) of subsection 2 and at the end of any extended period of supervision established pursuant to paragraph (b) of this subsection, the Commissioner shall provide the insurer with notice and an opportunity for a hearing to determine whether the insurer has taken the actions specified*

pursuant to subparagraph (2) of paragraph (a) of subsection 2 to the satisfaction of the Commissioner. If the Commissioner determines that the insurer:

(a) Has taken such actions to the satisfaction of the Commissioner, the Commissioner shall release the insurer from administrative supervision; or

(b) Has not taken such actions to the satisfaction of the Commissioner, the Commissioner shall designate an extended period of supervision during which the insurer remains under administrative supervision.

5. For the purposes of subparagraph (2) of paragraph (a) of subsection 1, an insurer shall be deemed to have exceeded its powers if the insurer:

(a) Refused to permit the Commissioner, or an examiner authorized by the Commissioner, to examine its books, papers, accounts, records or affairs;

(b) Is a domestic insurer and unlawfully removed from this State books, papers, accounts or records necessary for an examination of the insurer;

(c) Failed or refused to promptly comply with any applicable statutes or regulations relating to financial reporting or any requests of the Commissioner relating thereto;

(d) Failed or refused to comply with an order of the Commissioner to make good, within the time prescribed by law, any prohibited deficiency in its capital, capital stock or surplus;

(e) Continued to transact insurance or write business in this State after its license or certificate of authority, as applicable, has been revoked or suspended by the Commissioner;

(f) Unlawfully, in violation of an order of the Commissioner, or without first having obtained written approval of the Commissioner if written approval is required by law, and whether accomplished by contract or otherwise:

(1) Completely reinsured its entire outstanding business; or

(2) Merged or substantially consolidated its entire property or business with another insurer;

(g) Engaged in any transaction in which it is not authorized to engage under the laws of this State; or

(h) Otherwise failed or refused to comply with a lawful order of the Commissioner.

Sec. 7. 1. During the period an insurer is under administrative supervision pursuant to section 6 of this act, the Commissioner or an appointee designated by the Commissioner shall serve as the administrative supervisor of the insurer.

2. The Commissioner may identify any one or more actions specified in subsection 3 as actions which the insurer shall not take during the period the insurer remains under administrative supervision pursuant to section 6 of this act unless the insurer obtains approval in advance from the administrative supervisor designated pursuant to subsection 1.

3. If identified by the Commissioner pursuant to subsection 2, the insurer shall not, without obtaining approval in advance from the administrative supervisor:

- (a) Dispose of, convey or encumber any of its assets or its business in force;
- (b) Withdraw money from any of its bank accounts;
- (c) Lend any of its money;
- (d) Invest any of its money;
- (e) Transfer any of its property;
- (f) Incur any debt, obligation or liability;
- (g) Merge or consolidate with another insurer or any other business entity as defined in NRS 682A.025;
- (h) Approve new premiums or renew any policies;
- (i) Enter into any new reinsurance contract or treaty;
- (j) Terminate, surrender, forfeit, convert or lapse any insurance policy, certificate or contract, except for nonpayment of premiums due;
- (k) Release, pay or refund premium deposits, accrued cash or loan values, unearned premiums or other reserves on any insurance policy, certificate or contract;
- (l) Make any material change in management; or
- (m) Increase any salary or benefit of an officer or director, increase the preferential payment of a bonus or dividend or increase any other payment deemed by the Commissioner to be preferential.

Sec. 8. 1. Notwithstanding any other provision of law and except as set forth in this section and NRS 239.0115, any proceedings and hearings, and any notices, correspondence, reports, records and other information in the possession of the Commissioner, relating to the administrative supervision of any insurer pursuant to this chapter are confidential by law and privileged, are not subject to subpoena, are not subject to discovery and are not admissible in evidence in any private civil action.

2. The Commissioner may use the information specified in subsection 1 in the furtherance of any regulatory or legal action brought as part of his or her official duties, including, without limitation, his or her duties as a receiver pursuant to chapter 696B of NRS.

3. Neither the Commissioner nor any other person who received access to any information specified in subsection 1 while acting under the authority of the Commissioner may be permitted or required to testify in any private civil action concerning the information.

4. In order to assist in the performance of the regulatory duties of the Commissioner, the Commissioner may:

- (a) Share the information specified in subsection 1 with:
 - (1) Other state, federal and international regulatory agencies, including, without limitation, members of any supervisory college as defined in NRS 692C.359;

(2) *The National Association of Insurance Commissioners and its affiliates and subsidiaries;*

(3) *Third party consultants designated by the Commissioner; and*

(4) *State, federal and international law enforcement authorities, if the Commissioner determines that the disclosure is necessary or proper for the enforcement of the laws of this State or another state,*

↪ provided that the recipient agrees to maintain the confidentiality of the applicable information specified in subsection 1. No waiver of any applicable privilege or claim of confidentiality occurs because of the sharing of information pursuant to this paragraph.

(b) Open any proceedings or hearings to the public or make public any other information specified in subsection 1 if the Commissioner determines that it is in the best interest of the public or in the best interest of the insurer, the insureds or creditors of the insurer, or the general public.

Sec. 9. 1. During the period an insurer is under administrative supervision pursuant to section 6 of this act, the insurer may contest any action taken or proposed to be taken by the administrative supervisor designated pursuant to subsection 1 of section 7 of this act on the ground that the action would not result in improving the condition of the insurer. To contest an action taken or proposed to be taken by the administrative supervisor, the insurer must submit a request for reconsideration to the administrative supervisor. If the administrative supervisor, upon reconsideration, denies the insurer's request, the insurer may request a review of the decision of the administrative supervisor pursuant to NRS 679B.310 to 679B.370, inclusive.

2. Any action taken by the Commissioner pursuant to this chapter is subject to:

(a) Review pursuant to NRS 679B.310 to 679B.370, inclusive, and any regulations adopted pursuant thereto; and

(b) Judicial review pursuant to chapter 233B of NRS.

Sec. 10. Nothing in this chapter shall be construed to limit the authority of the Commissioner to institute delinquency proceedings against an insurer pursuant to chapter 696B of NRS for the purpose of conserving, rehabilitating, reorganizing or liquidating the insurer, without regard to whether the Commissioner has currently or previously placed the insurer under administrative supervision pursuant to section 6 of this act.

Sec. 11. Notwithstanding any other provision of law, at the time of any proceeding or during the pendency of any proceeding held pursuant to this chapter, the Commissioner may meet with an administrative supervisor designated by the Commissioner pursuant to subsection 1 of section 7 of this act, and with the attorney or other representative of the administrative supervisor designated pursuant to subsection 1 of section 7 of this act, without the presence of any other person:

1. To carry out the duties of the Commissioner under this chapter; or

2. To allow the administrative supervisor to carry out his or her duties under this chapter.

Sec. 12. The Commissioner may:

1. Adopt any regulations necessary to carry out the purposes and provisions of this chapter;

2. In addition to an administrative supervisor designated by the Commissioner pursuant to subsection 1 of section 7 of this act, employ any other counsels, actuaries, clerks and assistants as the Commissioner deems necessary for the administrative supervision of an insurer; and

3. Require an insurer placed under administrative supervision to pay the compensation and expenses of the administrative supervisor designated by the Commissioner pursuant to subsection 1 of section 7 of this act and any other counsels, actuaries, clerks and assistants described in subsection 2.

Sec. 13. There shall be no liability on the part of, and no cause of action of any nature against, the Commissioner or any employee or agent of the Commissioner, or an administrative supervisor designated pursuant to subsection 1 of section 7 of this act, for any action taken by them in the performance of their powers and duties under this chapter.

Sec. 14. NRS 679B.144 is hereby amended to read as follows:

679B.144 1. The Commissioner shall collect and maintain the information provided by insurers pursuant to NRS 690B.260 regarding each closed claim for medical malpractice filed against a person who is covered by a policy of insurance for medical malpractice in this state, including, without limitation:

- (a) The cause of the loss;
- (b) A description of the injury for which the claim was filed;
- (c) The sex of the injured person;
- (d) The names and number of defendants in each claim;
- (e) The type of coverage provided;
- (f) ~~The amount of the initial, highest and last reserves of an insurer for each claim before final resolution of the claim by settlement or trial;~~
- ~~(g)~~ **(g)** The disposition of each claim;
- ~~(h)~~ **(g)** The amount of money awarded through settlement or by verdict;
- ~~(i)~~ **(h)** The sum of money paid to each claimant and the source of that sum;

~~(j)~~ **(i)** Any sum of money allocated to expenses for the adjustment of losses; and

~~(k)~~ **(j)** Any other information the Commissioner determines to be necessary or appropriate.

2. The Commissioner shall submit with the report to the Legislature required pursuant to NRS 679B.410 a summary of the information collected pursuant to this section.

3. The Commissioner ~~shall~~ **may** adopt regulations necessary to carry out the provisions of this section.

4. As used in this section, “policy of insurance for medical malpractice” means a policy that provides coverage for any medical professional liability of the insured under the policy.

Sec. 15. NRS 679B.240 is hereby amended to read as follows:

679B.240 To ascertain compliance with law, or relationships and transactions between any person and any insurer or proposed insurer, the Commissioner may, as often as he or she deems advisable, examine the accounts, records, documents and transactions relating to such compliance or relationships of:

1. Any **producer of** insurance, ~~agent,~~ solicitor, ~~broker,~~ surplus lines broker, general agent, adjuster, insurer representative, bail agent, motor club agent or any other licensee or any other person the Commissioner has reason to believe may be acting as or holding himself or herself out as any of the foregoing.

2. Any person having a contract under which the person enjoys in fact the exclusive or dominant right to manage or control an insurer.

3. Any insurance holding company or other person holding the shares of voting stock or the proxies of policyholders of a domestic insurer, to control the management thereof, as voting trustee or otherwise.

4. Any subsidiary of the insurer.

5. Any person engaged in this state in, or proposing to be engaged in this state in, or holding himself or herself out in this state as so engaging or proposing, or in this state assisting in, the promotion, formation or financing of an insurer or insurance holding corporation, or corporation or other group to finance an insurer or the production of its business.

6. Any independent review organization, as defined in NRS 695G.026.

Sec. 16. Chapter 680A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each insurer to which the Commissioner issues a certificate of authority shall notify the Commissioner of all material changes to the information provided by the insurer in its written application pursuant to NRS 680A.150, including, without limitation:

(a) Any change of address, such as a change to:

(1) The mailing address of the home office, or any other physical address, of the insurer; and

(2) Any other mailing address of the insurer, including, without limitation, the address used for general correspondence or for annual renewal notices;

(b) Any changes in the officers, directors or ownership of the insurer;

(c) Any changes to the manner of service of legal process against the insurer; and

(d) Any changes to the articles of incorporation, by-laws or power of attorney for the attorney-in-fact of the insurer.

2. The notice required by subsection 1 must be provided to the Commissioner within 30 days after the date on which the change occurs.

3. If an insurer changes its physical or mailing address without giving written notice and the Commissioner is unable to locate the insurer after diligent effort, the Commissioner may suspend or revoke the insurer's certificate of authority without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the insurer at its last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner. In lieu of such a suspension or revocation, the Commissioner may levy upon the insurer, and the insurer shall pay forthwith, an administrative fine of not more than \$2,000 for each act or violation.

Sec. 17. NRS 680A.095 is hereby amended to read as follows:

680A.095 1. Except as otherwise provided in subsection 3, an insurer which is not authorized to transact insurance in this State may not transact reinsurance with a domestic insurer in this State, by mail or otherwise, unless the insurer holds a certificate of authority as a reinsurer in accordance with the provisions of NRS 680A.010 to 680A.150, inclusive, 680A.160 to ~~680A.290,~~ **680A.280**, inclusive, **and section 16 of this act**, 680A.320 and 680A.330.

2. To qualify for authority only to transact reinsurance, an insurer must meet the same requirements for capital and surplus as are imposed on an insurer which is authorized to transact insurance in this State.

3. This section does not apply to the joint reinsurance of title insurance risks or to reciprocal insurance authorized pursuant to chapter 694B of NRS.

Sec. 18. NRS 680A.240 is hereby amended to read as follows:

680A.240 1. A property insurer or multiple line insurer authorized to transact insurance in Nevada shall have the right to issue property insurance policies under its own name and under additional "titles" or under additional "titles" duly registered by the insurer with the Commissioner.

2. A life insurer or multiple line insurer authorized to transact insurance in Nevada shall have the right to issue life or health insurance policies under its own name and under additional "titles" or under additional "titles" duly registered by the insurer with the Commissioner.

3. The Commissioner shall, upon the insurer's request, furnish to the insurer the form required for such registration, and the insurer shall pay the fee for registration as specified in NRS 680B.010 (fee schedule). Registered titles shall be shown on the insurer's certificate of authority and shall remain in effect for so long as the insurer's certificate of authority is in effect, subject to earlier termination of the registration at the insurer's request.

~~{3.}~~ **4.** All business transacted by the insurer under additional titles shall be included in business and transactions of the insurer to be shown by its annual statement filed with the Commissioner, for all purposes under this Code.

Sec. 19. NRS 680A.270 is hereby amended to read as follows:

680A.270 1. Each authorized insurer shall annually on or before March 1, or within any reasonable extension of time therefor which the

Commissioner for good cause may have granted on or before that date, file with the Commissioner a full and true statement of its financial condition, transactions and affairs as of December 31 preceding. The statement must be:

(a) In the general form and context of, and require information as called for by, an annual statement as is currently in general and customary use in the United States for the type of insurer and kinds of insurance to be reported upon, with any useful or necessary modification or adaptation thereof, supplemented by additional information required by the Commissioner;

(b) Prepared in accordance with:

(1) 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; and

(2) 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) Verified by the oath of the insurer's president or vice president and secretary or actuary, as applicable, or, in the absence of the foregoing, by two other principal officers, or if a reciprocal insurer, by the oath of the attorney-in-fact, or its like officers if a corporation.

2. The statement of an alien insurer must be verified by its United States manager or other officer who is authorized to do so, and may relate only to the insurer's transactions and affairs in the United States unless the Commissioner requires otherwise. If the Commissioner requires a statement as to the insurer's affairs throughout the world, the insurer shall file the statement with the Commissioner as soon as reasonably possible.

3. The Commissioner may refuse to continue, or may suspend or revoke, the certificate of authority of any insurer failing to file its annual statement when due.

4. At the time of filing, the insurer shall pay the fee for filing its annual statement as prescribed by NRS 680B.010.

5. The Commissioner may adopt regulations requiring each domestic, foreign and alien insurer which is authorized to transact insurance in this state to file the insurer's annual statement with the National Association of Insurance Commissioners or its successor organization.

6. Except as otherwise provided in NRS 239.0115, all ~~ratios of financial analyses and synopses of examinations concerning insurers that are submitted to the Division by the National Association of Insurance Commissioners' Insurance Regulatory Information System~~ **work papers, documents and materials prepared pursuant to this section by or on behalf of the Division** are confidential and ~~may~~ **must** not be disclosed by the Division.

7. **To the extent that the Annual Statement Instructions referenced in subparagraph (1) of paragraph (b) of subsection 1 require the disclosure of compensation paid to or on behalf of an insurer's officers, directors or**

employees, the information may be filed with the Commissioner as an exhibit separate from the statement required by this section. Except as otherwise provided in NRS 239.0115, the compensation information described in this subsection is confidential and must not be disclosed by the Division.

Sec. 20. NRS 680A.280 is hereby amended to read as follows:

680A.280 1. Any insurer failing, without just cause beyond the reasonable control of the insurer, to file ~~its~~ **an** annual statement as required in NRS **680A.265 and** 680A.270 shall be required to pay a penalty of \$100 for each day's delay, but not to exceed \$3,000 in aggregate amount, to be recovered in the name of the State of Nevada by the Attorney General.

2. Any director, officer, agent or employee of any insurer who subscribes to, makes or concurs in making or publishing, any annual or other statement required by law, knowing the same to contain any material statement which is false, is guilty of a gross misdemeanor.

Sec. 21. NRS 680B.020 is hereby amended to read as follows:

680B.020 1. Notwithstanding the provisions of any general or special law, the possession of a license or certificate of authority issued under this Code shall be authorization to transact such business as indicated in such license or certificate of authority, and shall be in lieu of all licenses, whether for regulation or revenue, required to transact insurance business within the State of Nevada; but each city, town or county may require a license for revenue purposes only for any insurance ~~agent, broker,~~ analyst, adjuster or managing general agent **or producer of insurance** whose principal place of business is located within such city or town, or within the county outside the cities and towns of the county, respectively.

2. This section shall not be modified or repealed by any law of general application enacted after January 1, 1972, unless expressly referred to or expressly repealed therein.

Sec. 22. Chapter 681A of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commissioner may adopt regulations applicable to arrangements for reinsurance relating to:

(a) Life insurance policies with guaranteed non-level gross premiums or guaranteed non-level benefits;

(b) Universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(c) Variable annuities with guaranteed death or living benefits;

(d) Policies for long-term care insurance; or

(e) Such other life and health insurance and annuity products as to which the National Association of Insurance Commissioners adopts model regulatory requirements with respect to credit for reinsurance.

2. A regulation adopted pursuant to this section may require the ceding insurer, in calculating the amounts or forms of security required to be held

pursuant to regulations adopted pursuant to this section, to use the Valuation Manual, as defined in NRS 681B.0071, which is in effect on the date as of which the calculation is made, to the extent applicable.

3. A regulation adopted pursuant to this section must not apply to a cession to an assuming insurer that:

(a) Is certified in this State or, if this State has not adopted regulations which provide for an assuming insurer to satisfy the requirements of NRS 681A.155 for credit to be allowed, certified in a minimum of five other states; or

(b) Maintains at least \$250,000,000 in capital and surplus when determined in accordance with the Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners, as amended, excluding the impact of any permitted or prescribed practices, and:

(1) Is licensed in at least 26 states; or

(2) Is licensed in at least 10 states, and licensed or accredited in at least 35 states.

Sec. 23. NRS 681A.140 is hereby amended to read as follows:

681A.140 As used in NRS 681A.140 to 681A.240, inclusive, **and section 22 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. 24. NRS 683A.060 is hereby amended to read as follows:

683A.060 1. A “managing general agent” is a person who:

(a) Negotiates and binds ceding reinsurance contracts on behalf of an insurer or manages all or part of the insurance business of an insurer, including the management of a separate division, department ~~for~~ **or** underwriting office; ~~for~~ **and**

(b) Acts as an agent for the insurer and with or without the authority, either separately or together with affiliates:

(1) Produces, directly or indirectly, and underwrites an amount of gross direct written premiums equal to or more than 5 percent of the policyholder

surplus as reported in the last annual statement of the insurer in any one quarter or year; and

(2) Adjusts or pays claims in excess of an amount determined by the Commissioner or negotiates reinsurance on behalf of the insurer.

2. A managing general agent includes a person with authority to appoint and to terminate the appointment of an agent for an insurer.

3. For the purposes of this chapter, the following are not managing general agents:

- (a) An employee of the insurer;
- (b) A manager of the United States branch of an alien insurer;
- (c) An attorney authorized by and acting for the subscribers of a reciprocal insurer or interinsurance exchange; and
- (d) An underwriting manager who, pursuant to a contract, manages all or part of the insurance operations of the insurer, is under common control with the insurer, is subject to the provisions of chapter 692C of NRS and whose compensation is not based on the volume of premiums written or the profit of the business written.

Sec. 25. NRS 683A.0892 is hereby amended to read as follows:

683A.0892 1. The Commissioner:

(a) Shall suspend or revoke the certificate of registration of an administrator if the Commissioner has determined, after notice and a hearing, that the administrator:

- (1) Is in an unsound financial condition;
- (2) Uses methods or practices in the conduct of business that are hazardous or injurious to insured persons or members of the general public; or
- (3) Has failed to pay any judgment against the administrator in this State within 60 days after the judgment became final.

(b) May suspend or revoke the certificate of registration of an administrator if the Commissioner determines, after notice and a hearing, that the administrator:

- (1) Has ~~willfully~~ **knowingly** violated or failed to comply with any provision of this Code, any regulation adopted pursuant to this Code or any order of the Commissioner;
- (2) Has refused to be examined by the Commissioner or has refused to produce accounts, records or files for examination upon the request of the Commissioner;
- (3) Has, without just cause, refused to pay claims or perform services pursuant to the administrator's contracts or has, without just cause, caused persons to accept less than the amount of money owed to them pursuant to the contracts, or has caused persons to employ an attorney or bring a civil action against the administrator to receive full payment or settlement of claims;

(4) Is affiliated with, managed by or owned by another administrator or an insurer who transacts insurance in this State without a certificate of authority or certificate of registration;

(5) Fails to comply with any of the requirements for a certificate of registration;

(6) Has been convicted of, or has entered a plea of guilty, guilty but mentally ill or nolo contendere to, a felony, whether or not adjudication was withheld;

(7) Has had his or her authority to act as an administrator in another state limited, suspended or revoked; or

(8) Has failed to file an annual report in accordance with NRS 683A.08528.

(c) May suspend or revoke the certificate of registration of an administrator if the Commissioner determines, after notice and a hearing, that a responsible person:

(1) Has refused to provide any information relating to the administrator's affairs or refused to perform any other legal obligation relating to an examination upon request by the Commissioner; or

(2) Has been convicted of, or has entered a plea of guilty, guilty but mentally ill or nolo contendere to, a felony committed on or after October 1, 2003, whether or not adjudication was withheld.

(d) May, upon notice to the administrator, suspend the certificate of registration of the administrator pending a hearing if:

(1) The administrator is impaired or insolvent;

(2) A proceeding for receivership, conservatorship or rehabilitation has been commenced against the administrator in any state; or

(3) The financial condition or the business practices of the administrator represent an imminent threat to the public health, safety or welfare of the residents of this State.

(e) May, in addition to or in lieu of the suspension or revocation of the certificate of registration of the administrator, impose a fine of \$2,000 for each act or violation.

2. As used in this section, "responsible person" means any person who is responsible for or controls or is authorized to control or advise the affairs of an administrator, including, without limitation:

(a) A member of the board of directors, board of trustees, executive committee or other governing board or committee of the administrator;

(b) The president, vice president, chief executive officer, chief operating officer or any other principal officer of an administrator, if the administrator is a corporation;

(c) A partner or member of the administrator, if the administrator is a partnership, association or limited-liability company; and

(d) Any shareholder or member of the administrator who directly or indirectly holds 10 percent or more of the voting stock, voting securities or voting interest of the administrator.

Sec. 26. NRS 683A.301 is hereby amended to read as follows:

683A.301 1. An applicant for a license as a producer of insurance or a licensee who desires to use a name other than his or her true name as shown on the license shall submit a request for approval of the name and file with the Commissioner a certified copy of the certificate or any renewal certificate filed pursuant to chapter 602 of NRS. An incorporated applicant or licensee shall file with the Commissioner a document showing the corporation's true name and all fictitious names under which it conducts or intends to conduct business. A licensee shall file promptly with the Commissioner a written notice of any change in or discontinuance of the use of a fictitious name.

2. The Commissioner may disapprove in writing the use of a true name, other than the true name of a natural person who is the applicant or licensee, or a fictitious name of any applicant or licensee, on any of the following grounds:

(a) The name interferes with or is deceptively similar to a name already filed and in use by another licensee.

(b) Use of the name may mislead the public in any respect.

(c) The name states or implies that the applicant or licensee is an insurer, motor club or hospital service plan or is entitled to engage in activities related to insurance not permitted under the license applied for or held.

(d) The name states or implies that the licensee is an underwriter, but:

(1) A natural person licensed as ~~an agent or broker~~ **a producer of insurance** for life insurance may describe himself or herself as an underwriter or "chartered life underwriter" if entitled to do so;

(2) A natural person licensed for property and casualty insurance may use the designation "chartered property and casualty underwriter" if entitled thereto; and

(3) ~~An insurance agent or brokers'~~ **A trade association for producers of insurance** may use a name containing the word "underwriter."

(e) The licensee submits a request to use more than one fictitious name at a single business location.

3. A licensee shall not use a name after written notice from the Commissioner indicates that its use violates the provisions of this section. If the Commissioner determines that the use is justified by mitigating circumstances, the Commissioner may permit, in writing, the use of the name to continue for a specified reasonable period upon conditions imposed by the Commissioner for the protection of the public consistent with this section.

4. Paragraphs (a), (c) and (d) of subsection 2 do not apply to the true name of an organization which on July 1, 1965, held under that name a type of license similar to those governed by this chapter, or to a fictitious name used on July 1, 1965, by a natural person or organization holding such a license, if the fictitious name was filed with the Commissioner on or before July 1, 1965.

Sec. 27. NRS 683C.020 is hereby amended to read as follows:

683C.020 1. Except as otherwise provided in subsection 2, no person may engage in the business of an insurance consultant unless a license has been issued to the person by the Commissioner.

2. An insurance consultant's license is not required for:

(a) An attorney licensed to practice law in this State who is acting in his or her professional capacity;

(b) A licensed ~~insurance agent,~~ **producer of insurance**, broker or surplus lines broker;

(c) A trust officer of a bank who is acting in the normal course of his or her employment; or

(d) An actuary or a certified public accountant who provides information, recommendations, advice or services in his or her professional capacity.

3. A person required to be licensed in this State who acts as an insurance consultant without a license is subject to an administrative fine of not more than \$1,000 for each act or violation.

Sec. 28. NRS 684B.030 is hereby amended to read as follows:

684B.030 1. Before the issuance of a motor vehicle physical damage appraiser's license the applicant shall file with the Commissioner, and thereafter maintain in force while so licensed, a surety bond in the amount of \$2,500 in favor of the people of the State of Nevada, executed by an authorized surety insurer approved by the Commissioner, and conditioned for the faithful performance of required duties.

2. The bond shall remain in force until the surety is released from liability by the Commissioner, or until cancelled by the surety. Without prejudice to any prior liability accrued, the surety may cancel the bond upon 30 days' advance written notice filed with the Commissioner.

3. *A motor vehicle physical damage appraiser's license is automatically suspended if the appraiser does not file with the Commissioner a replacement bond before the date of cancellation of the previous bond. A replacement bond must meet all requirements of this section for the initial bond.*

Sec. 29. NRS 685A.150 is hereby amended to read as follows:

685A.150 A licensed surplus lines broker may accept surplus lines business from any ~~agent or broker,~~ **producer of insurance** licensed in this state for the kind of insurance involved and may compensate the ~~agent or broker,~~ **producer of insurance** therefor.

Sec. 30. NRS 686A.290 is hereby amended to read as follows:

686A.290 1. ~~[An agent, broker, solicitor,]~~ **A producer of insurance**, examining physician, applicant or other person shall not knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for insurance.

2. A person who violates this section is guilty of a category D felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

Sec. 31. NRS 686A.350 is hereby amended to read as follows:

686A.350 1. A license to engage in the business of a company is not required of any:

(a) State or federally chartered building association or savings and loan association.

(b) State or federally chartered bank.

(c) State or federally chartered credit union.

(d) Thrift company licensed pursuant to chapter 677 of NRS.

(e) ~~Insurance agent~~ **Producer of insurance** financing his or her own accounts.

(f) Insurer authorized to do business in this state financing its own policies or those of an affiliated company.

(g) Business, in addition to those included in paragraphs (a) to (d), inclusive, which is licensed and regulated by the Division of Financial Institutions of the Department of Business and Industry.

2. The provisions of NRS 686A.330 to 686A.520, inclusive, other than those which concern licensing, apply to persons exempt from licensing pursuant to subsection 1.

Sec. 32. NRS 686A.420 is hereby amended to read as follows:

686A.420 1. An agreement executed in this state must be dated and signed by the insured. The printed portion of the agreement must be in not less than 8-point type. The agreement must include:

(a) The name and the address and telephone number of the business of the **producer of insurance** ~~agent~~ for the insurance contract to which the agreement relates;

(b) The name and the address of the business or residence of the insured;

(c) The name, address and telephone number of the company to which payments must be made;

(d) A brief description of any insurance policy involved; and

(e) Such other information as may be required by the Commissioner.

2. An agreement must have at its top in type which is more prominent than the text of the agreement, the words “Agreement For Financing Premium” or words of similar meaning. An agreement must contain a notice in type which is more prominent than the text of the agreement which reads as follows:

Notice:

1. Do not sign this agreement before you have read it or if it contains any blank spaces.

2. You are entitled to a copy of this agreement which is complete.

Sec. 33. NRS 686A.680 is hereby amended to read as follows:

686A.680 1. An insurer that uses information from a consumer credit report shall not:

~~1.1~~ (a) Use an insurance score that is calculated using income, gender, address, zip code, ethnic group, religion, marital status or nationality of the

consumer as a factor, or would otherwise lead to unfair or invidious discrimination.

~~{2.}~~ **(b)** Deny, cancel or fail to renew a policy on the basis of credit information unless the insurer also considers other applicable underwriting factors that are independent of credit information and not expressly prohibited by this section.

~~{3.}~~ **(c)** Base renewal rates for a policy upon credit information unless the insurer also considers other applicable factors independent of credit information.

~~{4.}~~ **(d)** Take an adverse action against an applicant or policyholder based on the applicant or policyholder not having a credit card account unless the insurer also considers other applicable factors independent of credit information.

~~{5.}~~ **(e)** Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating a policy unless the insurer does any one of the following:

~~{(a)}~~ **(1)** Treats the applicant or policyholder as otherwise approved by the Commissioner, after the insurer presents to the Commissioner information indicating that such an absence or inability relates to the risk for the insurer.

~~{(b)}~~ **(2)** Treats the applicant or policyholder as if the applicant or policyholder had neutral credit information, as defined by the insurer.

~~{(c)}~~ **(3)** Excludes the use of credit information as a factor, and uses only underwriting criteria other than credit information.

~~{6.}~~ **(f)** Take an adverse action against an applicant or policyholder based on credit information, unless an insurer obtains and uses a consumer credit report issued or an insurance score calculated within 90 days from the date the policy is first written or renewal is issued.

~~{7. Except as otherwise provided in this subsection, use credit information regarding a policyholder without obtaining an updated consumer credit report regarding the policyholder and recalculating the insurance score at least once every 36 months. At the time of the annual renewal of a policyholder's policy, the insurer shall, upon the request of the policyholder or the policyholder's agent, reunderwrite and rerate the policy based upon a current consumer credit report or insurance score. An insurer need not, at the request of a policyholder or the policyholder's agent, recalculate the insurance score of or obtain an updated consumer credit report of the policyholder more frequently than once in any 12 month period. An insurer may, at its discretion, obtain an updated consumer credit report regarding a policyholder more frequently than once every 36 months, if to do so is consistent with the underwriting guidelines of the insurer. An insurer does not need to obtain an updated consumer credit report for a policyholder if any one of the following applies:~~

~~—(a) The insurer is treating the policyholder as otherwise approved by the Commissioner.~~

~~—(b) The policyholder is in the most favorably priced tier of the insurer and all affiliates of the insurer. With respect to such a policyholder, the insurer may elect to obtain an updated consumer credit report if to do so is consistent with the underwriting guidelines of the insurer.~~

~~—(c) Credit information was not used for underwriting or rating the policyholder when the policy was initially written. The fact that credit information was not used initially does not preclude an insurer from using such information subsequently when underwriting or rating such a policyholder upon renewal, if to do so is consistent with the underwriting guidelines of the insurer.~~

~~—(d) The insurer reevaluates the policyholder at least once every 36 months based upon underwriting or rating factors other than credit information.~~

~~—8.1~~ (g) Use the following as a negative factor in any insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a policy:

~~{{a}}~~ (1) Credit inquiries not initiated by the applicant or policyholder, or inquiries requested by the applicant or policyholder for his or her own credit information.

~~{{b}}~~ (2) Inquiries relating to insurance coverage, if so identified on the consumer credit report.

~~{{c}}~~ (3) Collection accounts relating to medical treatment, if so identified on the consumer credit report.

~~{{d}}~~ (4) Multiple lender inquiries, if identified on the consumer credit report as being related to home loans or mortgages and made within 30 days of one another, unless only one inquiry is considered.

~~{{e}}~~ (5) Multiple lender inquiries, if identified on the consumer credit report as being related to a loan for an automobile and made within 30 days of one another, unless only one inquiry is considered.

2. Except as otherwise provided in this subsection, at the time of the annual renewal of a policyholder's policy, an insurer that uses information from a consumer credit report shall, upon the request of the policyholder or the policyholder's agent, reunderwrite and rerate the policy based upon a current consumer credit report or insurance score. An insurer need not, at the request of a policyholder or the policyholder's agent, recalculate the insurance score of or obtain an updated consumer credit report of the policyholder more frequently than once in any 12-month period.

Sec. 34. Chapter 686B of NRS is hereby amended by adding thereto the provisions set forth as sections 35 to 39, inclusive, of this act.

Sec. 35. "Large-deductible agreement" means any combination of one or more policies, endorsements, contracts or security arrangements, which provide for the policyholder to bear the risk of loss of a specified amount of \$25,000 or more per claim or occurrence covered under a policy of industrial insurance and which may be subject to an aggregate limit of the policyholder's reimbursement obligations.

Sec. 36. 1. *The Commissioner shall consider each proposed increase or decrease in the rate of a health plan issued pursuant to the provisions of chapter 689A, 689B, 689C, 695B, 695C, 695D or 695F of NRS, including, without limitation, long-term care and Medicare supplement plans, filed with the Commissioner pursuant to subsection 1 of NRS 686B.070. If the Commissioner finds that a proposed increase will result in a rate which is not in compliance with NRS 686B.050 or subsection 3 of NRS 686B.070, the Commissioner shall disapprove the proposal. The Commissioner shall approve or disapprove each proposal not later than 60 days after the proposal is determined by the Commissioner to be complete pursuant to subsection 4. If the Commissioner fails to approve or disapprove the proposal within that period, the proposal shall be deemed approved.*

2. *Whenever an insurer has no legally effective rates as a result of the Commissioner's disapproval of rates or other act, the Commissioner shall on request specify interim rates for the insurer that are high enough to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by the Commissioner. When new rates become legally effective, the Commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are de minimis must not be required.*

3. *If the Commissioner disapproves a proposed rate pursuant to subsection 1, and an insurer requests a hearing to determine the validity of the action of the Commissioner, the insurer has the burden of showing compliance with the applicable standards for rates established in NRS 686B.010 to 686B.1799, inclusive, and sections 35 to 39, inclusive, of this act. Any such hearing must be held:*

(a) Within 30 days after the request for a hearing has been submitted to the Commissioner; or

(b) Within a period agreed upon by the insurer and the Commissioner.

↪ *If the hearing is not held within the period specified in paragraph (a) or (b), or if the Commissioner fails to issue an order concerning the proposed rate for which the hearing is held within 45 days after the hearing, the proposed rate shall be deemed approved.*

4. *The Commissioner shall by regulation specify the documents or any other information which must be included in a proposal to increase or decrease a rate submitted to the Commissioner pursuant to subsection 1. Each such proposal shall be deemed complete upon its filing with the Commissioner, unless the Commissioner, within 15 business days after the proposal is filed with the Commissioner, determines that the proposal is incomplete because the proposal does not comply with the regulations adopted by the Commissioner pursuant to this subsection.*

Sec. 37. *This section and sections 38 and 39 of this act apply to any policy of industrial insurance which:*

1. *Is issued by an insurer which:*

(a) *Has a rating of ~~not~~ less than “A-” from A.M. Best Company, Inc., or a substantially equivalent rating from another rating agency, as determined by the Commissioner; and*

(b) *Has less than \$200,000,000 in surplus, with surplus calculated as the difference between the insurer’s net admitted assets and the insurer’s total liabilities;*

2. *Contains a large-deductible agreement;*

3. *Is not issued to a federal, state or local governmental entity; and*

4. *Is issued for delivery or renewed on or after January 1, 2018.*

Sec. 38. *An insurer shall:*

1. *Require full collateralization of the outstanding obligations owed under a large-deductible agreement using one of the following methods:*

(a) *A surety bond issued by a surety insurer authorized to transact such insurance in this State, and whose financial strength and size ratings from A.M. Best Company, Inc., are not less than “A” and “V,” respectively, or are substantially equivalent ratings from another rating agency, as determined by the Commissioner;*

(b) *An irrevocable letter of credit issued by a financial institution with an office physically located within this State, and the deposits of which are federally insured; or*

(c) *Cash or securities held in trust by a third party or the insurer and subject to a trust agreement for the express purpose of securing the policyholder’s obligation under a large-deductible agreement, provided that if the assets are held by the insurer, those assets may not be commingled with the insurer’s other assets; and*

2. *Limit the size of the policyholder’s obligations under a large-deductible agreement to 20 percent of the total net worth of the policyholder at the inception of the policy and again at each renewal, as determined by an audited financial statement as of the most recent fiscal year-end for which such a statement is available, with the total net worth of the policyholder calculated as the difference between the total assets and the total liabilities of the policyholder.*

Sec. 39. *Except when otherwise specifically approved by the Commissioner in writing or by electronic communication, any insurer determined to be in a hazardous financial condition pursuant to NRS 680A.205, or the equivalent provisions of law in any other state as determined by the Commissioner, is prohibited from issuing or renewing a policy that includes a large-deductible agreement.*

Sec. 40. *NRS 686B.010 is hereby amended to read as follows:*

686B.010 1. The Legislature intends that NRS 686B.010 to 686B.1799, inclusive, **and sections 35 to 39, inclusive, of this act** be liberally construed to achieve the purposes stated in subsection 2, which constitute an aid and guide to interpretation but not an independent source of power.

2. The purposes of NRS 686B.010 to 686B.1799, inclusive, **and sections 35 to 39, inclusive, of this act** are to:

(a) Protect policyholders and the public against the adverse effects of excessive, inadequate or unfairly discriminatory rates;

(b) Encourage, as the most effective way to produce rates that conform to the standards of paragraph (a), independent action by and reasonable price competition among insurers;

(c) Provide formal regulatory controls for use if independent action and price competition fail;

(d) Authorize cooperative action among insurers in the rate-making process, and to regulate such cooperation in order to prevent practices that tend to bring about monopoly or to lessen or destroy competition;

(e) Encourage the most efficient and economic marketing practices; and

(f) Regulate the business of insurance in a manner that will preclude application of federal antitrust laws.

Sec. 41. NRS 686B.020 is hereby amended to read as follows:

686B.020 As used in NRS 686B.010 to 686B.1799, inclusive, **and sections 35 to 39, inclusive, of this act**, unless the context otherwise requires:

1. "Advisory organization," except as limited by NRS 686B.1752, means any person or organization which is controlled by or composed of two or more insurers and which engages in activities related to rate making. For the purposes of this subsection, two or more insurers with common ownership or operating in this State under common ownership constitute a single insurer. An advisory organization does not include:

(a) A joint underwriting association;

(b) An actuarial or legal consultant; or

(c) An employee or manager of an insurer.

2. "Market segment" means any line or kind of insurance or, if it is described in general terms, any subdivision thereof or any class of risks or combination of classes.

3. "Rate service organization" means any person, other than an employee of an insurer, who assists insurers in rate making or filing by:

(a) Collecting, compiling and furnishing loss or expense statistics;

(b) Recommending, making or filing rates or supplementary rate information; or

(c) Advising about rate questions, except as an attorney giving legal advice.

4. "Supplementary rate information" includes any manual or plan of rates, statistical plan, classification, rating schedule, minimum premium, policy fee, rating rule, rule of underwriting relating to rates and any other information prescribed by regulation of the Commissioner.

Sec. 42. NRS 686B.030 is hereby amended to read as follows:

686B.030 1. Except as otherwise provided in subsection 2 and NRS 686B.125, the provisions of NRS 686B.010 to 686B.1799, inclusive, **and sections 35 to 39, inclusive, of this act** apply to all kinds and lines of direct

insurance written on risks or operations in this State by any insurer authorized to do business in this State, except:

- (a) Ocean marine insurance;
- (b) Contracts issued by fraternal benefit societies;
- (c) Life insurance and credit life insurance;
- (d) Variable and fixed annuities;
- (e) Credit accident and health insurance;
- (f) Property insurance for business and commercial risks;
- (g) Casualty insurance for business and commercial risks other than insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS;
- (h) Surety insurance;
- (i) Health insurance offered through a group health plan maintained by a large employer; and
- (j) Credit involuntary unemployment insurance.

2. The exclusions set forth in paragraphs (f) and (g) of subsection 1 extend only to issues related to the determination or approval of premium rates.

Sec. 43. NRS 686B.040 is hereby amended to read as follows:

686B.040 1. Except as otherwise provided in subsection 2, the Commissioner may by rule exempt any person or class of persons or any market segment from any or all of the provisions of NRS 686B.010 to 686B.1799, inclusive, **and sections 35 to 39, inclusive, of this act**, if and to the extent that the Commissioner finds their application unnecessary to achieve the purposes of those sections.

2. The Commissioner may not, by rule or otherwise, exempt an insurer from the provisions of NRS 686B.010 to 686B.1799, inclusive, **and sections 35 to 39, inclusive, of this act** with regard to insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional duty toward a patient.

Sec. 44. NRS 686B.110 is hereby amended to read as follows:

686B.110 1. ~~The~~ **Except as otherwise provided in section 36 of this act, the** Commissioner shall consider each proposed increase or decrease in the rate of any kind or line of insurance or subdivision thereof filed with the Commissioner pursuant to subsection 1 of NRS 686B.070. If the Commissioner finds that a proposed increase will result in a rate which is not in compliance with NRS 686B.050 or subsection 3 of NRS 686B.070, the Commissioner shall disapprove the proposal. The Commissioner shall approve or disapprove each proposal no later than 30 days after it is determined by the Commissioner to be complete pursuant to subsection 6. If the Commissioner fails to approve or disapprove the proposal within that period, the proposal shall be deemed approved.

2. If the Commissioner disapproves a proposed increase or decrease in any rate pursuant to subsection 1, the Commissioner shall send a written notice of disapproval to the insurer or the rate service organization that filed

the proposal. The notice must set forth the reasons the proposal is not in compliance with NRS 686B.050 or subsection 3 of NRS 686B.070 and must be sent to the insurer or the rate service organization not more than 30 days after the Commissioner determines that the proposal is complete pursuant to subsection 6.

3. Upon receipt of a written notice of disapproval from the Commissioner pursuant to subsection 2 or 6, the insurer or rate service organization may request that the Commissioner reconsider the proposed increase or decrease. The request for reconsideration must be received by the Commissioner not more than 30 days after the insurer or rate service organization receives the written notice of disapproval from the Commissioner, except that if the insurer or rate service organization requests, in writing, an extension of 30 additional days in which to request a reconsideration, the Commissioner shall grant the extension. A request for reconsideration submitted pursuant to this subsection may include, without limitation, any documents or other information for review by the Commissioner in reconsidering the proposal. The Commissioner shall approve or disapprove the proposal upon reconsideration not later than 30 days after receipt of the request for reconsideration and shall notify the insurer or rate service organization of his or her approval or disapproval.

4. Whenever an insurer has no legally effective rates as a result of the Commissioner's disapproval of rates or other act, the Commissioner shall on request specify interim rates for the insurer that are high enough to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by the Commissioner. When new rates become legally effective, the Commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are de minimis must not be required.

5. If the Commissioner disapproves a proposed rate pursuant to subsection 1 ~~or~~ subsection 6 or upon reconsideration pursuant to subsection 3, and an insurer requests a hearing to determine the validity of the action of the Commissioner, the insurer has the burden of showing compliance with the applicable standards for rates established in NRS 686B.010 to 686B.1799, inclusive ~~or~~, **and sections 35 to 39, inclusive, of this act.** Any such hearing must be held:

(a) Within 30 days after the request for a hearing has been submitted to the Commissioner; or

(b) Within a period agreed upon by the insurer and the Commissioner.

➡ If the hearing is not held within the period specified in paragraph (a) or (b), or if the Commissioner fails to issue an order concerning the proposed rate for which the hearing is held within 45 days after the hearing, the proposed rate shall be deemed approved.

6. The Commissioner shall by regulation specify the documents or any other information which must be included in a proposal to increase or

decrease a rate submitted to the Commissioner pursuant to subsection 1. Each such proposal shall be deemed complete upon its filing with the Commissioner, unless the Commissioner, within 15 business days after the proposal is filed with the Commissioner, determines that the proposal is incomplete because the proposal does not comply with the regulations adopted by the Commissioner pursuant to this subsection. The Commissioner shall notify the insurer or rate service organization if the Commissioner determines that the proposal is incomplete. The notice must be sent within 15 business days after the proposal is filed with the Commissioner and must set forth the documents or other information that is required to complete the proposal. The Commissioner may disapprove the proposal if the insurer or rate service organization fails to provide the documents or other information to the Commissioner within 30 days after the insurer or rate service organization receives the notice that the proposal is incomplete. If the Commissioner disapproves the proposal pursuant to this subsection, the Commissioner shall notify the insurer or rate service organization of that fact in writing.

Sec. 45. NRS 686B.115 is hereby amended to read as follows:

686B.115 1. Any hearing held by the Commissioner to determine whether rates comply with the provisions of NRS 686B.010 to 686B.1799, inclusive, **and sections 35 to 39, inclusive, of this act** must be open to members of the public.

2. All costs for transcripts prepared pursuant to such a hearing must be paid by the insurer requesting the hearing.

3. At any hearing which is held by the Commissioner to determine whether rates comply with the provisions of NRS 686B.010 to 686B.1799, inclusive, **and sections 35 to 39, inclusive, of this act**, and which involves rates for insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional duty toward a patient, if a person is not otherwise authorized pursuant to this title to become a party to the hearing by intervention, the person is entitled to provide testimony at the hearing if, not later than 2 days before the date set for the hearing, the person files with the Commissioner a written statement which states:

- (a) The name and title of the person;
- (b) The interest of the person in the hearing; and
- (c) A brief summary describing the purpose of the testimony the person will offer at the hearing.

4. If a person provides testimony at a hearing in accordance with subsection 3:

- (a) The Commissioner may, if the Commissioner finds it necessary to preserve order, prevent inordinate delay or protect the rights of the parties at the hearing, place reasonable limitations on the duration of the testimony and prohibit the person from providing testimony that is not relevant to the issues raised at the hearing.

(b) The Commissioner shall consider all relevant testimony provided by the person at the hearing in determining whether the rates comply with the provisions of NRS 686B.010 to 686B.1799, inclusive ~~{-}~~, **and sections 35 to 39, inclusive, of this act.**

Sec. 46. NRS 686B.1751 is hereby amended to read as follows:

686B.1751 As used in NRS 686B.1751 to 686B.1799, inclusive, **and sections 35, 37, 38 and 39 of this act**, unless the context otherwise requires, the words and terms defined in NRS 686B.1752 to 686B.1762, inclusive, **and section 35 of this act** have the meanings ascribed to them in those sections.

Sec. 47. NRS 686B.1763 is hereby amended to read as follows:

686B.1763 1. NRS 686B.1751 to 686B.1799, inclusive, **and sections 35, 37, 38 and 39 of this act**, apply to insurers providing industrial insurance and to the Advisory Organization designated by the Commissioner. The Commissioner shall administer the provisions of these sections.

2. These provisions apply to all industrial insurance issued in this state except reinsurance.

Sec. 48. NRS 686B.1789 is hereby amended to read as follows:

686B.1789 A hearing required by any of the provisions of NRS 686B.1751 to 686B.1799, inclusive, **and sections 35, 37, 38 and 39 of this act**, is governed by NRS 679B.310 to 679B.370, inclusive, except that any limits of time imposed by NRS 686B.1751 to 686B.1799, inclusive, **and sections 35, 37, 38 and 39 of this act**, control.

Sec. 49. NRS 686B.1793 is hereby amended to read as follows:

686B.1793 1. An insurer or other person who violates any provision of NRS 686B.1751 to 686B.1799, inclusive, **and sections 35, 37, 38 and 39 of this act**, shall, upon the order of the Commissioner, pay an administrative fine not to exceed \$1,000 for each violation and not to exceed \$10,000 for each willful violation. These administrative fines are in addition to any other penalty provided by law. Any insurer using a rate before it has been filed with the Commissioner as required by NRS 686B.1775, shall be deemed to have committed a separate violation for each day the insurer failed to file the rate.

2. The Commissioner may suspend or revoke the license of any advisory organization or insurer who fails to comply with an order within the time specified by the Commissioner or any extension of that time made by the Commissioner. Any suspension of a license is effective for the time stated by the Commissioner in his or her order or until the order is modified, rescinded or reversed.

3. The Commissioner, by written order, may impose a penalty or suspend a license pursuant to this section only after written notice to the insurer, organization or plan for apportioned risks and a hearing.

Sec. 50. Chapter 687B of NRS is hereby amended by adding thereto the provisions set forth as sections 51 to 85, inclusive, of this act.

Sec. 51. *As used in sections 51 to 85, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 52 to*

64, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 52. *“Covered person” means a policyholder, subscriber, enrollee or other person participating in a network plan.*

Sec. 53. *“Evidence of coverage” means any certificate, agreement or contract issued to a covered person by a health carrier setting forth the coverage to which the covered person is entitled pursuant to a network plan.*

Sec. 54. *“Health benefit plan” has the meaning ascribed to it in NRS 695G.019.*

Sec. 55. *“Health care services” has the meaning ascribed to it in NRS 695G.022.*

Sec. 56. *“Health carrier” has the meaning ascribed to it in NRS 695G.024.*

Sec. 57. *“Intermediary” means a person authorized to negotiate and execute a contract between a provider of health care and a health carrier entered into for the purposes of a network plan, whether the person acts on behalf of the provider of health care or the health carrier.*

Sec. 58. *“Medically necessary” has the meaning ascribed to it in NRS 695G.055.*

Sec. 59. *“Network” means a defined set of providers of health care who are under contract with a health carrier to provide health care services pursuant to a network plan offered or issued by the health carrier.*

Sec. 60. *“Network plan” means a health benefit plan offered or issued by a health carrier under which the financing and delivery of health care services, including, without limitation, items and services paid for as health care services, are provided, in whole or in part, through a defined set of providers of health care under contract with the health carrier. The term does not include an arrangement for the financing of premiums.*

Sec. 61. *“Participating provider of health care” means a provider of health care who, under a contract with a health carrier, has agreed to provide health care services to covered persons pursuant to a network plan with an expectation of receiving payment, other than coinsurance, copayments or deductibles, directly or indirectly from the health carrier.*

Sec. 62. *“Primary care physician” has the meaning ascribed to it in NRS 695G.060.*

Sec. 63. *“Provider of health care” has the meaning ascribed to it in NRS 695G.070.*

Sec. 64. *“Utilization review” has the meaning ascribed to it in NRS 695G.080.*

Sec. 65. *If a health carrier offers or issues a network plan, the health carrier shall, with regard to that network plan:*

1. *Comply with all applicable requirements set forth in sections 51 to 85, inclusive, of this act;*

2. As applicable, ensure that each contract entered into for the purposes of the network plan between a participating provider of health care and the health carrier complies with the requirements set forth in sections 51 to 85, inclusive, of this act; and

3. As applicable, ensure that the network plan complies with the requirements set forth in sections 51 to 85, inclusive, of this act.

Sec. 66. A health carrier which offers or issues a network plan shall, with regard to that network plan, establish a mechanism by which each participating provider of health care in the network will be notified on an ongoing basis of the specific health care services which are covered by the network plan and for which the participating provider of health care will be responsible, including, without limitation, any restrictions or conditions on the health care services.

Sec. 67. Each contract entered into for the purposes of a network plan between a participating provider of health care and the health carrier must include, without limitation, a provision which is substantially similar to the following:

Provider of health care agrees that in no event, including but not limited to, nonpayment by the health carrier or intermediary, insolvency of the health carrier or intermediary or breach of this agreement, shall the provider of health care bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against, a covered person or a person (other than the health carrier or intermediary) acting on behalf of the covered person for health care services provided pursuant to this agreement. This agreement does not prohibit the provider of health care from collecting coinsurance, deductibles or copayments, as specifically provided in the evidence of coverage, or fees for uncovered services delivered on a fee-for-service basis to covered persons. This agreement does not prohibit a provider of health care (except for a provider of health care who is employed full-time on the staff of the health carrier and has agreed to provide health care services exclusively to the health carrier's covered persons and no others) and a covered person from agreeing to continue health care services solely at the expense of the covered person, as long as the provider of health care has clearly informed the covered person that the health carrier may not cover or continue to cover a specific health care service or health care services. Except as provided herein, this agreement does not prohibit the provider of health care from pursuing any available legal remedy.

Sec. 68. Each contract entered into for the purposes of a network plan between a participating provider of health care and the health carrier must provide that in the event of the insolvency of the health carrier or any applicable intermediary, or in the event of any other cessation of

operations of the health carrier or intermediary, the participating provider of health care must continue to deliver health care services covered by the network plan to a covered person without billing the covered person for any amount other than coinsurance, deductibles or copayments, as specifically provided in the evidence of coverage, until the earlier of:

1. The date of the cancellation of the covered person's coverage under the network plan pursuant to NRS 687B.310, including, without limitation, any extension of coverage provided pursuant to:

(a) The terms of the contract between the covered person and the health carrier;

(b) NRS 689A.04036, 689B.0303, 695B.1901, 695C.1691 and 695G.164, as applicable; or

(c) Any applicable federal law for covered persons who are in an active course of treatment or totally disabled; or

2. The date on which the contract between the health carrier and the provider of health care would have terminated if the health carrier or intermediary, as applicable, had remained in operation, including, without limitation, any extension of coverage provided pursuant to:

(a) The terms of the contract between the covered person and the health carrier;

(b) NRS 689A.04036, 689B.0303, 695B.1901, 695C.1691 and 695G.164, as applicable; or

(c) Any applicable federal law for covered persons who are in an active course of treatment or totally disabled.

Sec. 69. The provisions included in a contract to comply with the requirements set forth in sections 67 and 68 of this act shall be construed in favor of the covered person, shall survive the termination of the contract regardless of the reason for the termination, including, without limitation, the insolvency of the health carrier or any applicable intermediary, and shall supersede any oral or written contrary agreement between a participating provider of health care and a covered person or the representative of a covered person if the contrary agreement is inconsistent with provisions included in the contract to comply with the requirements set forth in sections 67 and 68 of this act.

Sec. 70. Each contract entered into for the purposes of a network plan between a participating provider of health care and the health carrier must ~~prohibit the participating provider of health care from collecting or attempting to collect from a covered person any money owed to the participating provider of health care by the health carrier.~~ provide that written notice must be provided to the participating provider of health care as soon as practicable in the event:

1. That a court determined the health carrier or any applicable intermediary to be insolvent; or

2. Of any other cessation of operations of the health carrier or any applicable intermediary.

Sec. 71. A health carrier which offers or issues a network plan shall notify each participating provider of health care in the network of the responsibilities of the participating provider of health care with respect to any applicable administrative policies and programs of the health carrier including, without limitation, any applicable administrative policies and programs concerning:

1. Terms of payment;
2. Utilization review;
3. Quality assessment and improvement;
4. Credentialing;
5. Procedures for grievances and appeals;
6. Requirements for data reporting;
7. Requirements for timely notice to the health carrier of changes in the practices of the participating provider of health care, such as discontinuance of accepting new patients;
8. Requirements for confidentiality; and
9. Any applicable federal or state programs.

Sec. 72. A health carrier which offers or issues a network plan shall not offer an inducement to a participating provider of health care in the network that would encourage or otherwise incent the participating provider of health care to deliver health care services to a covered person which are less than those which are medically necessary.

Sec. 73. A health carrier which offers or issues a network plan shall not prohibit a participating provider of health care in the network from:

1. Discussing any specific treatment option or all treatment options with a covered person irrespective of the position of the health carrier on the treatment options;
2. Advocating on behalf of a covered person within any utilization review process or any process for grievances or appeals established by the health carrier or a person contracting with the health carrier; or
3. Advocating on behalf of a covered person in accordance with any rights or remedies available under applicable state or federal law.

Sec. 74. Each contract entered into for the purposes of a network plan between a participating provider of health care and the health carrier must require the participating provider of health care to make health records available to appropriate state and federal authorities involved in assessing the quality of care or investigating the grievances or complaints of covered persons, and to comply with the applicable state and federal laws related to the confidentiality of medical and health records and the covered person's right to see, obtain copies of or amend their medical and health records.

Sec. 75. ~~1. Each contract entered into for the purposes of a network plan between a participating provider of health care and the health carrier must provide that:~~

~~(a) The health carrier shall provide notice not less than 90 days in advance to the participating provider of health care before the health~~

~~carrier removes the participating provider of health care from the network without cause;~~

~~— (b) The participating provider of health care shall provide notice not less than 90 days in advance to the health carrier before the participating provider of health care leaves the network without cause;~~

~~— (c) The health carrier or participating provider of health care or both, as specified in the contract, shall make a good faith effort to provide written notice, within 30 days after receipt or issuance of the notice referenced in paragraph (a) or (b), as applicable, that the participating provider of health care will no longer be part of the network;~~

~~— (1) To all covered persons who participate in the network plan, are patients of the participating provider of health care and have received health care services from the participating provider of health care on a regular basis; or~~

~~— (2) If the participating provider of health care is a primary care physician, to all covered persons who participate in the network plan and are patients of the participating provider of health care;~~

~~— (d) If the health carrier removes the participating provider of health care from the network for cause or the participating provider of health care leaves the network for cause, the health carrier or the participating provider of health care, or both, as specified in the contract, shall make a good faith effort to provide written notice within 30 days after the removal or departure, as applicable, that the participating provider of health care will no longer be part of the network;~~

~~— (1) To all covered persons who participate in the network plan, are patients of the participating provider of health care and have received health care services from the participating provider of health care on a regular basis; or~~

~~— (2) If the participating provider of health care is a primary care physician, to all covered persons who participate in the network plan and are patients of the participating provider of health care; and~~

~~— (e) The participating provider of health care shall, upon providing or receiving the notice referenced in paragraph (a) or (b), or upon leaving or being removed from the network as referenced in paragraph (d), promptly provide to the health carrier a list of the covered persons who are patients of the participating provider of health care and who participate in the network plan.~~

~~— 2. The Commissioner shall adopt regulations that define, for the purposes of this section, the terms:~~

~~— (a) “Patients of the participating provider of health care”; and~~

~~— (b) “Regular basis.” (Deleted by amendment.)~~

Sec. 76. ~~{1. Except as otherwise provided in this section, if a covered person is receiving health care services pursuant to a network plan for a medical condition from a participating provider of health care in the network and the contract between the participating provider of health care~~

~~and the health carrier is terminated during the course of the medical treatment, the network plan must provide that:~~

~~— (a) The covered person may continue to obtain health care services for the medical condition from the provider of health care pursuant to this section, if:~~

~~— (1) The covered person is actively undergoing a medically necessary course of treatment; and~~

~~— (2) The provider of health care and the covered person agree that the continuity of care is desirable.~~

~~— (b) The provider of health care is entitled to receive reimbursement from the health carrier for the health care services provided to the covered person pursuant to this section, if the provider of health care agrees:~~

~~— (1) To provide health care services under the terms of the contract between the provider of health care and the health carrier with regard to the covered person, including, without limitation, the rates of payment for providing health care services, as those terms existed before the termination of the contract between the provider of health care and the health carrier; and~~

~~— (2) Not to seek payment from the covered person for any health care services provided by the provider of health care that could not have been received from the covered person were the provider of health care still under contract with the health carrier.~~

~~— 2. The coverage required by subsection 1 must be provided until the later of:~~

~~— (a) The 120th day after the date on which the contract is terminated; or~~

~~— (b) If the medical condition is pregnancy, the 45th day after:~~

~~— (1) The date of delivery; or~~

~~— (2) If the pregnancy does not end in delivery, the date of the end of the pregnancy.~~

~~— 3. The requirements of this section do not apply to a provider of health care if:~~

~~— (a) The provider of health care was under contract with the health carrier and the health carrier terminated that contract because of the medical incompetence or professional misconduct of the provider of health care; and~~

~~— (b) The health carrier did not enter into another contract with the provider of health care after the contract was terminated pursuant to paragraph (a).~~

~~— 4. An evidence of coverage for a network plan subject to the provisions of sections 51 to 85, inclusive, of this act has the legal effect of including the coverage required by this section, and any provision of the evidence of coverage or renewal thereof that is in conflict with this section is void.]~~

(Deleted by amendment.)

Sec. 77. Each contract entered into for the purposes of a network plan between a participating provider of health care and the health carrier must

prohibit the health carrier and the participating provider of health care from assigning or delegating the rights and responsibilities of either party under the contract without the prior written consent of the other party.

Sec. 78. 1. ~~{Except as otherwise provided in this section, a}~~ A health carrier which offers or issues a network plan shall ensure that ~~each~~ participating ~~provider~~ providers of health care in the network ~~{furnishes}~~ are responsible for furnishing covered {benefits} services to all covered persons without regard to the participation of the covered person in the network plan as a private purchaser of the network plan or as a participant in a publicly financed program of health care services.

2. This section does not apply to circumstances when the participating provider of health care should not render services due to limitations arising from a lack of training, experience or skill or licensing restrictions.

Sec. 79. A health carrier which offers or issues a network plan shall notify ~~each~~ the participating ~~provider~~ providers of health care in the network of his or her obligations, if any, to collect applicable coinsurance, copayments or deductibles from a covered person pursuant to the evidence of coverage, or of the obligations, if any, of the participating provider of health care to notify a covered person of the personal financial obligations of the covered person for health care services that are not covered.

Sec. 80. A health carrier which offers or issues a network plan shall not penalize a participating provider of health care in the network because the participating provider of health care, in good faith, reports to state or federal authorities any act or practice by the health carrier that jeopardizes the health or welfare of a covered person.

Sec. 81. A health carrier which offers or issues a network plan shall establish a mechanism by which a participating provider of health care in the network may, in a timely manner at the time health care services are to be provided, determine whether the person to whom the health care services are to be provided is a covered person or is within a grace period for the payment of a premium during which the health carrier may hold a claim for health care services pending receipt of the payment of the premium.

Sec. 82. A health carrier which offers or issues a network plan shall establish procedures for the resolution of administrative, payment or other disputes between a participating provider of health care in the network and the health carrier.

Sec. 83. 1. A contract entered into for the purposes of a network plan between a participating provider of health care and the health carrier must not contain a provision that conflicts with any provision in the network plan or any requirement set forth in sections 51 to 85, inclusive, of this act.

2. At the time a participating provider of health care signs a contract described in subsection 1, the health carrier and, if applicable, the intermediary shall notify the participating provider of health care of all

provisions of the contract and all documents incorporated by reference in the contract.

3. *While a contract described in subsection 1 is in force, the health carrier shall provide timely notice to the participating provider of health care of any changes to the provisions of the contract or the documents incorporated by reference in the contract that would result in a material change in the contract.*

4. *For the purposes of subsection 3, the contract must define what is to be considered timely notice and what is to be considered a material change.*

Sec. 84. *A health carrier which offers or issues a network plan shall inform a participating provider of health care with whom the health carrier has contracted for the purposes of the network plan of the status of the participating provider of health care as a provider of health care in the network plan and the status and inclusion of the participating provider of health care on any list of providers of health care maintained by the health carrier. The health carrier shall provide in a timely manner the information required by this section to the participating provider of health care:*

1. *Upon the request of the participating provider of health care; and*
2. *Upon any change to the status or inclusion of the participating provider of health care as described in this section.*

Sec. 85. *The Commissioner may adopt any regulations necessary to carry out the purposes and provisions of sections 51 to 85, inclusive, of this act.*

Sec. 86. NRS 687B.385 is hereby amended to read as follows:

687B.385 An insurer shall not **refuse to issue**, cancel, refuse to renew or increase the premium for renewal of a policy of motor vehicle insurance covering private passenger cars or commercial vehicles as a result of any ~~claims~~:

1. *Claims made under ~~the~~ any policy of insurance with respect to which the insured was not at fault ~~it~~;*

2. *Claims made under any policy of insurance for which the insurer has not made any payment or for which the insurer recovered the entirety of the insurer's payment on the claim by means of salvage, subrogation or another mechanism; or*

3. *Inquiries made regarding an actual or potential claim under any policy of insurance regarding:*

(a) *The existence of insurance coverage for any matter; or*

(b) *Any hypothetical or informational matter pertaining to insurance.*

Sec. 87. NRS 687B.470 is hereby amended to read as follows:

687B.470 1. ~~["Health"]~~ **As used in NRS 687B.470 to 687B.500, inclusive, "health** benefit plan" means a policy, contract, certificate or agreement offered by a carrier to provide for, deliver payment for, arrange for the payment of, pay for or reimburse any of the costs of health care services. Except as otherwise provided in this section, the term includes

catastrophic health insurance policies and a policy that pays on a cost-incurred basis.

2. The term does not include:

- (a) Coverage that is only for accident or disability income insurance, or any combination thereof;
- (b) Coverage issued as a supplement to liability insurance;
- (c) Liability insurance, including general liability insurance and automobile liability insurance;
- (d) Workers' compensation or similar insurance;
- (e) Coverage for medical payments under a policy of automobile insurance;
- (f) Credit insurance;
- (g) Coverage for on-site medical clinics;
- (h) Other similar insurance coverage specified pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, under which benefits for medical care are secondary or incidental to other insurance benefits;
- (i) Coverage under a short-term health insurance policy; and
- (j) Coverage under a blanket student accident and health insurance policy.

3. The term does not include the following benefits if the benefits are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of a health benefit plan:

- (a) Limited-scope dental or vision benefits;
- (b) Benefits for long-term care, nursing home care, home health care or community-based care, or any combination thereof; and
- (c) Such other similar benefits as are specified in any federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

4. The term does not include the following benefits if the benefits are provided under a separate policy, certificate or contract, there is no coordination between the provisions of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid for a claim without regard to whether benefits are provided for such a claim under any group health plan maintained by the same plan sponsor:

- (a) Coverage that is only for a specified disease or illness; and
- (b) Hospital indemnity or other fixed indemnity insurance.

5. The term does not include any of the following, if offered as a separate policy, certificate or contract of insurance:

- (a) Medicare supplemental health insurance as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. § 1395ss, as that section existed on July 16, 1997;
- (b) Coverage supplemental to the coverage provided pursuant to the Civilian Health and Medical Program of Uniformed Services, CHAMPUS, 10 U.S.C. §§ 1071 et seq.; and

(c) Similar supplemental coverage provided under a group health plan.

Sec. 88. NRS 687B.490 is hereby amended to read as follows:

687B.490 1. A carrier that offers coverage in the ***small employer*** group or individual market must, before making any network plan available for sale in this State, demonstrate the capacity to deliver services adequately by applying to the Commissioner for the issuance of a network plan and submitting a description of the procedures and programs to be implemented to meet the requirements described in subsection 2.

2. The Commissioner shall determine, within 90 days after receipt of the application required pursuant to subsection 1, if the carrier, with respect to the network plan:

(a) Has demonstrated the willingness and ability to ensure that health care services will be provided in a manner to ensure both availability and accessibility of adequate personnel and facilities in a manner that enhances availability, accessibility and continuity of service;

(b) Has organizational arrangements established in accordance with regulations promulgated by the Commissioner; and

(c) Has a procedure established in accordance with regulations promulgated by the Commissioner to develop, compile, evaluate and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services and such other matters as may be reasonably required by the Commissioner.

3. The Commissioner may certify that the carrier and the network plan meet the requirements of subsection 2, or may determine that the carrier and the network plan do not meet such requirements. Upon a determination that the carrier and the network plan do not meet the requirements of subsection 2, the Commissioner shall specify in what respects the carrier and the network plan are deficient.

4. A carrier approved to issue a network plan pursuant to this section must file annually with the Commissioner a summary of information compiled pursuant to subsection 2 in a manner determined by the Commissioner.

5. The Commissioner shall, not less than once each year, or more often if deemed necessary by the Commissioner for the protection of the interests of the people of this State, make a determination concerning the availability and accessibility of the health care services of any network plan approved pursuant to this section.

6. The expense of any determination made by the Commissioner pursuant to this section must be assessed against the carrier and remitted to the Commissioner.

7. When making any determination concerning the availability and accessibility of the services of any network plan or proposed network plan pursuant to this section, the Commissioner shall consider services that may be provided through telehealth, as defined in NRS 629.515, pursuant to the network plan or proposed network plan to be available services.

8. As used in this section ~~1, “network”~~:

(a) “**Network** plan” has the meaning ascribed to it in NRS 689B.570.

(b) “**Small employer**” *has the meaning ascribed to it in NRS 689C.095.*

Sec. 89. NRS 687B.500 is hereby amended to read as follows:

687B.500 1. The premium rate charged by a health insurer for health benefit plans offered in the individual or small **employer** group market may vary with respect to the particular plan or coverage involved based solely on these characteristics:

(a) Whether the plan or coverage applies to an individual or a family;

(b) Geographic rating area;

(c) Tobacco use, except that the rate shall not vary by a ratio of more than 1.5 to 1 for like individuals who vary in tobacco use; and

(d) Age, except that the rate must not vary by a ratio of more than 3 to 1 for like individuals of different age who are age 21 years or older and that the variation in rate must be actuarially justified for individuals who are under the age of 21 years, consistent with the uniform age rating curve established in the Federal Act. For the purpose of identifying the appropriate age adjustment under this paragraph and the age band defined in the Federal Act to a specific enrollee, the enrollee’s age as of the date of policy issuance or renewal must be used.

2. The provisions of subsection 1:

(a) Apply to a fraternal benefit society organized under chapter 695A of NRS; and

(b) Do not apply to grandfathered plans.

3. As used in this section, “small employer” has the meaning ascribed to it in NRS 689C.095.

Sec. 90. NRS 689.185 is hereby amended to read as follows:

689.185 1. Except as otherwise provided in subsection 2:

(a) Before the issuance of a certificate of authority, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value of not less than the amount of the bond required by the Commissioner.

(b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or the agents of the seller, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days’ notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

(c) ***A certificate of authority issued to a seller is automatically suspended if the seller does not file with the Commissioner a replacement bond before the date of cancellation of the previous bond. A replacement bond must meet all requirements of this subsection for the initial bond.***

(d) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. The Commissioner may waive the requirements of subsection 1 if the seller agrees:

(a) To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and

(b) Not to collect any money from the purchaser of a prepaid contract.

Sec. 91. NRS 689.495 is hereby amended to read as follows:

689.495 1. Except as otherwise provided in subsection 2:

(a) Before the issuance of a permit to a seller, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value not less than the amount of the bond required by the Commissioner.

(b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or the agents of the seller, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

(c) ***A permit issued to a seller is automatically suspended if the seller does not file with the Commissioner a replacement bond before the date of cancellation of the previous bond. A replacement bond must meet all requirements of this subsection for the initial bond.***

(d) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. The Commissioner may waive the requirements of subsection 1 if the seller agrees:

(a) To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and

(b) Not to collect any money from the purchaser of a prepaid contract.

Sec. 92. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *An individual carrier shall make the unified rate review template and rate filing documentation used by the individual carrier and any information and documents described in any regulations adopted pursuant to 689A.700 available to the Commissioner upon request. Except in cases of violations of the provisions of this chapter, the unified rate review template and rate filing documentation used by an individual carrier are considered proprietary, constitute a trade secret and are not subject to disclosure by the Commissioner to persons outside of the Division except as agreed to by the individual carrier or as ordered by a court of competent jurisdiction.*

2. *As used in this section, “rate filing documentation” and “unified rate review template” have the meanings ascribed to them in 45 C.F.R. § 154.215.*

Sec. 93. NRS 689A.020 is hereby amended to read as follows:

689A.020 Nothing in this chapter applies to or affects:

1. Any policy of liability or workers’ compensation insurance with or without supplementary expense coverage therein.

2. Any group or blanket policy.

3. Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to health insurance as to:

(a) Provide additional benefits in case of death or dismemberment or loss of sight by accident or accidental means; or

(b) Operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity if the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract.

4. Reinsurance, except as otherwise provided in NRS 689A.470 to 689A.740, inclusive, **and section 92 of this act**, and 689C.610 to 689C.940, inclusive, relating to the program of reinsurance.

Sec. 94. NRS 689A.04033 is hereby amended to read as follows:

689A.04033 1. A policy of health insurance must provide coverage for medical treatment which a policyholder or subscriber receives as part of a clinical trial or study if:

(a) The medical treatment is provided in a Phase I, Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or in a Phase II, Phase III or Phase IV study or clinical trial for the treatment of chronic fatigue syndrome;

(b) The clinical trial or study is approved by:

(1) An agency of the National Institutes of Health as set forth in 42 U.S.C. § 281(b);

(2) A cooperative group;

(3) The Food and Drug Administration as an application for a new investigational drug;

(4) The United States Department of Veterans Affairs; or

(5) The United States Department of Defense;

(c) In the case of:

(1) A Phase I clinical trial or study for the treatment of cancer, the medical treatment is provided at a facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer; or

(2) A Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or chronic fatigue syndrome, the medical treatment is provided by a provider of health care and the facility and personnel for the clinical trial or study have the experience and training to provide the treatment in a capable manner;

(d) There is no medical treatment available which is considered a more appropriate alternative medical treatment than the medical treatment provided in the clinical trial or study;

(e) There is a reasonable expectation based on clinical data that the medical treatment provided in the clinical trial or study will be at least as effective as any other medical treatment;

(f) The clinical trial or study is conducted in this State; and

(g) The policyholder or subscriber has signed, before participating in the clinical trial or study, a statement of consent indicating that the policyholder or subscriber has been informed of, without limitation:

(1) The procedure to be undertaken;

(2) Alternative methods of treatment; and

(3) The risks associated with participation in the clinical trial or study, including, without limitation, the general nature and extent of such risks.

2. Except as otherwise provided in subsection 3, the coverage for medical treatment required by this section is limited to:

(a) Coverage for any drug or device that is approved for sale by the Food and Drug Administration without regard to whether the approved drug or device has been approved for use in the medical treatment of the policyholder or subscriber.

(b) The cost of any reasonably necessary health care services that are required as a result of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study or as a result of any complication arising out of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study, to the extent that such health care services would otherwise be covered under the policy of health insurance.

(c) The cost of any routine health care services that would otherwise be covered under the policy of health insurance for a policyholder or subscriber participating in a Phase I clinical trial or study.

(d) The initial consultation to determine whether the policyholder or subscriber is eligible to participate in the clinical trial or study.

(e) Health care services required for the clinically appropriate monitoring of the policyholder or subscriber during a Phase II, Phase III or Phase IV clinical trial or study.

(f) Health care services which are required for the clinically appropriate monitoring of the policyholder or subscriber during a Phase I clinical trial or study and which are not directly related to the clinical trial or study.

➔ Except as otherwise provided in NRS 689A.04036, the services provided pursuant to paragraphs (b), (c), (e) and (f) must be covered only if the services are provided by a provider with whom the insurer has contracted for such services. If the insurer has not contracted for the provision of such services, the insurer shall pay the provider the rate of reimbursement that is paid to other providers with whom the insurer has contracted for similar services and the provider shall accept that rate of reimbursement as payment in full.

3. Particular medical treatment described in subsection 2 and provided to a policyholder or subscriber is not required to be covered pursuant to this section if that particular medical treatment is provided by the sponsor of the clinical trial or study free of charge to the policyholder or subscriber.

4. The coverage for medical treatment required by this section does not include:

(a) Any portion of the clinical trial or study that is customarily paid for by a government or a biotechnical, pharmaceutical or medical industry.

(b) Coverage for a drug or device described in paragraph (a) of subsection 2 which is paid for by the manufacturer, distributor or provider of the drug or device.

(c) Health care services that are specifically excluded from coverage under the policyholder's or subscriber's policy of health insurance, regardless of whether such services are provided under the clinical trial or study.

(d) Health care services that are customarily provided by the sponsors of the clinical trial or study free of charge to the participants in the trial or study.

(e) Extraneous expenses related to participation in the clinical trial or study including, without limitation, travel, housing and other expenses that a participant may incur.

(f) Any expenses incurred by a person who accompanies the policyholder or subscriber during the clinical trial or study.

(g) Any item or service that is provided solely to satisfy a need or desire for data collection or analysis that is not directly related to the clinical management of the policyholder or subscriber.

(h) Any costs for the management of research relating to the clinical trial or study.

5. An insurer who delivers or issues for delivery a policy of health insurance specified in subsection 1 may require copies of the approval or certification issued pursuant to paragraph (b) of subsection 1, the statement of consent signed by the policyholder or subscriber, protocols for the clinical trial or study and any other materials related to the scope of the clinical trial

or study relevant to the coverage of medical treatment pursuant to this section.

6. An insurer who delivers or issues for delivery a policy specified in subsection 1 shall:

(a) Include in ~~the~~ **any** disclosure ~~[required pursuant to NRS 689A.390]~~ **of the coverage provided by the policy** notice to each policyholder and subscriber under the policy of the availability of the benefits required by this section.

(b) Provide the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for coverage that are required under the policy.

7. A policy of health insurance subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2006, has the legal effect of including the coverage required by this section, and any provision of the policy that conflicts with this section is void.

8. An insurer who delivers or issues for delivery a policy specified in subsection 1 is immune from liability for:

(a) Any injury to a policyholder or subscriber caused by:

(1) Any medical treatment provided to the policyholder or subscriber in connection with his or her participation in a clinical trial or study described in this section; or

(2) An act or omission by a provider of health care who provides medical treatment or supervises the provision of medical treatment to the policyholder or subscriber in connection with his or her participation in a clinical trial or study described in this section.

(b) Any adverse or unanticipated outcome arising out of a policyholder's or subscriber's participation in a clinical trial or study described in this section.

9. As used in this section:

(a) "Cooperative group" means a network of facilities that collaborate on research projects and has established a peer review program approved by the National Institutes of Health. The term includes:

(1) The Clinical Trials Cooperative Group Program; and

(2) The Community Clinical Oncology Program.

(b) "Facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer" means a facility or an affiliate of a facility that:

(1) Has in place a Phase I program which permits only selective participation in the program and which uses clear-cut criteria to determine eligibility for participation in the program;

(2) Operates a protocol review and monitoring system which conforms to the standards set forth in the "Policies and Guidelines Relating to the Cancer Center Support Grant" published by the Cancer Centers Branch of the National Cancer Institute;

(3) Employs at least two researchers and at least one of those researchers receives funding from a federal grant;

(4) Employs at least three clinical investigators who have experience working in Phase I clinical trials or studies conducted at a facility designated as a comprehensive cancer center by the National Cancer Institute;

(5) Possesses specialized resources for use in Phase I clinical trials or studies, including, without limitation, equipment that facilitates research and analysis in proteomics, genomics and pharmacokinetics;

(6) Is capable of gathering, maintaining and reporting electronic data; and

(7) Is capable of responding to audits instituted by federal and state agencies.

(c) “Provider of health care” means:

(1) A hospital; or

(2) A person licensed pursuant to chapter 630, 631 or 633 of NRS.

Sec. 95. NRS 689A.0427 is hereby amended to read as follows:

689A.0427 1. No policy of health insurance that provides coverage for hospital, medical or surgical expenses may be delivered or issued for delivery in this state unless the policy includes coverage for the management and treatment of diabetes, including, without limitation, coverage for the self-management of diabetes.

2. An insurer who delivers or issues for delivery a policy specified in subsection 1:

(a) Shall include in ~~the~~ **any** disclosure ~~required pursuant to NRS 689A.390~~ **of the coverage provided by the policy** notice to each policyholder and subscriber under the policy of the availability of the benefits required by this section.

(b) Shall provide the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for coverage that are required under the policy.

3. A policy of health insurance subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 1998, has the legal effect of including the coverage required by this section, and any provision of the policy that conflicts with this section is void.

4. As used in this section:

(a) “Coverage for the management and treatment of diabetes” includes coverage for medication, equipment, supplies and appliances that are medically necessary for the treatment of diabetes.

(b) “Coverage for the self-management of diabetes” includes:

(1) The training and education provided to an insured person after the insured person is initially diagnosed with diabetes which is medically necessary for the care and management of diabetes, including, without limitation, counseling in nutrition and the proper use of equipment and supplies for the treatment of diabetes;

(2) Training and education which is medically necessary as a result of a subsequent diagnosis that indicates a significant change in the symptoms or

condition of the insured person and which requires modification of the insured person's program of self-management of diabetes; and

(3) Training and education which is medically necessary because of the development of new techniques and treatment for diabetes.

(c) "Diabetes" includes type I, type II and gestational diabetes.

Sec. 96. NRS 689A.470 is hereby amended to read as follows:

689A.470 As used in NRS 689A.470 to 689A.740, inclusive, **and section 92 of this act**, unless the context otherwise requires, the words and terms defined in NRS 689A.475 to 689A.600, inclusive, have the meanings ascribed to them in those sections.

Sec. 97. NRS 689A.615 is hereby amended to read as follows:

689A.615 For the purposes of NRS 689A.470 to 689A.740, inclusive ~~it~~
, and section 92 of this act:

1. Any plan, fund or program which would not be, but for section 2721(e) of the Public Health Service Act, as amended by Public Law 104-191, as that section existed on July 16, 1997, an employee welfare benefit plan and which is established or maintained by a partnership to the extent that the plan, fund or program provides medical care to current or former partners in the partnership or to their dependents, as defined under the terms of the plan, fund or program, directly or through insurance, reimbursement or otherwise, must be treated, subject to subsection 2, as an employee welfare benefit plan which is a group health plan.

2. In the case of a group health plan, a partnership shall be deemed to be the employer of each partner.

Sec. 98. NRS 689A.630 is hereby amended to read as follows:

689A.630 1. Except as otherwise provided in this section, coverage under an individual health benefit plan must be renewed by the individual carrier that issued the plan, at the option of the individual, unless:

(a) The individual has failed to pay premiums or contributions in accordance with the terms of the health benefit plan or the individual carrier has not received timely premium payments.

(b) The individual has performed an act or a practice that constitutes fraud or has made an intentional misrepresentation of material fact under the terms of the coverage.

(c) The individual carrier decides to discontinue offering and renewing all health benefit plans delivered or issued for delivery in this state. If the individual carrier decides to discontinue offering and renewing such plans, the individual carrier shall:

(1) Provide notice of its intention to the Commissioner and the chief regulatory officer for insurance in each state in which the individual carrier is licensed to transact insurance at least 60 days before the date on which notice of cancellation or nonrenewal is delivered or mailed to the persons covered by the insurance to be discontinued pursuant to subparagraph (2).

(2) Provide notice of its intention to all persons covered by the discontinued insurance and to the Commissioner and the chief regulatory

officer for insurance in each state in which such a person is known to reside. The notice must be made at least 180 days before the nonrenewal of any health benefit plan by the individual carrier.

(3) Discontinue all health insurance issued or delivered for issuance for individuals in this state and not renew coverage under any health benefit plan issued to such individuals.

(d) The Commissioner finds that the continuation of the coverage in this state by the individual carrier would not be in the best interests of the policyholders or certificate holders of the individual carrier or would impair the ability of the individual carrier to meet its contractual obligations. If the Commissioner makes such a finding, the Commissioner shall assist the persons covered by the discontinued insurance in this state in finding replacement coverage.

2. An individual carrier may discontinue ~~the issuance and renewal of a form of~~ a product ~~of a health benefit plan if the Commissioner finds that the form of the product offered by the individual carrier is obsolete and is being replaced with comparable coverage. A form of a product of a health benefit plan may be discontinued by the individual carrier~~ pursuant to this subsection only if:

(a) The individual carrier notifies the Commissioner ~~and the chief regulatory officer for insurance in each state in which it is licensed~~ of its decision pursuant to this subsection to discontinue ~~the issuance and renewal of the form of~~ the product at least 60 days before the individual carrier notifies the persons covered by the discontinued ~~insurance~~ product pursuant to paragraph (b).

(b) The individual carrier notifies each person covered by the discontinued ~~insurance, the Commissioner and the chief regulatory officer for insurance in each state in which a person covered by the discontinued insurance is known to reside~~ product of the decision of the individual carrier to discontinue offering ~~the form of~~ the product. The notice must be made to persons covered by the discontinued ~~insurance~~ product at least ~~180~~ 90 days before the date on which the individual carrier will discontinue offering ~~the form of~~ the product.

(c) The individual carrier offers to each person covered by the discontinued ~~insurance~~ product the option to purchase any other health benefit plan currently offered by the individual carrier to individuals in this state.

(d) In exercising the option to discontinue ~~the form of~~ the product and in offering the option to purchase other coverage pursuant to paragraph (c), the individual carrier acts uniformly without regard to the claim experience of the persons covered by the discontinued ~~insurance~~ product or any health status-related factor relating to those persons or beneficiaries covered by the discontinued ~~form of the~~ product or any persons or beneficiaries who may become eligible for such coverage.

3. An individual carrier may discontinue the issuance and renewal of a health benefit plan that is made available to individuals pursuant to this chapter only through a bona fide association if:

- (a) The membership of the individual in the association was the basis for the provision of coverage;
- (b) The membership of the individual in the association ceases; and
- (c) The coverage is terminated pursuant to this subsection uniformly without regard to any health status-related factor relating to the covered individual.

4. An individual carrier that elects not to renew a health benefit plan pursuant to paragraph (c) of subsection 1 shall not write new business for individuals pursuant to this chapter for 5 years after the date on which notice is provided to the Commissioner pursuant to subparagraph (2) of paragraph (c) of subsection 1.

5. If an individual carrier does business in only one geographic service area of this state, the provisions of this section apply only to the operations of the individual carrier in that service area.

Sec. 99. 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~~ 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 ~~and~~, **and section 92 of this act.**

Sec. 100. NRS 689A.715 is hereby amended to read as follows:

689A.715 1. An employee welfare benefit plan for providing benefits for employees of more than one employer under which individual health insurance coverage is provided must comply with the provisions of NRS 679B.139 and 689A.470 to 689A.740, inclusive, **and section 92 of this act**, and the regulations adopted by the Commissioner pursuant thereto.

2. As used in this section, the term “employee welfare benefit plan for providing benefits for employees of more than one employer” is intended to be equivalent to the term “employee welfare benefit plan which is a multiple employer welfare arrangement” as used in federal statutes and regulations.

Sec. 101. NRS 689A.725 is hereby amended to read as follows:

689A.725 For the purposes of NRS 689A.470 to 689A.740, inclusive, **and section 92 of this act**, a plan for coverage of a bona fide association must:

1. Conform with **any regulations adopted pursuant to** NRS ~~689A.690 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. 102. NRS 689A.740 is hereby amended to read as follows:

689A.740 The Commissioner shall adopt regulations as necessary to carry out the provisions of NRS 689A.470 to 689A.740, inclusive ~~[-]~~ , **and section 92 of this act.**

Sec. 103. NRS 689A.745 is hereby amended to read as follows:

689A.745 1. Except as otherwise provided in subsection 4, each insurer that issues a policy of health insurance in this State shall establish a system for resolving any complaints of an insured concerning health care services covered under the policy. The system must be approved by the Commissioner . ~~[in consultation with the State Board of Health.]~~

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a policy of health insurance issued by the insurer.

3. The Commissioner ~~[for the State Board of Health]~~ may examine the system for resolving complaints established pursuant to subsection 1 at such times as ~~[either]~~ **the Commissioner** deems necessary or appropriate.

4. Each insurer that issues a policy of health insurance in this State that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care shall provide a system for resolving any complaints of an insured concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive.

Sec. 104. NRS 689A.750 is hereby amended to read as follows:

689A.750 1. Each insurer that issues a policy of health insurance in this State shall submit to the Commissioner ~~[and the State Board of Health]~~ an annual report regarding its system for resolving complaints established pursuant to subsection 1 of NRS 689A.745 on a form prescribed by the Commissioner ~~[in consultation with the State Board of Health]~~ which includes, without limitation:

(a) A description of the procedures used for resolving any complaints of an insured;

(b) The total number of complaints and appeals handled through the system for resolving complaints since the last report and a compilation of the causes underlying the complaints filed;

(c) The current status of each complaint and appeal filed; and

(d) The average amount of time that was needed to resolve a complaint and an appeal, if any.

2. Each insurer shall maintain records of complaints filed with it which concern something other than health care services and shall submit to the Commissioner a report summarizing such complaints at such times and in such format as the Commissioner may require.

Sec. 105. NRS 689B.0285 is hereby amended to read as follows:

689B.0285 1. Except as otherwise provided in subsection 4, each insurer that issues a policy of group health insurance in this State shall establish a system for resolving any complaints of an insured concerning health care services covered under the policy. The system must be approved by the Commissioner ~~. [in consultation with the State Board of Health.]~~

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a policy of group health insurance issued by the insurer.

3. The Commissioner ~~[for the State Board of Health]~~ may examine the system for resolving complaints established pursuant to subsection 1 at such times as ~~[either]~~ **the Commissioner** deems necessary or appropriate.

4. Each insurer that issues a policy of group health insurance in this State that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care shall provide a system for resolving any complaints of an insured concerning the health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive.

Sec. 106. NRS 689B.029 is hereby amended to read as follows:

689B.029 1. Each insurer that issues a policy of group health insurance in this State shall submit to the Commissioner ~~[and the State Board of Health]~~ an annual report regarding its system for resolving complaints established pursuant to subsection 1 of NRS 689B.0285 on a form prescribed by the Commissioner ~~[in consultation with the State Board of Health]~~ which includes, without limitation:

(a) A description of the procedures used for resolving any complaints of an insured;

(b) The total number of complaints and appeals handled through the system for resolving complaints since the last report and a compilation of the causes underlying the complaints filed;

(c) The current status of each complaint and appeal filed; and

(d) The average amount of time that was needed to resolve a complaint and an appeal, if any.

2. Each insurer shall maintain records of complaints filed with it which concern something other than health care services and shall submit to the Commissioner a report summarizing such complaints at such times and in such format as the Commissioner may require.

Sec. 107. NRS 689B.0306 is hereby amended to read as follows:

689B.0306 1. A policy of group health insurance must provide coverage for medical treatment which a person insured under the group policy receives as part of a clinical trial or study if:

(a) The medical treatment is provided in a Phase I, Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or in a Phase II,

Phase III or Phase IV study or clinical trial for the treatment of chronic fatigue syndrome;

(b) The clinical trial or study is approved by:

(1) An agency of the National Institutes of Health as set forth in 42 U.S.C. § 281(b);

(2) A cooperative group;

(3) The Food and Drug Administration as an application for a new investigational drug;

(4) The United States Department of Veterans Affairs; or

(5) The United States Department of Defense;

(c) In the case of:

(1) A Phase I clinical trial or study for the treatment of cancer, the medical treatment is provided at a facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer; or

(2) A Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or chronic fatigue syndrome, the medical treatment is provided by a provider of health care and the facility and personnel for the clinical trial or study have the experience and training to provide the treatment in a capable manner;

(d) There is no medical treatment available which is considered a more appropriate alternative medical treatment than the medical treatment provided in the clinical trial or study;

(e) There is a reasonable expectation based on clinical data that the medical treatment provided in the clinical trial or study will be at least as effective as any other medical treatment;

(f) The clinical trial or study is conducted in this State; and

(g) The insured has signed, before participating in the clinical trial or study, a statement of consent indicating that the insured has been informed of, without limitation:

(1) The procedure to be undertaken;

(2) Alternative methods of treatment; and

(3) The risks associated with participation in the clinical trial or study, including, without limitation, the general nature and extent of such risks.

2. Except as otherwise provided in subsection 3, the coverage for medical treatment required by this section is limited to:

(a) Coverage for any drug or device that is approved for sale by the Food and Drug Administration without regard to whether the approved drug or device has been approved for use in the medical treatment of the insured person.

(b) The cost of any reasonably necessary health care services that are required as a result of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study or as a result of any complication arising out of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study, to the extent that such health care services would otherwise be covered under the policy of group health insurance.

(c) The cost of any routine health care services that would otherwise be covered under the policy of group health insurance for an insured participating in a Phase I clinical trial or study.

(d) The initial consultation to determine whether the insured is eligible to participate in the clinical trial or study.

(e) Health care services required for the clinically appropriate monitoring of the insured during a Phase II, Phase III or Phase IV clinical trial or study.

(f) Health care services which are required for the clinically appropriate monitoring of the insured during a Phase I clinical trial or study and which are not directly related to the clinical trial or study.

➡ Except as otherwise provided in NRS 689B.0303, the services provided pursuant to paragraphs (b), (c), (e) and (f) must be covered only if the services are provided by a provider with whom the insurer has contracted for such services. If the insurer has not contracted for the provision of such services, the insurer shall pay the provider the rate of reimbursement that is paid to other providers with whom the insurer has contracted for similar services and the provider shall accept that rate of reimbursement as payment in full.

3. Particular medical treatment described in subsection 2 and provided to a person insured under the group policy is not required to be covered pursuant to this section if that particular medical treatment is provided by the sponsor of the clinical trial or study free of charge to the person insured under the group policy.

4. The coverage for medical treatment required by this section does not include:

(a) Any portion of the clinical trial or study that is customarily paid for by a government or a biotechnical, pharmaceutical or medical industry.

(b) Coverage for a drug or device described in paragraph (a) of subsection 2 which is paid for by the manufacturer, distributor or provider of the drug or device.

(c) Health care services that are specifically excluded from coverage under the insured's policy of group health insurance, regardless of whether such services are provided under the clinical trial or study.

(d) Health care services that are customarily provided by the sponsors of the clinical trial or study free of charge to the participants in the trial or study.

(e) Extraneous expenses related to participation in the clinical trial or study including, without limitation, travel, housing and other expenses that a participant may incur.

(f) Any expenses incurred by a person who accompanies the insured during the clinical trial or study.

(g) Any item or service that is provided solely to satisfy a need or desire for data collection or analysis that is not directly related to the clinical management of the insured.

(h) Any costs for the management of research relating to the clinical trial or study.

5. An insurer who delivers or issues for delivery a policy of group health insurance specified in subsection 1 may require copies of the approval or certification issued pursuant to paragraph (b) of subsection 1, the statement of consent signed by the insured, protocols for the clinical trial or study and any other materials related to the scope of the clinical trial or study relevant to the coverage of medical treatment pursuant to this section.

6. An insurer who delivers or issues for delivery a policy of group health insurance specified in subsection 1 shall:

(a) Include in ~~the~~ **any disclosure [required pursuant to NRS 689B.027] of the coverage provided by the policy** notice to each group policyholder of the availability of the benefits required by this section.

(b) Provide the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for coverage that are required under the policy.

7. A policy of group health insurance subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2006, has the legal effect of including the coverage required by this section, and any provision of the policy that conflicts with this section is void.

8. An insurer who delivers or issues for delivery a policy of group health insurance specified in subsection 1 is immune from liability for:

(a) Any injury to the insured caused by:

(1) Any medical treatment provided to the insured in connection with his or her participation in a clinical trial or study described in this section; or

(2) An act or omission by a provider of health care who provides medical treatment or supervises the provision of medical treatment to the insured in connection with his or her participation in a clinical trial or study described in this section.

(b) Any adverse or unanticipated outcome arising out of an insured's participation in a clinical trial or study described in this section.

9. As used in this section:

(a) "Cooperative group" means a network of facilities that collaborate on research projects and has established a peer review program approved by the National Institutes of Health. The term includes:

(1) The Clinical Trials Cooperative Group Program; and

(2) The Community Clinical Oncology Program.

(b) "Facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer" means a facility or an affiliate of a facility that:

(1) Has in place a Phase I program which permits only selective participation in the program and which uses clear-cut criteria to determine eligibility for participation in the program;

(2) Operates a protocol review and monitoring system which conforms to the standards set forth in the "Policies and Guidelines Relating to the Cancer Center Support Grant" published by the Cancer Centers Branch of the National Cancer Institute;

(3) Employs at least two researchers and at least one of those researchers receives funding from a federal grant;

(4) Employs at least three clinical investigators who have experience working in Phase I clinical trials or studies conducted at a facility designated as a comprehensive cancer center by the National Cancer Institute;

(5) Possesses specialized resources for use in Phase I clinical trials or studies, including, without limitation, equipment that facilitates research and analysis in proteomics, genomics and pharmacokinetics;

(6) Is capable of gathering, maintaining and reporting electronic data; and

(7) Is capable of responding to audits instituted by federal and state agencies.

(c) "Provider of health care" means:

(1) A hospital; or

(2) A person licensed pursuant to chapter 630, 631 or 633 of NRS.

Sec. 108. NRS 689B.0357 is hereby amended to read as follows:

689B.0357 1. No group policy of health insurance that provides coverage for hospital, medical or surgical expenses may be delivered or issued for delivery in this state unless the policy includes coverage for the management and treatment of diabetes, including, without limitation, coverage for the self-management of diabetes.

2. An insurer who delivers or issues for delivery a policy specified in subsection 1:

(a) Shall include in ~~the~~ **any** disclosure ~~required pursuant to NRS 689B.027~~ **of the coverage provided by the policy** notice to each policyholder and subscriber under the policy of the availability of the benefits required by this section.

(b) Shall provide the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for coverage that are required under the policy.

3. A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 1998, has the legal effect of including the coverage required by this section, and any provision of the policy that conflicts with this section is void.

4. As used in this section:

(a) "Coverage for the management and treatment of diabetes" includes coverage for medication, equipment, supplies and appliances that are medically necessary for the treatment of diabetes.

(b) "Coverage for the self-management of diabetes" includes:

(1) The training and education provided to the employee or member of the insured group after the employee or member is initially diagnosed with diabetes which is medically necessary for the care and management of diabetes, including, without limitation, counseling in nutrition and the proper use of equipment and supplies for the treatment of diabetes;

(2) Training and education which is medically necessary as a result of a subsequent diagnosis that indicates a significant change in the symptoms or condition of the employee or member of the insured group and which requires modification of his or her program of self-management of diabetes; and

(3) Training and education which is medically necessary because of the development of new techniques and treatment for diabetes.

(c) "Diabetes" includes type I, type II and gestational diabetes.

Sec. 109. NRS 689B.061 is hereby amended to read as follows:

689B.061 A policy of group health insurance which offers a difference of payment between preferred providers of health care and providers of health care who are not preferred:

1. May not require an insured, another insurer who issues policies of group health insurance, a nonprofit medical service corporation or a health maintenance organization to pay any amount in excess of the deductible or coinsurance due from the insured based on the rates agreed upon with a provider.

2. Must require that the deductible and payment for coinsurance paid by the insured to a preferred provider of health care be applied to the negotiated reduced rates of that provider.

3. ~~Must include for providers of health care who are not preferred a provision establishing the point at which an insured's payment for coinsurance is no longer required to be paid if such a provision is included for preferred providers of health care. Such provisions must be based on a calendar year. The point at which an insured's payment for coinsurance is no longer required to be paid for providers of health care who are not preferred must not be greater than twice the amount for preferred providers of health care, regardless of the method of payment.~~

~~4.~~ Must provide that if there is a particular service which a preferred provider of health care does not provide and the provider of health care who is treating the insured requests the service and the insurer determines that the use of the service is necessary for the health of the insured, the service shall be deemed to be provided by the preferred provider of health care.

~~5.~~ 4. Must require the insurer to process a claim of a provider of health care who is not preferred not later than 30 working days after the date on which proof of the claim is received.

Sec. 110. NRS 689B.560 is hereby amended to read as follows:

689B.560 1. Except as otherwise provided in this section, coverage under a policy of group health insurance must be renewed by the carrier at the option of the plan sponsor, unless:

(a) The plan sponsor has failed to pay premiums or contributions in accordance with the terms of the group health insurance or the carrier has not received timely premium payments;

(b) The plan sponsor has performed an act or a practice that constitutes fraud or has made an intentional misrepresentation of material fact under the terms of the coverage;

(c) The plan sponsor has failed to comply with any material provision of the group health insurance relating to employer contributions and group participation; or

(d) The carrier decides to discontinue offering coverage under group health insurance. If the carrier decides to discontinue offering and renewing such insurance, the carrier shall:

(1) Provide notice of its intention to the Commissioner and the chief regulatory officer for insurance in each state in which the carrier is licensed to transact insurance at least 60 days before the date on which notice of cancellation or nonrenewal is delivered or mailed to the persons covered by the discontinued insurance pursuant to subparagraph (2).

(2) Provide notice of its intention to all persons covered by the discontinued insurance and to the Commissioner and the chief regulatory officer for insurance in each state in which such a person is known to reside. The notice must be made at least 180 days before the discontinuance of any group health plan by the carrier.

(3) Discontinue all health insurance issued or delivered for issuance for persons in this state and not renew coverage under any group health insurance issued to such persons.

2. A carrier may discontinue ~~the issuance and renewal of a form of~~ a product ~~of group health insurance if the Commissioner finds that the form of the product offered by the carrier is obsolete and is being replaced with comparable coverage. A form of a product may be discontinued by the carrier~~ to employers pursuant to this subsection only if:

(a) The carrier notifies the Commissioner ~~and the chief regulatory officer in each state in which it is licensed~~ of its decision pursuant to this subsection to discontinue ~~the issuance and renewal of the form of~~ the product at least 60 days before the ~~individual~~ carrier notifies the affected employers and persons covered ~~by the discontinued insurance~~ pursuant to paragraph (b).

(b) The carrier notifies each affected employer and person covered ~~by the discontinued insurance and the Commissioner and the chief regulatory officer in each state in which such a person is known to reside~~ of the decision of the carrier to discontinue ~~offering the form of~~ the product. The notice must be made at least ~~180~~ 90 days before the date on which the carrier will discontinue offering ~~the form of~~ the product.

(c) The carrier offers to each ~~person covered by the discontinued insurance~~ affected employer the option to purchase any other health benefit plan currently offered by the carrier to ~~large~~ groups in this state.

(d) In exercising the option to discontinue ~~the form of~~ the product and in offering the option to purchase other coverage pursuant to paragraph (c), the carrier acts uniformly without regard to the claim experience of the persons covered by the discontinued ~~insurance~~ product or any health status-related

factor relating to those persons or beneficiaries covered by the discontinued ~~form of the~~ product or any person or beneficiary who may become eligible for such coverage.

3. A carrier may discontinue the issuance and renewal of any type of group health insurance offered by the carrier in this state that is made available pursuant to this chapter only to a member of a bona fide association if:

(a) The membership of the person in the bona fide association was the basis for the provision of coverage under the group health insurance;

(b) The membership of the person in the bona fide association ceases; and

(c) Coverage is terminated pursuant to this subsection for all such former members uniformly without regard to any health status-related factor relating to the former member.

4. A carrier that elects not to renew group health insurance pursuant to paragraph (d) of subsection 1 shall not write new business pursuant to this chapter for 5 years after the date on which notice is provided to the Commissioner pursuant to subparagraph (2) of paragraph (d) of subsection 1.

5. If the carrier does business in only one geographic service area of this state, the provisions of this section apply only to the operations of the carrier in that service area.

6. As used in this section, “bona fide association” has the meaning ascribed to it in NRS 689A.485.

Sec. 111. NRS 689C.111 is hereby amended to read as follows:

689C.111 ~~1.— If an employer was not in existence throughout the entire preceding calendar year, the determination of whether the employer is a small or large employer must be based on the average number of employees reasonably expected to be employed on business days in the current calendar year.~~

~~2.— Except as otherwise provided by specific statute, the provisions of this chapter that apply to a small employer at the time that a carrier issues a health benefit plan to the small employer pursuant to the provisions of this chapter continue to apply at least until the plan anniversary following the date on which the small employer no longer meets the requirements of being a small employer.~~

~~3.—~~ An employee leasing company which has more than 50 employees, including leased employees at client locations, and which sponsors a fully insured health benefit plan for those employees shall be deemed to be a large employer for the purposes of this chapter.

Sec. 112. NRS 689C.310 is hereby amended to read as follows:

689C.310 1. Except as otherwise provided in subsections 2 and 3, a carrier shall renew a health benefit plan at the option of the small employer who purchased the plan.

2. A carrier may refuse to issue or to renew a health benefit plan if:

(a) The carrier discontinues transacting insurance in this state or in the geographic service area of this state where the employer is located;

(b) The employer fails to pay the premiums or contributions required by the terms of the plan;

(c) The employer misrepresents any information regarding the employees covered under the plan or other information regarding eligibility for coverage under the plan;

(d) The plan sponsor has engaged in an act or practice that constitutes fraud to obtain or maintain coverage under the plan;

(e) The employer is not in compliance with the minimum requirements for participation or employer contribution as set forth in the plan; or

(f) The employer fails to comply with any of the provisions of this chapter.

3. A carrier may require a small employer to exclude a particular employee or a dependent of the particular employee from coverage under a health benefit plan as a condition to renewal of the plan if the employee or dependent of the employee commits fraud upon the carrier or misrepresents a material fact which affects his or her coverage under the plan.

4. A carrier shall discontinue the issuance and renewal of coverage to a small employer if the Commissioner finds that the continuation of the coverage would not be in the best interests of the policyholders or certificate holders of the carrier in this state or would impair the ability of the carrier to meet its contractual obligations. If the Commissioner makes such a finding, the Commissioner shall assist the affected small employers in finding replacement coverage.

5. A carrier may discontinue ~~the issuance and renewal of a form of~~ a product ~~of a health benefit plan~~ offered to small employers ~~pursuant to this chapter if the Commissioner finds that the form of the product offered by the carrier is obsolete and is being replaced with comparable coverage. A form of a product of a health benefit plan may be discontinued by a carrier~~ pursuant to this subsection only if:

(a) The carrier notifies the Commissioner ~~and the chief regulatory officer for insurance in each state in which it is licensed~~ of its decision pursuant to this subsection to discontinue ~~the issuance and renewal of the form of~~ the product at least 60 days before the carrier notifies the affected small employers pursuant to paragraph (b).

(b) The carrier notifies each affected small employer ~~and the Commissioner and the chief regulatory officer for insurance in each state in which any affected small employer is located or eligible employee resides~~ of the decision of the carrier to discontinue ~~offering the form of~~ the product. The notice must be made at least ~~180~~ **90** days before the date on which the carrier will discontinue offering ~~the form of~~ the product.

(c) The carrier offers to each affected small employer the option to purchase any other health benefit plan currently offered by the carrier to small employers in this state.

(d) In exercising the option to discontinue ~~the particular form of~~ the product and in offering the option to purchase other coverage pursuant to

paragraph (c), the carrier acts uniformly without regard to the claims experience of the affected small employers or any health status-related factor relating to any participant or beneficiary covered by the discontinued product or any new participant or beneficiary who may become eligible for such coverage.

6. A carrier may discontinue the issuance and renewal of a health benefit plan offered to a small employer or an eligible employee pursuant to this chapter only through a bona fide association if:

(a) The membership of the small employer or eligible employee in the association was the basis for the provision of coverage;

(b) The membership of the small employer or eligible employee in the association ceases; and

(c) The coverage is terminated pursuant to this subsection uniformly without regard to any health status-related factor relating to the small employer or eligible employee or dependent of the eligible employee.

7. If a carrier does business in only one geographic service area of this state, the provisions of this section apply only to the operations of the carrier in that service area.

Sec. 113. NRS 689C.350 is hereby amended to read as follows:

689C.350 A health benefit plan which offers a difference of payment between preferred providers of health care and providers of health care who are not preferred:

1. Must require that the deductible and payment for coinsurance paid by the insured to a preferred provider of health care be applied to the negotiated reduced rates of that provider.

2. ~~Must include for providers of health care who are not preferred a provision establishing the point at which an insured's payment for coinsurance is no longer required to be paid if such a provision is included for preferred providers of health care. Such provisions must be based on a plan year. The point at which an insured's payment for coinsurance is no longer required to be paid for providers of health care who are not preferred must not be greater than twice the amount for preferred providers of health care, regardless of the method of payment.~~

~~—3.1~~ Must provide that if there is a particular service which a preferred provider of health care does not provide and the provider of health care who is treating the insured requests the service and the insurer determines that the use of the service is necessary for the health of the insured, the service shall be deemed to be provided by the preferred provider of health care.

Sec. 114. NRS 689C.470 is hereby amended to read as follows:

689C.470 1. Except as otherwise provided in NRS 689C.360 to 689C.600, inclusive, a carrier shall renew a contract as to all insured small employers that are members of a voluntary purchasing group and their employees and dependents at the request of the purchaser unless:

(a) Required premiums are not paid;

(b) The insured employer or other purchaser is guilty of fraud or misrepresentation;

(c) Provisions of the contract are breached;

(d) The number or percentage of employees covered under the contract is less than the number or percentage of eligible employees required by the contract;

(e) The employer or purchaser is no longer engaged in the business in which it was engaged on the effective date of the contract; or

(f) The Commissioner finds that the continuation of the coverage is not in the best interests of the persons insured under the contract or would impair the carrier's ability to meet its contractual obligations. If nonrenewal occurs as a result of findings pursuant to this subsection, the Commissioner shall assist affected persons in replacing coverage.

2. A carrier may discontinue ~~issuance and renewal of a form of~~ a product ~~of a health benefit plan~~ offered to a small employer or purchasers pursuant to NRS 689C.360 to 689C.600, inclusive, ~~if the Commissioner finds that the form of the product offered by the carrier is obsolete and is being replaced with comparable coverage. A form of a product of a health benefit plan may be discontinued by a carrier pursuant to this subsection~~ only if:

(a) The carrier notifies the Commissioner ~~and the chief regulatory officer for insurance in each state in which it is licensed~~ of its decision pursuant to this subsection to discontinue ~~offering and renewing the form of~~ the product at least 60 days before the carrier notifies the affected small employers and purchasers pursuant to paragraph (b).

(b) The carrier notifies each affected small employer and purchaser ~~and the Commissioner and the chief regulatory officer for insurance in each state in which any affected small employer is located or employee resides,~~ of the decision of the carrier to discontinue ~~offering the form of~~ the product. The notice must be made at least ~~180~~ 90 days before the date on which the carrier will discontinue offering ~~the form of~~ the product.

(c) The carrier offers to each affected small employer and purchaser the option to purchase any other health benefit plan currently offered by the carrier to small employers in this state.

(d) In exercising the option to discontinue ~~the particular form of~~ the product and in offering the option to purchase other coverage pursuant to paragraph (c), the carrier acts uniformly without regard to the claim experience of the affected small employers and any health status-related factor relating to any participant or beneficiary covered by the discontinued product or any new participant or beneficiary who may become eligible for such coverage.

3. A carrier may discontinue the issuance and renewal of a health benefit plan offered to a voluntary purchasing group pursuant to this chapter only through a bona fide association if:

(a) The membership of the small employer who employs the members of the voluntary purchasing group or the purchaser in the association was the basis for the provision of coverage;

(b) The membership of that small employer or the purchaser in the association ceases; and

(c) The coverage is terminated pursuant to this subsection uniformly without regard to any health status-related factor relating to the small employer or the purchaser or his or her dependent.

Sec. 115. NRS 689C.520 is hereby amended to read as follows:

689C.520 1. Before the issuance of a certificate of registration, each voluntary purchasing group shall, to the satisfaction of the Commissioner:

(a) Establish the conditions of membership in the group and require as a condition of membership that all employers include all their eligible employees. The group may not differentiate among classes of membership on the basis of the kind of employment, race, religion, sex, education, health or income. The group shall set reasonable fees for membership which will finance all reasonable and necessary costs incurred in administering the group.

(b) Provide to members of the group and their eligible employees **any applicable disclosures of the coverage provided by any proposed contracts and any applicable** information ~~meeting the requirements of NRS 689C.440 regarding~~ **regarding available benefits and carriers provided by** any proposed contracts.

2. In addition to the information required pursuant to subsection 1, a voluntary purchasing group shall provide annually to members of the group information regarding available benefits and carriers.

Sec. 116. NRS 690B.200 is hereby amended to read as follows:

690B.200 As used in NRS 690B.200 to ~~690B.370,~~ **690B.360**, inclusive, unless the context otherwise requires, the words and terms defined in NRS 690B.210 to 690B.240, inclusive, have the meanings ascribed to them in those sections.

Sec. 117. NRS 690B.250 is hereby amended to read as follows:

690B.250 Except as more is required in NRS 630.3067 and 633.526:

1. Each insurer which issues a policy of insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS for a breach of his or her professional duty toward a patient shall report to the board which licensed the practitioner within 45 days each settlement or award made or judgment rendered by reason of a claim, if the settlement, award or judgment is for more than \$5,000, giving the name ~~and address~~ of the claimant and the practitioner and the circumstances of the case.

2. A practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS who does not have insurance covering liability for a breach of his or her professional duty toward a patient shall report to the board which issued the practitioner's license within 45 days of each settlement or award made or judgment rendered by reason of a claim, if the settlement, award or judgment

is for more than \$5,000, giving the practitioner's name , ~~[and address,]~~ the name ~~[and address]~~ of the claimant and the circumstances of the case.

3. These reports are public records and must be made available for public inspection within a reasonable time after they are received by the licensing board.

Sec. 118. NRS 690B.260 is hereby amended to read as follows:

690B.260 1. Each insurer which issues a policy of insurance covering the liability of a physician licensed under chapter 630 of NRS or an osteopathic physician licensed under chapter 633 of NRS for a breach of his or her professional duty toward a patient shall, within 45 days after the end of a calendar quarter, submit a report to the Commissioner concerning each claim that was closed during that calendar quarter under such a policy of insurance issued by the insurer and any change during that calendar quarter to any claim under such a policy of insurance issued by the insurer that was closed during a previous calendar quarter. The report must include, without limitation:

(a) The name ~~[and address]~~ of the claimant and the insured under each policy;

(b) A statement setting forth the circumstances of that case;

(c) Information indicating whether any payment was made on a claim and the amount of the payment, if any; and

(d) The information specified in subsection 1 of NRS 679B.144 for each claim.

2. An insurer who fails to comply with the provisions of subsection 1 is subject to the imposition of an administrative fine pursuant to NRS 679B.460.

3. The Commissioner shall, within 30 days after receiving a report from an insurer pursuant to this section, submit a report to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, setting forth the information provided to the Commissioner by the insurer pursuant to this section.

Sec. 119. NRS 690B.350 is hereby amended to read as follows:

690B.350 1. *The requirements of this section apply only if, after a hearing convened at the discretion of the Commissioner, the Commissioner determines that the market for professional liability insurance issued to any class, type or specialty of practitioner licensed pursuant to chapter 630, 631 or 633 of NRS is not competitive and that such insurance is unavailable or unaffordable for a substantial number of such practitioners.*

2. *If the Commissioner convenes a hearing pursuant to subsection 1 and issues a finding that the market for professional liability insurance issued to any class, type or specialty of practitioner licensed pursuant to chapter 630, 631 or 633 of NRS is not competitive, the Commissioner may designate that class, type or specialty of practitioner to be an essential medical specialty.*

3. Except as otherwise provided in this section, if an insurer intends to cancel, terminate or otherwise not renew all policies of professional liability insurance that it has issued to any class, type or specialty of practitioner licensed pursuant to chapter 630, 631 or 633 of NRS, the insurer must provide 120 days' notice of its intended action to the Commissioner and the practitioners before its intended action becomes effective.

~~{2.}~~ 4. If an insurer intends to cancel, terminate or otherwise not renew a specific policy of professional liability insurance that it has issued to a practitioner who is practicing in one or more of the essential medical specialties designated by the Commissioner:

(a) The insurer must provide 120 days' notice to the practitioner before its intended action becomes effective; and

(b) The Commissioner may require the insurer to delay its intended action for a period of not more than 60 days if the Commissioner determines that a replacement policy is not readily available to the practitioner.

~~{3.}~~ 5. If an insurer intends to cancel, terminate or otherwise not renew all policies of professional liability insurance that it has issued to practitioners who are practicing in one or more of the essential medical specialties designated by the Commissioner:

(a) The insurer must provide 120 days' notice of its intended action to the Commissioner and the practitioners before its intended action becomes effective; and

(b) The Commissioner may require the insurer to delay its intended action for a period of not more than 60 days if the Commissioner determines that replacement policies are not readily available to the practitioners.

~~{4.} On or before April 1 of each year, the Commissioner shall:~~

~~—(a) Determine whether there are any medical specialties in this State which are essential as a matter of public policy and which must be protected pursuant to this section from certain adverse actions relating to professional liability insurance that may impair the availability of those essential medical specialties to the residents of this State; and~~

~~—(b) Make a list containing the essential medical specialties designated by the Commissioner and provide the list to each insurer that issues policies of professional liability insurance to practitioners who are practicing in one or more of the essential medical specialties.~~

~~{5.}~~ 6. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.

~~{6.} Until the Commissioner determines which, if any, medical specialties are to be designated as essential medical specialties, the following medical specialties shall be deemed to be essential medical specialties for the purposes of this section:~~

~~—(a) Emergency medicine.~~

~~—(b) Neurosurgery.~~

~~—(c) Obstetrics and gynecology.~~

~~—(d) Orthopedic surgery.~~

~~—(e) Pediatrics.~~

~~—(f) Trauma surgery.~~

Sec. 120. NRS 690B.360 is hereby amended to read as follows:

690B.360 1. The Commissioner ~~{shall}~~ **may** collect all information which is pertinent to monitoring whether an insurer that issues professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS is complying with the applicable standards for rates established in NRS 686B.010 to 686B.1799, inclusive ~~{,}~~ **and sections 35 to 39, inclusive, of this act.** Such information ~~{must}~~ **may** include, without limitation:

(a) The amount of gross premiums collected with regard to each medical specialty;

(b) Information relating to loss ratios;

(c) Information reported pursuant to NRS ~~{690B.250;}~~ **690B.260;** and

(d) Information reported pursuant to NRS 679B.430 and 679B.440.

2. In addition to the information collected pursuant to subsection 1, the Commissioner may request any additional information from an insurer:

(a) Whose rates and credit utilization are materially different from other insurers in the market for professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS in this State;

(b) Whose credit utilization shows a substantial change from the previous year; or

(c) Whose information collected pursuant to subsection 1 indicates a potentially adverse trend.

3. If the Commissioner requests additional information from an insurer pursuant to subsection 2, the Commissioner ~~{shall;}~~ **may:**

(a) Determine whether the additional information offers a reasonable explanation for the results described in paragraph (a), (b) or (c) of subsection 2; and

(b) Take any steps permitted by law that are necessary and appropriate to assure the ongoing stability of the market for professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS in this State.

4. On an ongoing basis, the Commissioner ~~{shall:~~

~~—(a) Analyze}~~ **may analyze** and evaluate the information collected pursuant to this section to determine trends in and measure the health of the market for professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS in this State . ~~{, and~~

~~—(b) Prepare}~~

5. ***If the Commissioner convenes a hearing pursuant to subsection 1 of NRS 690B.350 and determines that the market for professional liability insurance issued to any class, type or specialty of practitioner licensed pursuant to chapter 630, 631 or 633 of NRS is not competitive and that such insurance is unavailable or unaffordable for a substantial number of such practitioners, the Commissioner shall prepare*** and submit a report of

the Commissioner's findings and recommendations to the Director of the Legislative Counsel Bureau for transmittal to members of the Legislature .
~~{on or before November 15 of each year.}~~

Sec. 121. Chapter 690C of NRS is hereby amended by adding thereto the provisions set forth as sections 122, 123 and 124 of this act.

Sec. 122. *"Controlling person" means a person who qualifies as a controlling person of a provider pursuant to section 123 of this act.*

Sec. 123. ~~{1.}~~ A person is a controlling person of a provider if ~~{~~

~~(a) The person:~~

~~1. Is an officer of the provider ~~{is a business entity and the person possesses}~~; or~~

~~2. Possesses the authority to set the policy and direct the management of the business entity ~~{~~~~

~~(b) The provider is a corporation and the person:~~

~~(1) Possesses direct or indirect control of 25 percent or more of the voting securities of the corporation; or~~

~~(2) Is the president, the secretary or a director of the corporation;~~

~~(c) The provider is a partnership and the person is a general partner of the partnership; or~~

~~(d) The provider is a limited partnership and the person is a controlling person of a business entity which is the general partner of the limited partnership.~~

~~2. As used in this section, "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.} in connection with its service contract business.~~

Sec. 124. 1. Except as otherwise provided in this section, a provider shall not transfer any liability relating to a service contract to another provider or any other person, including, without limitation, another provider or other person with whom the original provider has merged or plans to merge.

2. A provider may transfer a liability relating to a service contract to another provider or any other person if, before the liability is transferred:

(a) The original provider submits a proposal to the Commissioner to transfer the liability; and

(b) The Commissioner approves the proposal pursuant to subsection 3.

3. The Commissioner may approve a proposal made by a provider pursuant to subsection 2 if the Commissioner determines, after reviewing the financial condition of the provider or other person to whom the liability is proposed to be transferred, that the proposed recipient of the transfer has adequate financial resources to enable the proposed recipient to pay in full and in a timely manner all liabilities proposed to be transferred to the proposed recipient.

4. The provisions of this section do not apply to any transaction relating to a contractual liability insurance policy into which the provider enters to satisfy the requirements of NRS 690C.170.

Sec. 125. NRS 690C.010 is hereby amended to read as follows:

690C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 690C.020 to 690C.080, inclusive, **and section 122 of this act**, have the meanings ascribed to them in those sections.

Sec. 126. NRS 690C.100 is hereby amended to read as follows:

690C.100 1. The provisions of this title do not apply to:

- (a) A warranty;
- (b) A maintenance agreement;
- (c) A service contract provided by a public utility on its transmission device if the service contract is regulated by the Public Utilities Commission of Nevada;
- (d) A service contract sold or offered for sale to a person who is not a consumer;
- (e) A service contract for goods if the purchase price of the goods is less than \$250; or
- (f) ~~Except as otherwise provided in NRS 690C.240, a~~ A service contract issued, sold or offered for sale by a vehicle dealer on vehicles sold by the dealer, if the dealer is licensed pursuant to NRS 482.325 and the service contract obligates either the dealer or the manufacturer of the vehicle, or an affiliate of the dealer or manufacturer, to provide all services under the service contract.

2. The sale of a service contract pursuant to this chapter does not constitute the business of insurance for the purposes of 18 U.S.C. §§ 1033 and 1034.

3. As used in this section:

- (a) "Maintenance agreement" means a contract for a limited period that provides only for scheduled maintenance.
- (b) "Warranty" means a warranty provided solely by a manufacturer, importer or seller of goods for which the manufacturer, importer or seller did not receive separate consideration and that:

- (1) Is not negotiated or separated from the sale of the goods;
- (2) Is incidental to the sale of the goods; and
- (3) Guarantees to indemnify the consumer for defective parts, mechanical or electrical failure, labor or other remedial measures required to repair or replace the goods.

Sec. 127. NRS 690C.160 is hereby amended to read as follows:

690C.160 1. A provider who wishes to issue, sell or offer for sale service contracts in this state must submit to the Commissioner:

- (a) A registration application on a form prescribed by the Commissioner;
- (b) Proof that the provider has complied with the requirements for **financial** security set forth in NRS 690C.170;

(c) A copy of each type of service contract the provider proposes to issue, sell or offer for sale;

(d) The name, address and telephone number of each administrator with whom the provider intends to contract; ~~and~~

(e) A fee of \$1,000 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110 ~~}; and~~

~~(f) A completed personal information form from each controlling person of the provider on a form prescribed by the Commissioner; and~~

~~(g) A completed criminal history questionnaire from each controlling person of the provider on a form prescribed by the Commissioner.~~ The following information for each controlling person:

(1) Whether the person, in the last 10 years, has been:

(I) Convicted of a felony or misdemeanor of which an essential element is fraud;

(II) Insolvent or adjudged bankrupt;

(III) Refused a license or registration as a service contract provider or had an existing license or registration as a service contract provider suspended or revoked by any state or governmental agency or authority; or

(IV) Fined by any state or governmental agency or authority in any matter regarding service contracts; and

(2) Whether there are any pending criminal actions against the person other than moving traffic violations.

2. In addition to the fee required by subsection 1, a provider must pay a fee of \$25 for each type of service contract the provider files with the Commissioner.

3. A certificate of registration is valid for 1 year after the date the Commissioner issues the certificate to the provider. A provider may renew his or her certificate of registration if, before the certificate expires, the provider submits to the Commissioner ~~an~~ :

(a) An application on a form prescribed by the Commissioner ~~}; a~~;

(b) A fee of \$1,000 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110 ~~}; and~~

(c) ~~A completed personal information form and completed criminal history questionnaire from each~~. The information required by paragraph (f) of subsection 1:

(1) If an existing controlling person ~~of the provider who~~ has had a change in any of the information previously submitted to the Commissioner ~~(pursuant to this section)~~; or

(2) For a controlling person who has not previously submitted ~~to~~ personally the information ~~(form or criminal history questionnaire)~~ required by paragraph (f) of subsection 1 to the Commissioner ~~, (pursuant to this section).~~

4. All fees paid pursuant to this section are nonrefundable.

5. Each application submitted pursuant to this section, including, without limitation, an application for renewal, must:

(a) Be signed by an executive officer, if any, of the provider or, if the provider does not have an executive officer, by a controlling person of the provider; and

(b) Have attached to it an affidavit signed by the person described in paragraph (a) which meets the requirements of subsection 6.

6. Before signing the application described in subsection 5, the person who signs the application shall ~~be~~

~~(a) Verify the accuracy of the information in the application; and~~

~~(b) Attach to the application an affidavit affirming that the information in the application is accurate and that he or she has verified the information in the application.~~ verify that the information provided is accurate to the best of his or her knowledge.

Sec. 128. NRS 690C.170 is hereby amended to read as follows:

690C.170 1. To be issued a certificate of registration, a provider must comply with one of the following ~~be~~:

~~1.~~ to provide for financial security:

(a) Purchase a contractual liability insurance policy which ~~names the Division as an additional insured and which~~ insures the obligations of each service contract the provider issues, sells or offers for sale. The contractual liability insurance policy must ~~be~~:

(1) Be issued by an insurer which is licensed, registered or otherwise authorized to transact insurance in this state or pursuant to the provisions of chapter 685A of NRS.

(2) Contain a provision prohibiting the insurer from terminating the policy until a notice of termination has been mailed or delivered to the Commissioner at least 60 days prior to the termination of the policy. Any such termination shall not reduce the responsibility of the insurer for service contracts issued by the provider prior to the effective date of termination.

~~{2.}~~ (b) Maintain a reserve account *in this State* and deposit with the Commissioner security as provided in this subsection. The reserve account must contain at all times an amount of money equal to at least 40 percent of the unearned gross consideration received by the provider for any unexpired service contracts. *The reserve account must be kept separate from the operating accounts of the provider and must be clearly identified as the “(Provider’s Name) Nevada Service Contracts Funded Reserve Account.”*

The Commissioner may examine the reserve account at any time. The provider shall also deposit with the Commissioner security in an amount that is equal to \$25,000 or 10 percent of the unearned gross consideration received by the provider for any unexpired service contracts, whichever is greater. The security must be:

~~{a.}~~ (1) A surety bond issued by a surety company authorized to do business in this State;

~~{b.}~~ (2) Securities of the type eligible for deposit pursuant to NRS 682B.030;

~~{{e}}~~ (3) Cash;

~~{{d}}~~ (4) An irrevocable letter of credit issued by a financial institution approved by the Commissioner; or

~~{{e}}~~ (5) In any other form prescribed by the Commissioner.

~~{{c}}~~ (c) Maintain, or be a subsidiary of a parent company that maintains, a net worth or stockholders' equity of at least \$100,000,000. Upon request, a provider shall provide to the Commissioner a copy of the most recent Form 10-K report or Form 20-F report filed by the provider or parent company of the provider with the Securities and Exchange Commission within the previous year. If the provider or parent company is not required to file those reports with the Securities and Exchange Commission, the provider shall provide to the Commissioner a copy of the most recently audited financial statements of the provider or parent company. If the net worth or stockholders' equity of the parent company of the provider is used to comply with the requirements of this subsection, the parent company must guarantee to carry out the duties of the provider under any service contract issued or sold by the provider.

2. A provider shall not use any money in a reserve account described in paragraph (b) of subsection 1 for any purpose other than to pay an obligation of the provider under an unexpired service contract.

3. A provider shall maintain the financial security required by subsection 1 until:

(a) The provider ceases doing business in this State; and

(b) ~~[[The certificate of registration of the provider expires; and~~

~~—(e)] The provider has performed or otherwise satisfied all liabilities and obligations under all unexpired service contracts issued by the provider.~~

4. If the certificate of registration of a provider has not expired and the provider fails to maintain the financial security required by subsection 1, including, without limitation, if the financial security is cancelled or lapses, the provider shall not issue or sell a service contract on or after the effective date of such failure until the provider submits to the Commissioner proof satisfactory to the Commissioner that the provider is in compliance with subsection 1.

Sec. 129. NRS 690C.240 is hereby amended to read as follows:

690C.240 1. A provider ~~[[who, whether directly or through a vehicle dealer licensed pursuant to NRS 482.325, enters into a vehicle service contract with a buyer]]~~ shall, within 30 days after ceasing doing business in this State, notify ~~[[any buyer who purchased such a contract]]~~ **the Commissioner and each holder of an unexpired service contract** in writing of the fact that the provider has ceased doing business in this State . ~~[[if the specified period of the vehicle service contract has not yet expired.]]~~

2. The provisions of this section do not:

(a) Render a service contract void pursuant to NRS 690C.250;

(b) Cancel a service contract pursuant to NRS 690C.270; or

(c) Release the provider from any liability imposed by a violation of any provision of this chapter.

~~{3. As used in this section:~~

~~—(a) “Buyer” means the buyer of a vehicle service contract.~~

~~—(b) “Vehicle service contract” means a contract pursuant to which a provider, in exchange for separately stated consideration, is obligated for a specified period to a buyer to repair, replace or perform maintenance on, or indemnify or reimburse the buyer for the costs of repairing, replacing or performing maintenance on, a motor vehicle which is described in the vehicle service contract and which has an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including, without limitation, a contract that includes a provision for incidental payment of indemnity under limited circumstances, including, without limitation, towing, rental and emergency road service.]~~

Sec. 130. NRS 691C.340 is hereby amended to read as follows:

691C.340 ~~{1. The Commissioner shall, by regulation, establish reasonable rates as described in this chapter and in accordance with the standards established in NRS 686B.050 and 686B.060. The rates must be reasonable in relation to the benefits provided and must not be excessive, inadequate or unfairly discriminatory.~~

~~—2.}~~ The Commissioner may, by regulation, establish rates that an insurer may use without filing pursuant to NRS 691C.320. In establishing such rates, the Commissioner shall consider and apply the following factors:

~~{(a)}~~ 1. Actual and expected loss experience;

~~{(b)}~~ 2. General and administrative expenses;

~~{(c)}~~ 3. Loss settlement and adjustment expenses;

~~{(d)}~~ 4. Reasonable creditor compensation;

~~{(e)}~~ 5. The manner in which premiums are charged;

~~{(f)}~~ 6. Other acquisition costs;

~~{(g)}~~ 7. Reserves;

~~{(h)}~~ 8. Taxes;

~~{(i)}~~ 9. Regulatory license fees and fund assessments;

~~{(j)}~~ 10. Reasonable insurer profit; and

~~{(k)}~~ 11. Other relevant data consistent with generally accepted actuarial standards.

Sec. 131. NRS 691C.390 is hereby amended to read as follows:

691C.390 1. Each individual policy or certificate of insurance must provide for a refund of unearned premiums if the credit personal property insurance is cancelled before the scheduled date of termination of the insurance.

2. Except as otherwise provided in this section, any refund must be provided to the person to whom it is entitled as soon as practicable after the date of cancellation of the insurance.

3. ~~{The Commissioner shall, by regulation, establish the minimum amount of unearned premiums that must remain outstanding at the time of~~

~~cancellation in order for a person to be entitled to a refund. If the amount of unearned premiums that remains outstanding at the time of cancellation is less than the minimum amount established by regulation, the person is not entitled to a refund.~~

~~—4.1~~ The formula that an insurer uses to determine the amount of a refund must be submitted to and approved by the Commissioner before it is used.

Sec. 132. Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A corporation organized under this chapter shall contract with an insurance company licensed in this State or authorized to do business in this State for the provision of insurance, indemnity or reimbursement against the cost of hospital services, medical services and dental services which are provided by the corporation.*

2. *The contract of insurance required by subsection 1 must include a provision that, in the case of the insolvency or impairment of the corporation, the insurance company will pay all claims made by an insured for the period for which a premium has been or will be paid to the corporation for the insured. The contract of insurance required by subsection 1 must specifically provide for the:*

(a) Continuation of benefits to each insured for the period for which a premium has been or will be paid to the corporation for the insured until the expiration or termination of the insured's contract with the corporation;

(b) Continuation of benefits for each insured who is receiving inpatient services in a medical facility or facility for the dependent at the time of the insolvency or impairment of the corporation until the inpatient services are no longer medically necessary and the insured is discharged from the medical facility or facility for the dependent; and

(c) Payment of a provider of health care not affiliated with the corporation who provided medically necessary services to an insured, as described in the insured's contract with the corporation, the insured's policy or the insured's evidence of coverage.

3. *As used in this section:*

(a) "Facility for the dependent" has the meaning ascribed to it in NRS 449.0045.

(b) "Impairment" means that a corporation organized under this chapter is not insolvent and has been:

(1) Deemed to be impaired pursuant to NRS 695B.150; or

(2) Placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(c) "Insolvency" or "insolvent" means that a corporation organized under this chapter has been:

(1) Deemed to be insolvent pursuant to NRS 695B.150;

(2) Declared insolvent by a court of competent jurisdiction; or

(3) Placed under an order of liquidation by a court of competent jurisdiction.

(d) "Medical facility" has the meaning ascribed to it in NRS 449.0151.

(e) "Medically necessary" has the meaning ascribed to it in NRS 695G.055.

(f) "Provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 133. NRS 695B.150 is hereby amended to read as follows:

695B.150 **1.** A corporation organized under this chapter shall be deemed to be insolvent if ~~its~~ :

(a) The corporation fails to meet its obligations as they mature;

(b) The assets of the corporation are less than the sum of its liabilities and the minimum surplus required to be maintained by the corporation under this Code for authority to transact the kinds of insurance transacted; and

(c) The reserve fund of the corporation is ~~impaired so as to be~~ less than the amounts set forth in NRS 695B.140.

2. In addition to the provisions of subsection 1, a corporation organized under this chapter shall be deemed to be insolvent as otherwise expressly provided in this Code.

3. For the purposes of determining ~~such~~ insolvency pursuant to subsection 1 or 2 and the financial condition of the corporation, for the purposes of preparation of annual statements, and for all other purposes not otherwise expressly provided for in this chapter, the corporation is subject to all requirements of the laws of the State of Nevada as to assets, liabilities and reserves which are applicable to mutual nonassessable life or health insurers.

4. A corporation organized under this chapter shall be deemed to be impaired if the assets of the corporation are less than the sum of its liabilities and the minimum surplus required to be maintained by the corporation under this Code for authority to transact the kinds of insurance transacted.

5. The Commissioner may adopt regulations to define when a corporation organized under this chapter is considered to be in a hazardous financial condition and to set forth the standards to be considered by the Commissioner in determining whether the continued operation of such a corporation transacting business in this State may be considered to be hazardous to its insureds or creditors or to the general public.

6. If the Commissioner determines after a hearing that any corporation organized under this chapter is in a hazardous financial condition, the Commissioner may, instead of suspending or revoking the certificate of authority of the corporation, limit the certificate of authority as the Commissioner deems reasonably necessary to correct, eliminate or remedy any conduct, condition or ground that is deemed to be a cause of the hazardous financial condition.

7. An order or decision of the Commissioner under this section is subject to review in accordance with NRS 679B.310 to 679B.370, inclusive, at the request of any party to the proceedings whose interests are substantially affected.

Sec. 134. NRS 695B.185 is hereby amended to read as follows:

695B.185 A group contract for hospital, medical or dental services which offers a difference of payment between preferred providers of health care and providers of health care who are not preferred:

1. May not require a deductible of more than \$600 difference per admission to a facility for inpatient treatment which is not a preferred provider of health care.

2. May not require a deductible of more than \$500 difference per treatment, other than inpatient treatment at a hospital, by a provider which is not preferred.

3. May not require an insured, another insurer who issues policies of group health insurance, a nonprofit medical service corporation or a health maintenance organization to pay any amount in excess of the deductible or coinsurance due from the insured based on the rates agreed upon with a provider.

4. May not provide for a difference in percentage rates of payment for coinsurance of more than 30 percentage points between the copayment required to be paid by the insured to a preferred provider of health care and the copayment required to be paid by the insured to a provider of health care who is not preferred.

5. Must require that the deductible and payment for coinsurance paid by the insured to a preferred provider of health care be applied to the negotiated reduced rates of that provider.

~~6. Must include for providers of health care who are not preferred a provision establishing the point at which an insured's payment for coinsurance is no longer required to be paid if such a provision is included for preferred providers of health care. Such provisions must be based on a calendar year. The point at which an insured's payment for coinsurance is no longer required to be paid for providers of health care who are not preferred must not be greater than twice the amount for preferred providers of health care, regardless of the method of payment.~~

~~—7.1~~ Must provide that if there is a particular service which a preferred provider of health care does not provide and the provider of health care who is treating the insured determines that the use of the service is necessary for the health of the insured, the service shall be deemed to be provided by the preferred provider of health care.

~~18.1~~ 7. Must require the corporation to process a claim of a provider of health care who is not preferred not later than 30 working days after the date on which proof of the claim is received.

Sec. 135. NRS 695B.1903 is hereby amended to read as follows:

695B.1903 1. A policy of health insurance issued by a medical services corporation must provide coverage for medical treatment which a person insured under the policy receives as part of a clinical trial or study if:

(a) The medical treatment is provided in a Phase I, Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or in a Phase II, Phase III or Phase IV study or clinical trial for the treatment of chronic fatigue syndrome;

(b) The clinical trial or study is approved by:

(1) An agency of the National Institutes of Health as set forth in 42 U.S.C. § 281(b);

(2) A cooperative group;

(3) The Food and Drug Administration as an application for a new investigational drug;

(4) The United States Department of Veterans Affairs; or

(5) The United States Department of Defense;

(c) In the case of:

(1) A Phase I clinical trial or study for the treatment of cancer, the medical treatment is provided at a facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer; or

(2) A Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or chronic fatigue syndrome, the medical treatment is provided by a provider of health care and the facility and personnel for the clinical trial or study have the experience and training to provide the treatment in a capable manner;

(d) There is no medical treatment available which is considered a more appropriate alternative medical treatment than the medical treatment provided in the clinical trial or study;

(e) There is a reasonable expectation based on clinical data that the medical treatment provided in the clinical trial or study will be at least as effective as any other medical treatment;

(f) The clinical trial or study is conducted in this State; and

(g) The insured has signed, before participating in the clinical trial or study, a statement of consent indicating that the insured has been informed of, without limitation:

(1) The procedure to be undertaken;

(2) Alternative methods of treatment; and

(3) The risks associated with participation in the clinical trial or study, including, without limitation, the general nature and extent of such risks.

2. Except as otherwise provided in subsection 3, the coverage for medical treatment required by this section is limited to:

(a) Coverage for any drug or device that is approved for sale by the Food and Drug Administration without regard to whether the approved drug or device has been approved for use in the medical treatment of the insured person.

(b) The cost of any reasonably necessary health care services that are required as a result of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study or as a result of any complication arising out of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study, to the extent that such health care services would otherwise be covered under the policy of health insurance.

(c) The cost of any routine health care services that would otherwise be covered under the policy of health insurance for an insured participating in a Phase I clinical trial or study.

(d) The initial consultation to determine whether the insured is eligible to participate in the clinical trial or study.

(e) Health care services required for the clinically appropriate monitoring of the insured during a Phase II, Phase III or Phase IV clinical trial or study.

(f) Health care services which are required for the clinically appropriate monitoring of the insured during a Phase I clinical trial or study and which are not directly related to the clinical trial or study.

➔ Except as otherwise provided in NRS 695B.1901, the services provided pursuant to paragraphs (b), (c), (e) and (f) must be covered only if the services are provided by a provider with whom the medical services corporation has contracted for such services. If the medical services corporation has not contracted for the provision of such services, the medical services corporation shall pay the provider the rate of reimbursement that is paid to other providers with whom the medical services corporation has contracted for similar services and the provider shall accept that rate of reimbursement as payment in full.

3. Particular medical treatment described in subsection 2 and provided to a person insured under the policy is not required to be covered pursuant to this section if that particular medical treatment is provided by the sponsor of the clinical trial or study free of charge to the person insured under the policy.

4. The coverage for medical treatment required by this section does not include:

(a) Any portion of the clinical trial or study that is customarily paid for by a government or a biotechnical, pharmaceutical or medical industry.

(b) Coverage for a drug or device described in paragraph (a) of subsection 2 which is paid for by the manufacturer, distributor or provider of the drug or device.

(c) Health care services that are specifically excluded from coverage under the insured's policy of health insurance, regardless of whether such services are provided under the clinical trial or study.

(d) Health care services that are customarily provided by the sponsors of the clinical trial or study free of charge to the participants in the trial or study.

(e) Extraneous expenses related to participation in the clinical trial or study including, without limitation, travel, housing and other expenses that a participant may incur.

(f) Any expenses incurred by a person who accompanies the insured during the trial or study.

(g) Any item or service that is provided solely to satisfy a need or desire for data collection or analysis that is not directly related to the clinical management of the insured.

(h) Any costs for the management of research relating to the clinical trial or study.

5. A medical services corporation that delivers or issues for delivery a policy of health insurance specified in subsection 1 may require copies of the approval or certification issued pursuant to paragraph (b) of subsection 1, the statement of consent signed by the insured, protocols for the clinical trial or study and any other materials related to the scope of the clinical trial or study relevant to the coverage of medical treatment pursuant to this section.

6. A medical services corporation that delivers or issues for delivery a policy of health insurance specified in subsection 1 shall:

(a) Include in ~~the~~ **any** disclosure ~~[required pursuant to NRS 695B.172]~~ **of the coverage provided by the policy** notice to each person insured under the policy of the availability of the benefits required by this section.

(b) Provide the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for coverage that are required under the policy.

7. A policy of health insurance subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2006, has the legal effect of including the coverage required by this section, and any provision of the policy that conflicts with this section is void.

8. A medical services corporation that delivers or issues for delivery a policy of health insurance specified in subsection 1 is immune from liability for:

(a) Any injury to the insured caused by:

(1) Any medical treatment provided to the insured in connection with his or her participation in a clinical trial or study described in this section; or

(2) An act or omission by a provider of health care who provides medical treatment or supervises the provision of medical treatment to the insured in connection with his or her participation in a clinical trial or study described in this section.

(b) Any adverse or unanticipated outcome arising out of an insured's participation in a clinical trial or study described in this section.

9. As used in this section:

(a) "Cooperative group" means a network of facilities that collaborate on research projects and has established a peer review program approved by the National Institutes of Health. The term includes:

(1) The Clinical Trials Cooperative Group Program; and

(2) The Community Clinical Oncology Program.

(b) "Facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer" means a facility or an affiliate of a facility that:

(1) Has in place a Phase I program which permits only selective participation in the program and which uses clear-cut criteria to determine eligibility for participation in the program;

(2) Operates a protocol review and monitoring system which conforms to the standards set forth in the “Policies and Guidelines Relating to the Cancer Center Support Grant” published by the Cancer Centers Branch of the National Cancer Institute;

(3) Employs at least two researchers and at least one of those researchers receives funding from a federal grant;

(4) Employs at least three clinical investigators who have experience working in Phase I clinical trials or studies conducted at a facility designated as a comprehensive cancer center by the National Cancer Institute;

(5) Possesses specialized resources for use in Phase I clinical trials or studies, including, without limitation, equipment that facilitates research and analysis in proteomics, genomics and pharmacokinetics;

(6) Is capable of gathering, maintaining and reporting electronic data; and

(7) Is capable of responding to audits instituted by federal and state agencies.

(c) “Provider of health care” means:

(1) A hospital; or

(2) A person licensed pursuant to chapter 630, 631 or 633 of NRS.

Sec. 136. NRS 695B.1927 is hereby amended to read as follows:

695B.1927 1. No contract for hospital or medical service that provides coverage for hospital, medical or surgical expenses may be delivered or issued for delivery in this state unless the contract includes coverage for the management and treatment of diabetes, including, without limitation, coverage for the self-management of diabetes.

2. An insurer who delivers or issues for delivery a contract specified in subsection 1:

(a) Shall include in ~~the~~ **any** disclosure ~~required pursuant to NRS 695B.1721~~ **of the coverage provided by the contract** notice to each policyholder or subscriber covered under the contract of the availability of the benefits required by this section.

(b) Shall provide the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for coverage that are required under the contract.

3. A contract for hospital or medical service subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 1998, has the legal effect of including the coverage required by this section, and any provision of the contract that conflicts with this section is void.

4. As used in this section:

(a) "Coverage for the management and treatment of diabetes" includes coverage for medication, equipment, supplies and appliances that are medically necessary for the treatment of diabetes.

(b) "Coverage for the self-management of diabetes" includes:

(1) The training and education provided to a person covered under the contract after the person is initially diagnosed with diabetes which is medically necessary for the care and management of diabetes, including, without limitation, counseling in nutrition and the proper use of equipment and supplies for the treatment of diabetes;

(2) Training and education which is medically necessary as a result of a subsequent diagnosis that indicates a significant change in the symptoms or condition of the person covered under the contract and which requires modification of the person's program of self-management of diabetes; and

(3) Training and education which is medically necessary because of the development of new techniques and treatment for diabetes.

(c) "Diabetes" includes type I, type II and gestational diabetes.

Sec. 137. NRS 695B.290 is hereby amended to read as follows:

695B.290 Any agent of a nonprofit hospital or medical or dental service corporation who acts as such in the solicitation, negotiation, procurement or making of a hospital service or medical or dental care contract shall be qualified, examined and licensed in the same manner and pay the same fees as provided for ~~health insurance agents~~ **a producer of insurance** in NRS 680B.010 (fee schedule), chapter 683A of NRS and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

Sec. 138. NRS 695B.320 is hereby amended to read as follows:

695B.320 **1.** Nonprofit hospital and medical or dental service corporations are subject to the provisions of this chapter, and to the provisions of chapters 679A and 679B of NRS, NRS 686A.010 to 686A.315, inclusive, 687B.010 to 687B.040, inclusive, 687B.070 to 687B.140, inclusive, 687B.150, 687B.160, 687B.180, 687B.200 to 687B.255, inclusive, 687B.270, 687B.310 to 687B.380, inclusive, 687B.410, 687B.420, 687B.430, 687B.500 and chapters ~~692B~~, 692C, ~~693A~~ and 696B of NRS, to the extent applicable and not in conflict with the express provisions of this chapter.

2. *For the purposes of this section and the provisions set forth in subsection 1, a nonprofit hospital and medical or dental service corporation is included in the meaning of the term "insurer."*

Sec. 139. NRS 695B.380 is hereby amended to read as follows:

695B.380 **1.** Except as otherwise provided in subsection 4, each insurer that issues a contract for hospital or medical services in this State shall establish a system for resolving any complaints of an insured concerning health care services covered under the policy. The system must be approved by the Commissioner. ~~[in consultation with the State Board of Health.]~~

2. A system for resolving complaints established pursuant to subsection 1 must include an initial investigation, a review of the complaint by a review

board and a procedure for appealing a determination regarding the complaint. The majority of the members on a review board must be insureds who receive health care services pursuant to a contract for hospital or medical services issued by the insurer.

3. The Commissioner ~~for the State Board of Health~~ may examine the system for resolving complaints established pursuant to subsection 1 at such times as ~~either~~ **the Commissioner** deems necessary or appropriate.

4. Each insurer that issues a contract specified in subsection 1 shall, if the contract provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care, provide a system for resolving any complaints of an insured concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive.

Sec. 140. NRS 695B.390 is hereby amended to read as follows:

695B.390 1. Each insurer that issues a contract for hospital or medical services in this State shall submit to the Commissioner ~~and the State Board of Health~~ an annual report regarding its system for resolving complaints established pursuant to subsection 1 of NRS 695B.380 on a form prescribed by the Commissioner ~~in consultation with the State Board of Health~~ which includes, without limitation:

(a) A description of the procedures used for resolving any complaints of an insured;

(b) The total number of complaints and appeals handled through the system for resolving complaints since the last report and a compilation of the causes underlying the complaints filed;

(c) The current status of each complaint and appeal filed; and

(d) The average amount of time that was needed to resolve a complaint and an appeal, if any.

2. Each insurer shall maintain records of complaints filed with it which concern something other than health care services and shall submit to the Commissioner a report summarizing such complaints at such times and in such format as the Commissioner may require.

Sec. 141. Chapter 695C of NRS is hereby amended by adding thereto the provisions set forth as sections 142 to 146, inclusive, of this act.

Sec. 142. 1. A health maintenance organization shall contract with an insurance company licensed in this State or authorized to do business in this State for the provision of insurance, indemnity or reimbursement against the cost of health care services which are provided by the health maintenance organization.

2. The contract of insurance required by subsection 1 must include a provision that, in the case of the insolvency or impairment of the health maintenance organization, the insurance company will pay all claims made by an enrollee for the period for which a premium has been or will be paid to the health maintenance organization for the enrollee. The contract of insurance required by subsection 1 must specifically provide for the:

(a) Continuation of benefits to each enrollee for the period for which a premium has been or will be paid to the health maintenance organization for the enrollee until the expiration or termination of the enrollee's contract with the health maintenance organization;

(b) Continuation of benefits for each enrollee who is receiving inpatient services in a medical facility or facility for the dependent at the time of the insolvency or impairment of the health maintenance organization until the inpatient services are no longer medically necessary and the enrollee is discharged from the medical facility or facility for the dependent; and

(c) Payment of a provider of health care not affiliated with the health maintenance organization who provided medically necessary services to an enrollee, as described in the enrollee's evidence of coverage.

3. As used in this section:

(a) "Facility for the dependent" has the meaning ascribed to it in NRS 449.0045.

(b) "Impairment" means that a health maintenance organization is not insolvent and has been:

(1) Deemed to be impaired pursuant to section 143 of this act; or

(2) Placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(c) "Insolvency" or "insolvent" means that a health maintenance organization has been:

(1) Deemed to be insolvent pursuant to section 143 of this act;

(2) Declared insolvent by a court of competent jurisdiction; or

(3) Placed under an order of liquidation by a court of competent jurisdiction.

(d) "Medical facility" has the meaning ascribed to it in NRS 449.0151.

(e) "Medically necessary" has the meaning ascribed to it in NRS 695G.055.

(f) "Provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 143. 1. A health maintenance organization shall be deemed to be insolvent if:

(a) The health maintenance organization fails to meet its obligations as they mature; and

(b) The assets of the health maintenance organization are less than the sum of its liabilities and the minimum surplus required to be maintained by the health maintenance organization under this Code for authority to transact business in this State.

2. In addition to the provisions of subsection 1, a health maintenance organization shall be deemed to be insolvent as otherwise expressly provided in this Code.

3. A health maintenance organization shall be deemed to be impaired if the assets of the health maintenance organization are less than the sum of its liabilities and the minimum surplus required to be maintained by the

health maintenance organization under this Code for authority to transact business in this State.

4. *The Commissioner may adopt regulations to define when a health maintenance organization is considered to be in a hazardous financial condition and to set forth the standards to be considered by the Commissioner in determining whether the continued operation of a health maintenance organization transacting business in this State may be considered to be hazardous to its enrollees or creditors or to the general public.*

5. *If the Commissioner determines after a hearing that any health maintenance organization is in a hazardous financial condition, the Commissioner may, instead of suspending or revoking the certificate of authority of the health maintenance organization, limit the certificate of authority as the Commissioner deems reasonably necessary to correct, eliminate or remedy any conduct, condition or ground that is deemed to be a cause of the hazardous financial condition.*

6. *An order or decision of the Commissioner under this section is subject to review in accordance with NRS 679B.310 to 679B.370, inclusive, at the request of any party to the proceedings whose interests are substantially affected.*

Sec. 144. 1. *Each health maintenance organization shall develop, submit to the Commissioner for approval and, after such approval, put into effect a plan to provide for the continuation of benefits to enrollees in the event of the insolvency or impairment of the health maintenance organization, including, without limitation, the benefits described in subsection 2 of section 142 of this act. A plan developed pursuant to this subsection must include, without limitation:*

(a) A contract of insurance which complies with the requirements of section 142 of this act; and

(b) Provisions in each contract between the health maintenance organization and a provider which obligate the provider, in the event of the health maintenance organization's insolvency or impairment, to provide all covered services as described in the contract to enrollees through the periods of time described in subsection 2 of section 142 of this act.

2. *Before approving a plan submitted pursuant to subsection 1, the Commissioner may require the health maintenance organization to include in the plan:*

(a) Reserves or additional reserves for protection against insolvency or impairment;

(b) Letters of credit acceptable to the Commissioner; and

(c) Any other arrangements determined by the Commissioner to be appropriate to ensure the continuation of benefits as described in subsection 2 of section 142 of this act to enrollees.

Sec. 145. 1. *If the Commissioner determines that, because of the financial condition of a health maintenance organization, the continued*

operation of the health maintenance organization is or may be hazardous to its enrollees or creditors or to the general public, or that the health maintenance organization has violated any law of this State to which the health maintenance organization is subject, the Commissioner may, after notice and a hearing, order the health maintenance organization to take any action the Commissioner deems reasonably necessary to correct, eliminate or remedy the condition or violation, including, without limitation:

(a) Reducing the total amount of the present and potential liability of the health maintenance organization for benefits by reinsurance or any other method acceptable to the Commissioner;

(b) Suspending, limiting or reducing the volume of new business being written or accepted by the health maintenance organization for any period of time specified by the Commissioner;

(c) Reducing the expenses of the health maintenance organization by any method acceptable to the Commissioner; and

(d) Increasing the capital and surplus of the health maintenance organization by contribution.

2. The Commissioner may adopt regulations to:

(a) Set standards and criteria for early warning that the continued operation of a health maintenance organization may be hazardous to its enrollees or creditors or to the general public; and

(b) For the purposes of subsection 1, set standards for evaluating the financial condition of a health maintenance organization.

3. The authority conferred upon the Commissioner pursuant to this section is in addition to the authority of the Commissioner pursuant to chapter 696B of NRS. Any order issued by the Commissioner pursuant to this section may, at the discretion of the Commissioner, be in addition to any order issued by the Commissioner pursuant to chapter 696B of NRS.

Sec. 146. 1. Any conservation, rehabilitation or liquidation of a health maintenance organization shall be deemed to be the conservation, rehabilitation or liquidation of an insurer and must be conducted under the supervision of the Commissioner pursuant to chapter 696B of NRS.

2. The Commissioner may apply to a court of competent jurisdiction for an order directing the Commissioner to conserve, rehabilitate or liquidate a health maintenance organization:

(a) Upon any ground provided in chapter 696B of NRS; or

(b) If, as determined by the Commissioner, the continued operation of the health maintenance organization is or may be hazardous to its enrollees or creditors or to the general public.

3. In the event of a rehabilitation or liquidation of a health maintenance organization, a claim of an enrollee or of a beneficiary of an enrollee shall be deemed to have the same priority as would be provided to a claim of a policyholder or insured of an insurer, or of a beneficiary of

such a policyholder or insured, in the event of the rehabilitation or liquidation of the insurer.

4. In the event of a distribution of the general assets of a health maintenance organization:

(a) If an enrollee is liable to a provider for health care services provided pursuant to and covered by the applicable health care plan, that liability shall be deemed to be a claim of the enrollee for distribution of the general assets of the health maintenance organization.

(b) A provider under contract with the health maintenance organization who is obligated by law or contract to hold an enrollee harmless from liability for health care services provided pursuant to and covered by the applicable health care plan shall be deemed to have a priority for distribution of the general assets of the health maintenance organization immediately following that of an enrollee as described in this section and immediately preceding any other priority for distribution which, pursuant to this section and chapter 696B of NRS, would follow that of an enrollee.

Sec. 147. NRS 695C.055 is hereby amended to read as follows:

695C.055 1. The provisions of NRS 449.465, 679A.200, 679B.700, **subsections 6 and 7 of NRS 680A.270**, subsections 2, 4, 18, 19 and 32 of NRS 680B.010, NRS 680B.020 to 680B.060, inclusive, chapter 686A of NRS, NRS 687B.500 and ~~chapter~~ **chapters 692C and 695G** of NRS apply to a health maintenance organization.

2. For the purposes of subsection 1, unless the context requires that a provision apply only to insurers, any reference in those sections to “insurer” must be replaced by “health maintenance organization.”

Sec. 148. NRS 695C.080 is hereby amended to read as follows:

695C.080 1. The Commissioner shall determine whether the applicant for a certificate of authority, with respect to health care services to be furnished:

(a) Has demonstrated the willingness and ability to ensure that such health care services will be provided in a manner to ensure both availability and accessibility of adequate personnel and facilities and in a manner enhancing availability, accessibility and continuity of service;

(b) Has organizational arrangements, established in accordance with regulations promulgated by the Commissioner ; ~~and in consultation with the State Board of Health;~~ and

(c) Has a procedure established in accordance with regulations of the Commissioner to develop, compile, evaluate and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services and such other matters as may be reasonably required by the Commissioner.

2. Within 90 days of receipt of the application for issuance of a certificate of authority, the Commissioner shall certify whether the proposed health maintenance organization meets the requirements of subsection 1. If

the Commissioner certifies that the health maintenance organization does not meet such requirements, it shall specify in what respects it is deficient.

Sec. 149. NRS 695C.310 is hereby amended to read as follows:

695C.310 1. The Commissioner shall make an examination of the affairs of any health maintenance organization and providers with whom such organization has contracts, agreements or other arrangements pursuant to its health care plan as often as the Commissioner deems it necessary for the protection of the interests of the people of this State ~~[An examination must be made]~~, **but** not less frequently than once every 3 years.

2. The Commissioner shall make an examination concerning ~~[the quality of health care services of any health maintenance organization and providers with whom such organization has contracts, agreements or other arrangements pursuant to its health care plan]~~ **any compliance program used by a health maintenance organization and any report, as determined to be appropriate by the Commissioner, regarding the health maintenance organization produced by an organization which examines best practices in the insurance industry. The Commissioner shall make such an examination** as often as ~~[it]~~ **the Commissioner** deems **it** necessary for the protection of the interests of the people of this State ~~[An examination must be made]~~, **but** not less frequently than once every 3 years.

3. ~~[Every]~~ **In making an examination pursuant to subsection 1 or 2, the Commissioner:**

(a) **Shall determine whether the health maintenance organization is in compliance with this Code, including, without limitation, whether any relationship or transaction between the health maintenance organization and any another health maintenance organization is in compliance with this Code; and**

(b) **May examine any account, record, document or transaction of any health maintenance organization or any provider which relates to:**

(1) **Compliance with this Code by the health maintenance organization which is the subject of the examination;**

(2) **Any relationship or transaction between the health maintenance organization which is the subject of the examination and any other health maintenance organization; or**

(3) **Any relationship or transaction between the health maintenance organization which is the subject of the examination and any provider.**

4. **Except as otherwise provided in this subsection, for the purposes of an examination pursuant to subsection 1 or 2, each** health maintenance organization and provider shall **, upon the request of the Commissioner or an examiner designated by the Commissioner,** submit its books and records relating to ~~[the]~~ **any applicable** health care plan to ~~[an examination made pursuant to subsection 1 or 2 and in every way facilitate the examination.]~~ **the Commissioner or the examiner, as applicable.** Medical records of natural persons and records of physicians providing service pursuant to a contract ~~[to the]~~ **with a** health maintenance organization are not subject to

such examination, although the records , ***except privileged medical information***, are subject to subpoena upon a showing of good cause. For the purpose of examinations, the Commissioner may administer oaths to, and examine the officers and agents of ~~the~~ a health maintenance organization and the principals of ~~such~~ providers concerning their business.

~~4.1~~ 5. The expenses of examinations pursuant to this section must be assessed against the ***health maintenance*** organization being examined and remitted to the Commissioner.

~~5.1~~ 6. In lieu of ~~such~~ an examination ~~it~~ ***pursuant to this section***, the Commissioner may accept the report of an examination made by the insurance commissioner ~~for the state board of health~~ of another state ~~it~~ ***or an applicable regulatory agency of another state***.

Sec. 150. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if the Commissioner finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The Commissioner certifies that the health maintenance organization:

(1) Does not meet the requirements of subsection 1 of NRS 695C.080;

or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees ~~or~~ **or creditors or to the general public;**

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as the Commissioner may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 151. Chapter 695D of NRS is hereby amended by adding thereto the provisions set forth as sections 152 and 153 of this act.

Sec. 152. 1. *The Commissioner may adopt regulations to define when an organization for dental care is considered to be in a hazardous financial condition and to set forth the standards to be considered by the Commissioner in determining whether the continued operation of an organization for dental care transacting business in this State may be considered to be hazardous to its members or creditors or to the general public.*

2. *If the Commissioner determines after a hearing that any organization for dental care is in a hazardous financial condition, the Commissioner may, instead of suspending or revoking the certificate of authority of the organization, limit the certificate of authority as the Commissioner deems reasonably necessary to correct, eliminate or remedy any conduct, condition or ground that is deemed to be a cause of the hazardous financial condition.*

3. *An order or decision of the Commissioner under this section is subject to review in accordance with NRS 679B.310 to 679B.370, inclusive, at the request of any party to the proceedings whose interests are substantially affected.*

Sec. 153. *Each organization for dental care which receives a certificate of authority shall maintain a capital account with a net worth of not less than \$500,000 unless a lesser amount is permitted in writing by the Commissioner. The account must not be obligated for any accrued liabilities and must consist of cash, securities or a combination thereof which is acceptable to the Commissioner.*

Sec. 154. NRS 695D.095 is hereby amended to read as follows:

695D.095 1. An organization for dental care is not exempt from the provisions of NRS 679B.700. If an organization is an admitted health insurer, as that term is defined in NRS 449.450, it is not exempt from the fees imposed pursuant to NRS 449.465.

2. *For the purposes of this section and the provisions set forth in subsection 1, an organization for dental care is included in the meaning of the term "insurer."*

Sec. 155. NRS 695D.170 is hereby amended to read as follows:

695D.170 1. ~~Before~~ **Except as otherwise provided in this section, before** a certificate of authority may be issued to an organization for dental care:

(a) The officers responsible for operating the organization must file with the Commissioner a collective fidelity bond for \$1,000,000; and

(b) The organization must file with the Commissioner a surety bond in the sum of ~~[\$250,000]~~ **\$500,000** or deposit with the Commissioner cash or securities acceptable to the Commissioner in the sum of ~~[\$250,000,]~~ **\$500,000,**

↪ to guarantee the organization's performance pursuant to this chapter.

2. If the bond is furnished in:

(a) Cash, the Commissioner shall deposit the money in the State Treasury for credit to the Fund for Bonds of Organizations for Dental Care which is hereby created as a trust fund.

(b) Negotiable securities, the principal must be placed without restriction at the disposal of the Commissioner, but any income must inure to the benefit of the organization.

3. The Commissioner may reduce the **required amount of the** organization's **surety** bond or deposit:

(a) To \$125,000, if the obligations assumed by the organization under the plan can be satisfied for less than \$125,000.

(b) To any amount if the organization demonstrates that it has commitments of money from federal, state or municipal governments or their political subdivisions or other comparable resources which are sufficient to ensure the ability of the organization to satisfy its obligations.

4. **The Commissioner may increase the required amount of the organization's surety bond or deposit to any amount the Commissioner determines to be appropriate pursuant to subsection 5 if the Commissioner determines that the current level of the surety bond or deposit is insufficient to provide protection to the members in the event of:**

(a) *Insolvency; or*

(b) *A determination by the Commissioner that the organization is in a hazardous financial condition.*

5. *When determining the appropriate amount of an increase pursuant to subsection 4, the Commissioner must base his or her determination on the type, volume and nature of premiums written and premiums assumed by the organization.*

6. *The amount of the organization's surety bond or deposit required pursuant to this section:*

(a) *Is in addition to any reserve required by this chapter and any reserve established by the organization according to good business and accounting practices for incurred but unreported claims and other similar claims;*

(b) *May increase the amount of net worth required pursuant to this chapter; and*

(c) *May increase the amount of risk-based capital required pursuant to NRS 681B.550.*

7. Any final judgment against the organization which is unpaid is a lien on the **surety** bond or deposit and is subject to execution 30 days after entry of the judgment. Any **surety** bond or deposit which is reduced by this lien must be increased by the organization to the amount required by this section within 90 days after the judgment is paid.

~~{5.}~~ 8. If an organization is dissolved, liquidated or otherwise terminated:

(a) That amount of the **surety** bond or deposit which is necessary to satisfy the outstanding obligations of the organization may not be withdrawn for at least 3 years after the certificate of authority has been terminated.

(b) Any balance remaining after money has been withheld to pay the organization's debts and liens must be paid to the organization by the Commissioner no later than 90 days after the certificate of authority has been terminated.

Sec. 156. Chapter 695F of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Commissioner may adopt regulations to define when a prepaid limited health service organization is considered to be in a hazardous financial condition and to set forth the standards to be considered by the Commissioner in determining whether the continued operation of a prepaid limited health service organization transacting business in this State may be considered to be hazardous to its enrollees or creditors or to the general public.*

2. *If the Commissioner determines after a hearing that any prepaid limited health service organization is in a hazardous financial condition, the Commissioner may, instead of suspending or revoking the prepaid limited health service organization's certificate of authority, limit the certificate of authority of the prepaid limited health service organization as the Commissioner deems reasonably necessary to correct, eliminate or*

remedy any conduct, condition or ground that is deemed to be a cause of the hazardous financial condition.

3. An order or decision of the Commissioner under this section is subject to review in accordance with NRS 679B.310 to 679B.370, inclusive, at the request of any party to the proceedings whose interests are substantially affected.

Sec. 157. NRS 695F.090 is hereby amended to read as follows:

695F.090 **1.** Prepaid limited health service organizations are subject to the provisions of this chapter and to the following provisions, to the extent reasonably applicable:

~~{1-}~~ **(a)** NRS 687B.310 to 687B.420, inclusive, concerning cancellation and nonrenewal of policies.

~~{2-}~~ **(b)** NRS 687B.122 to 687B.128, inclusive, concerning readability of policies.

~~{3-}~~ **(c)** The requirements of NRS 679B.152.

~~{4-}~~ **(d)** The fees imposed pursuant to NRS 449.465.

~~{5-}~~ **(e)** NRS 686A.010 to 686A.310, inclusive, concerning trade practices and frauds.

~~{6-}~~ **(f)** The assessment imposed pursuant to NRS 679B.700.

~~{7-}~~ **(g)** Chapter 683A of NRS.

~~{8-}~~ **(h)** To the extent applicable, the provisions of NRS 689B.340 to 689B.580, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance.

~~{9-}~~ **(i)** NRS 689A.035, 689A.0463, 689A.410, 689A.413 and 689A.415.

~~{10-}~~ **(j)** NRS 680B.025 to 680B.039, inclusive, concerning premium tax, premium tax rate, annual report and estimated quarterly tax payments. For the purposes of this subsection, unless the context otherwise requires that a section apply only to insurers, any reference in those sections to “insurer” must be replaced by a reference to “prepaid limited health service organization.”

~~{11-}~~ **(k)** Chapter 692C of NRS, concerning holding companies.

~~{12-}~~ **(l)** NRS 689A.637, concerning health centers.

2. For the purposes of this section and the provisions set forth in subsection 1, a prepaid limited health service organization is included in the meaning of the term “insurer.”

Sec. 158. NRS 695F.200 is hereby amended to read as follows:

695F.200 ~~{Each}~~

1. Except as otherwise provided in this section, each prepaid limited health service organization which receives a certificate of authority shall maintain a:

~~{1-}~~ **(a)** Capital account with a net worth of not less than ~~[\$200,000]~~ **\$500,000** unless a lesser amount is permitted in writing by the Commissioner. The account must not be obligated for any accrued liabilities and must consist of cash, securities or a combination thereof which is acceptable to the Commissioner.

~~{2.}~~ (b) Surety bond or deposit of cash or securities for the protection of enrollees of not less than ~~[\$250,000.]~~ **\$500,000.**

2. The Commissioner may increase the required amount of the organization's capital account and the surety bond or deposit to any amounts the Commissioner determines to be appropriate pursuant to subsection 3 if the Commissioner determines that such an increase is necessary to:

(a) Assist the Commissioner in the performance of his or her regulatory duties;

(b) Ensure that the organization complies with the requirements of this Code; or

(c) Ensure the solvency of the organization.

3. When determining the appropriate amount of an increase pursuant to subsection 2, the Commissioner must base his or her determination on the type, volume and nature of premiums written and premiums assumed by the organization.

4. The amount of the organization's capital account and surety bond or deposit required pursuant to this section:

(a) Is in addition to any reserve required by this chapter and any reserve established by the organization according to good business and accounting practices for incurred but unreported claims and other similar claims; and

(b) May increase the amount of risk-based capital required pursuant to NRS 681B.550.

5. The amount of the organization's surety bond or deposit required pursuant to this section may increase the amount of net worth required pursuant to this section.

Sec. 159. NRS 695G.130 is hereby amended to read as follows:

695G.130 1. In addition to any other report which is required to be filed with the Commissioner, each managed care organization shall file with the Commissioner, ~~{on or before March 1 of each year,}~~ **with its annual filing made pursuant to NRS 686B.070 of forms and rates relating to policies of insurance for individuals and small employer groups,** a report regarding its methods for reviewing the quality of health care services provided to its insureds.

~~{2.—Each managed care organization shall include in its report the criteria, data, benchmarks or studies used to:~~

~~—(a) Assess the nature, scope, quality and accessibility of health care services provided to insureds; or~~

~~—(b) Determine any reduction or modification of the provision of health care services to insureds.~~

~~—3.—Except as already required to be filed with the Commissioner, if the managed care organization is not owned and operated by a public entity and has more than 100 insureds, the report filed pursuant to subsection 1 must include:~~

~~—(a) A copy of all of its quarterly and annual financial reports;~~

~~—(b) A statement of any financial interest it has in any other business which is related to health care that is greater than 5 percent of that business or \$5,000, whichever is less; and~~

~~—(c) A description of each complaint filed with or against it that resulted in arbitration, a lawsuit or other legal proceeding, unless disclosure is prohibited by law or a court order.~~

~~—4.} **The report must be submitted on a form prescribed by the Commissioner.**~~

2. A report filed pursuant to this section must be made available for public inspection within a reasonable time after it is received by the Commissioner.

3. *As used in this section, “small employer” has the meaning ascribed to it in NRS 689C.095.*

Sec. 160. NRS 695G.200 is hereby amended to read as follows:

695G.200 1. Each managed care organization shall establish a system for resolving complaints of an insured concerning:

(a) Payment or reimbursement for covered health care services;

(b) Availability, delivery or quality of covered health care services, including, without limitation, an adverse determination made pursuant to utilization review; or

(c) The terms and conditions of a health care plan.

↪ The system must be approved by the Commissioner . ~~[in consultation with the State Board of Health.]~~

2. If an insured makes an oral complaint, a managed care organization shall inform the insured that if the insured is not satisfied with the resolution of the complaint, the insured must file the complaint in writing to receive further review of the complaint.

3. Each managed care organization shall:

(a) Upon request, assign an employee of the managed care organization to assist an insured or other person in filing a complaint or appealing a decision of the review board;

(b) Authorize an insured who appeals a decision of the review board to appear before the review board to present testimony at a hearing concerning the appeal; and

(c) Authorize an insured to introduce any documentation into evidence at a hearing of a review board and require an insured to provide the documentation required by the health care plan of the insured to the review board not later than 5 business days before a hearing of the review board.

4. The Commissioner may examine the system for resolving complaints established pursuant to this section at such times as ~~[either]~~ **the Commissioner** deems necessary or appropriate.

Sec. 161. NRS 695G.220 is hereby amended to read as follows:

695G.220 1. Each managed care organization shall submit to the Commissioner an annual report regarding its system for resolving complaints established pursuant to NRS 695G.200 on a form prescribed by the

Commissioner ~~[in consultation with the State Board of Health]~~ which includes, without limitation:

(a) A description of the procedures used for resolving complaints of an insured;

(b) The total number of complaints and appeals handled through the system for resolving complaints since the last report and a compilation of the causes underlying the complaints filed;

(c) The current status of each complaint and appeal filed; and

(d) The average amount of time that was needed to resolve a complaint and an appeal, if any.

2. Each managed care organization shall maintain records of complaints filed with it which concern something other than health care services and shall submit to the Commissioner a report summarizing such complaints at such times and in such format as the Commissioner may require.

Sec. 162. ~~[NRS 233B.039 is hereby amended to read as follows:~~

~~233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:~~

~~(a) The Governor;~~

~~(b) Except as otherwise provided in NRS 209.221, the Department of Corrections;~~

~~(c) The Nevada System of Higher Education;~~

~~(d) The Office of the Military;~~

~~(e) The Nevada Gaming Control Board;~~

~~(f) Except as otherwise provided in NRS 368A.140 and 463.765, the Nevada Gaming Commission;~~

~~(g) The Division of Welfare and Supportive Services of the Department of Health and Human Services;~~

~~(h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services;~~

~~(i) The State Board of Examiners acting pursuant to chapter 217 of NRS;~~

~~(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer;~~

~~(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375;~~

~~(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260;~~

~~(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 445C.310;~~

~~(n) The Silver State Health Insurance Exchange;~~

~~(o) The Commissioner of Insurance in establishing or adjusting any standard or requirement relating to the Federal Act if, as determined by the Commissioner of Insurance, the establishment or adjustment of the standard or requirement must occur before a regulation could be adopted~~

~~in accordance with the provisions of this chapter. As used in this paragraph, "Federal Act" has the meaning ascribed to it in NRS 679A.092.~~

~~2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.~~

~~3. The special provisions of:~~

~~(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;~~

~~(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;~~

~~(c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and~~

~~(d) NRS 90.800 for the use of summary orders in contested cases;~~

~~may prevail over the general provisions of this chapter.~~

~~4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.~~

~~5. The provisions of this chapter do not apply to:~~

~~(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;~~

~~(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;~~

~~(c) A regulation adopted by the State Board of Education pursuant to NRS 388.255 or 394.1694; or~~

~~(d) The judicial review of decisions of the Public Utilities Commission of Nevada.~~

~~6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case. (Deleted by amendment.)~~

Sec. 163. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **and sections 8 and 92 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. 164. NRS 266.355 is hereby amended to read as follows:

266.355 1. Except as otherwise provided in subsections 3, 4 and 5, the city council may:

(a) Except as otherwise provided in NRS 268.0881 to 268.0888, inclusive, 598D.150 and 640C.100, regulate all businesses, trades and professions.

(b) Except as otherwise provided in NRS 576.128, fix, impose and collect a license tax for revenue upon all businesses, trades and professions.

2. The city council may establish any equitable standard to be used in fixing license taxes required to be collected pursuant to this section.

3. The city council may license insurance ~~agents, brokers,~~ analysts, adjusters and managing general agents **and producers of insurance** within the limitations and under the conditions prescribed in NRS 680B.020.

4. A city council shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

5. The city council shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. As used in this subsection, "professional" means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his or her profession for any type of compensation as an employee.

Sec. 165. NRS 269.170 is hereby amended to read as follows:

269.170 1. Except as otherwise provided in subsection 5 and NRS 576.128, 598D.150 and 640C.100, the town board or board of county commissioners may, in any unincorporated town:

(a) Fix and collect a license tax on, and regulate, having due regard to the amount of business done by each person so licensed, and all places of business and amusement so licensed, as follows:

(1) Artisans, artists, assayers, auctioneers, bakers, banks and bankers, barbers, boilermakers, cellars and places where soft drinks are kept or sold, clothes cleaners, foundries, laundries, lumberyards, manufacturers of soap, soda, borax or glue, markets, newspaper publishers, pawnbrokers, funeral directors and wood and coal dealers.

(2) Bootmakers, cobblers, dressmakers, milliners, shoemakers and tailors.

(3) Boardinghouses, hotels, lodging houses, restaurants and refreshment saloons.

(4) Barrooms, gaming, manufacturers of liquors and other beverages, and saloons.

(5) Billiard tables, bowling alleys, caravans, circuses, concerts and other exhibitions, dance houses, melodeons, menageries, shooting galleries, skating rinks and theaters.

(6) Corrals, hay yards, livery and sale stables and wagon yards.

(7) Electric light companies, illuminating gas companies, power companies, telegraph companies, telephone companies and water companies.

(8) Carts, drays, express companies, freight companies, job wagons, omnibuses and stages.

(9) Brokers, commission merchants, factors, general agents, mercantile agents, merchants, traders and stockbrokers.

(10) Drummers, hawkers, peddlers and solicitors.

(11) Insurance ~~agents, brokers,~~ analysts, adjusters and managing general agents **and producers of insurance** within the limitations and under the conditions prescribed in NRS 680B.020.

(b) Fix and collect a license tax upon all professions, trades or business within the town not specified in paragraph (a).

2. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

3. Any license tax levied for the purposes of NRS 244A.597 to 244A.655, inclusive, constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien must be enforced in the same manner as liens for ad valorem taxes on real and personal property. The town board or other governing body of the unincorporated town may delegate the power to enforce such liens to the county fair and recreation board.

4. The governing body or the county fair and recreation board may agree with the Department of Taxation for the continuing exchange of information concerning taxpayers.

5. The town board or board of county commissioners shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. As used in this subsection, “professional” means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his or her profession for any type of compensation as an employee.

Sec. 166. NRS 616A.330 is hereby amended to read as follows:

616A.330 “Tangible net worth” means the value of all the assets, minus the value of all the liabilities, of **a self-insured employer or** an association of self-insured private employers ~~for of a member of such an association~~ except:

1. Goodwill or excess cost over the fair market value of assets.

2. Any other items listed in the assets that are deemed unacceptable by the Commissioner because they cannot be justified or because they do not

directly support the ability of the *self-insured employer or* association ~~for the member~~ to pay a claim.

Sec. 166.5. 1. The provisions of NRS 689A.630, as amended by section 98 of this act, apply to any discontinuation of a product that occurs on or after the effective date of section 98 of this act.

2. The provisions of NRS 689B.560, as amended by section 110 of this act, apply to any discontinuation of a product offered to employers that occurs on or after the effective date of section 110 of this act.

3. The provisions of NRS 689C.310, as amended by section 112 of this act, apply to any discontinuation of a product offered to small employers that occurs on or after the effective date of section 112 of this act.

4. The provisions of NRS 689C.470, as amended by section 114 of this act, apply to any discontinuation of a product offered to a small employer or purchasers pursuant to NRS 689C.360 to 689C.600, inclusive, that occurs on or after the effective date of section 114 of this act.

Sec. 167. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 168. NRS 680A.290, 689A.390, 689A.400, 689A.690, 689B.027, 689B.028, 689C.270, 689C.280, 689C.330, 689C.440, 689C.450, 690B.370, 695B.172, 695B.174 and 695F.215 are hereby repealed.

Sec. 169. 1. Sections 98, 110, 112 and 114 of this act become effective upon passage and approval.

2. This section and sections 1 to 97, inclusive, 99 to 109, inclusive, 111, 113, 115 to 152, inclusive, 154, ~~and~~ 156, 157 and 159 to 168, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2017, for all other purposes.

~~12-1~~ **3. Sections 153, 155 and 158 of this act become effective:**

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative acts that are necessary to carry out the provisions of this act; and

(b) On January 1, 2018, for all other purposes.

LEADLINES OF REPEALED SECTIONS

680A.290 Loss prevention reports and programs.

689A.390 Summary of coverage: Contents of disclosure; approval by Commissioner.

689A.400 Summary of coverage: Copy to be provided before policy issued; policy may not be offered unless summary approved by Commissioner.

689A.690 Information required to be disclosed as part of solicitation and sales materials; information required to be maintained at place of business.

689B.027 Summary of coverage: Contents of disclosure; approval by Commissioner; copy to be made available to employer or producer acting on behalf of employer.

689B.028 Summary of coverage: Copy to be provided before policy issued; policy may not be offered unless summary approved by Commissioner.

689C.270 Regulations concerning disclosures by carrier to small employer; copy of disclosure to be made available to small employer.

689C.280 Carrier to provide required disclosures to small employer before issuing policy of insurance.

689C.330 When insurer is required to allow employee to continue coverage after employee is no longer covered by health benefit plan.

689C.440 Regulations regarding required disclosures by carrier.

689C.450 Carrier to provide disclosure before issuing contract.

690B.370 Annual report on loss prevention and control programs.

695B.172 Summary of coverage: Contents of disclosure; approval by Commissioner.

695B.174 Summary of coverage: Copy to be provided before policy issued; policy not to be offered unless summary approved by Commissioner.

695F.215 Required contract with insurance company for provision of insurance, indemnity or reimbursement against cost of health care services.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 272.

Bill read third time.

The following amendment was proposed by Assemblyman Frierson:

Amendment No. 556.

AN ACT relating to elections; authorizing each county and city clerk to establish polling places where any registered voter of the county or city, respectively, may vote in person on the day of certain elections; requiring, under certain circumstances, county and city clerks to establish polling places within the boundaries of Indian reservations and colonies; requiring the preparation and use of electronic rosters; authorizing voting materials to be provided in certain languages; authorizing county and city clerks to extend

the period for early voting; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a county clerk to establish the boundaries of election precincts and authorizes election precincts to be combined into election districts. (NRS 293.205-293.209) Existing law prohibits a person from applying for or receiving a ballot at any election precinct or district other than the one at which the person is entitled to vote. (NRS 293.730) **Section 2** of this bill authorizes a county clerk to establish one or more polling places in the county where any person entitled to vote in the county by personal appearance may do so on the day of a primary or general election. If any such polling place is established: (1) **section 3** of this bill requires, with limited exception, the county clerk to publicize the location of such polling places; and (2) **section 4** of this bill requires the county clerk to prepare a roster of eligible voters in the county for any such polling place. **Section 5** of this bill sets forth the procedure for a person to vote in person at any such polling place. **Sections 27-30** of this bill set forth corresponding provisions authorizing city clerks to establish polling places where any person who is entitled to vote in the city by personal appearance may do so on the day of the primary city or general city election. **Sections 8, 10-15, 18, 22-25, 33-37 and 40-42** of this bill make conforming changes.

Sections 6 and 31 of this bill require, under certain circumstances, county and city clerks, respectively, to establish at least one polling place within the boundaries of an Indian reservation or Indian colony at a location or locations approved by the Indian tribe.

Existing law generally requires a voter to sign his or her name in a roster when the voter applies to vote in person. (NRS 293.277, 293.285, 293C.270, 293C.275) Existing law also provides that a roster may be in printed or electronic form. **Section 7** of this bill requires a roster to be in electronic form. **Sections 19 and 21** of this bill make conforming changes. **Sections 5, 12, 12.5, 13, 17.5, 17.7, 30, 34, 34.5 and 35** of this bill allow a person to sign a signature card rather than the roster.

Existing law requires voting materials to be provided in English and any other languages necessary to be in compliance with federal law. (NRS 293.2699) **Section 9** of this bill authorizes a county or city clerk to provide voting materials in additional languages if the clerk determines that there is a significant and substantial need for such.

Existing law authorizes a county or city clerk to establish permanent polling places for early voting by personal appearance and provides that the period for early voting begins the third Saturday preceding an election and extends through the Friday before election day, Sundays and federal holidays excepted. (NRS 293.3564, 293.3568, 293C.3564, 293C.3568) **Sections 15 and 37** of this bill require a county or city clerk to establish at least one permanent polling place for early voting. **Sections 16 and 38** of this bill authorize a county or city clerk to extend the period for early voting through

the Sunday before election day. **Sections 17 and 39** of this bill require, under certain circumstances, a county or city clerk to establish at least one temporary place for early voting within the boundaries of an Indian reservation or Indian colony.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. 1. *A county clerk may establish one or more polling places in the county where any person entitled to vote in the county by personal appearance may do so on the day of the primary election or general election.*

2. Any person entitled to vote in the county by personal appearance may do so at any polling place established pursuant to subsection 1.

Sec. 3. 1. *Except as otherwise provided in subsection 2, if a county clerk establishes one or more polling places pursuant to section 2 of this act, the county clerk must:*

(a) Publish during the week before the election in a newspaper of general circulation a notice of the location of each such polling place.

(b) Post a list of the location of each such polling place on any bulletin board used for posting notice of meetings of the board of county commissioners. The list must be posted continuously for a period beginning not later than the fifth business day before the election and ending at 7 p.m. on the day of the election. The county clerk shall make copies of the list available to the public during the period of posting in reasonable quantities without charge.

2. The provisions of subsection 1 do not apply if every polling place in the county is a polling place where any person entitled to vote in the county by personal appearance may do so on the day of the primary election or general election.

3. No additional polling place may be established pursuant to section 2 of this act after the publication pursuant to this section, except in the case of an emergency and if approved by the Secretary of State.

Sec. 4. 1. *For each polling place established pursuant to section 2 of this act, if any, the county clerk shall prepare a roster that contains, for every registered voter in the county, the voter's name, the address where he or she is registered to vote, his or her voter identification number, the voter's precinct or district number and the voter's signature.*

2. The roster must be delivered or caused to be delivered by the county clerk to an election board officer of the proper polling place before the opening of the polls.

Sec. 5. 1. *Except as otherwise provided in NRS 293.283, upon the appearance of a person to cast a ballot at a polling place established pursuant to section 2 of this act, the election board officer shall:*

(a) Determine that the person is a registered voter in the county and has not already voted in that county in the election;

(b) Instruct the voter to sign the roster or a signature card; and

(c) Verify the signature of the voter in the manner set forth in NRS 293.277.

2. If the signature of the voter does not match, the voter must be identified by:

(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or

(c) Providing the election board officer with proof of identification as described in NRS 293.277 other than the card issued to the voter at the time he or she registered to vote.

3. If the signature of the voter has changed in comparison to the signature on the application to register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

4. The county clerk shall prescribe a procedure, approved by the Secretary of State, to verify that the voter has not already voted in that county in the current election.

5. When a voter is entitled to cast a ballot and has identified himself or herself to the satisfaction of the election board officer, the voter is entitled to receive the appropriate ballot or ballots, but only for his or her own use at the polling place where he or she applies to vote.

6. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the election board officer shall:

(a) Prepare the mechanical voting device for the voter;

(b) Ensure that the voter's precinct or voting district and the form of the ballot are indicated on the voting receipt, if the county clerk uses voting receipts; and

(c) Allow the voter to cast a vote.

7. A voter applying to vote at a polling place established pursuant to section 2 of this act may be challenged pursuant to NRS 293.303.

Sec. 6. 1. If an Indian reservation or Indian colony is located in whole or in part within a county, the Indian tribe may submit a request to the county clerk for the establishment of a polling place within the boundaries of the Indian reservation or Indian colony.

2. A request for the establishment of a polling place within the boundaries of an Indian reservation or Indian colony ~~must~~:

(a) Must be submitted to the county clerk by the Indian tribe on or before:

~~((a))~~ (1) If the request is for a primary election, the first Friday in January of the year in which the primary election is to be held.

~~((b))~~ (2) If the request is for a general election, the first Friday in July of the year in which the general election is to be held.

(b) May include one or more proposed locations within the boundaries of the Indian reservation or Indian colony for the polling place. Any proposed location must satisfy the criteria the county clerk uses for the establishment of any other polling place.

3. ~~44~~ Except as otherwise provided in this subsection, if the county clerk receives a request that satisfies the requirements set forth in subsection 2, the county clerk must establish at least one polling place within the boundaries of the Indian reservation or Indian colony at a location or locations, as applicable, approved by the Indian tribe. The county clerk is not required to establish a polling place within the boundaries of an Indian reservation or Indian colony if the county clerk established a temporary branch polling place within the boundaries of the Indian reservation or Indian colony for the same election.

Sec. 7. NRS 293.095 is hereby amended to read as follows:

293.095 “Roster” means the record in ~~printed or~~ electronic form furnished to election board officers which contains a list of eligible voters and is to be used for obtaining the signature of each person applying for a ballot.

Sec. 8. NRS 293.2546 is hereby amended to read as follows:

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

1. To receive and cast a ballot that:
 - (a) Is written in a format that allows the clear identification of candidates; and
 - (b) Accurately records the voter’s preference in the selection of candidates.
2. To have questions concerning voting procedures answered and to have an explanation of the procedures for voting posted in a conspicuous place at the polling place.
3. To vote without being intimidated, threatened or coerced.
4. To vote on election day if the voter is waiting in line at ~~his or her~~ a polling place **at which he or she is entitled** to vote before 7 p.m. and the voter has not already cast a vote in that election.
5. To return a spoiled ballot and is entitled to receive another ballot in its place.
6. To request assistance in voting, if necessary.
7. To a sample ballot which is accurate, informative and delivered in a timely manner.
8. To receive instruction in the use of the equipment for voting during early voting or on election day.
9. To have nondiscriminatory equal access to the elections system, including, without limitation, a voter who is elderly, disabled, a member of a minority group, employed by the military or a citizen who is overseas.
10. To have a uniform, statewide standard for counting and recounting all votes accurately.

11. To have complaints about elections and election contests resolved fairly, accurately and efficiently.

Sec. 9. NRS 293.2699 is hereby amended to read as follows:

293.2699 1. Each voting system used by a county or city shall provide voting materials in :

(a) English ~~{and other languages}~~ ; and

(b) ***Every language in which voting materials are required to be prepared*** in ~~{compliance with the provisions of 42 U.S.C. § 1973aa-1a.}~~ ***the county or city pursuant to 52 U.S.C. § 10503.***

2. ***In addition to the requirements set forth in subsection 1, if a county clerk or city clerk determines that there is a significant and substantial need for voting materials of the county or city, as applicable, to be provided in the language or languages of a minority group, the county clerk or city clerk may prepare voting materials in such language or languages. For the purposes of this subsection, there is a significant and substantial need for voting materials to be provided in the language or languages of a minority group if, without limitation, the minority group has been subject to historical discrimination and unequal educational opportunities, and, as a result, members of the minority group are of limited-English proficiency.***

3. As used in this section ~~{, the term “voting”}~~ :

(a) ***“Limited-English proficiency” means being unable to speak or understand English adequately to participate in the electoral process.***

(b) ***“Minority group” includes, without limitation, United States citizens of Chinese heritage.***

(c) ***“Voting materials”*** has the meaning ascribed to it in ~~{42}~~ 52 U.S.C. § ~~{1973aa-1a.}~~ 10503.

Sec. 10. NRS 293.273 is hereby amended to read as follows:

293.273 1. Except as otherwise provided in subsection 2 and NRS 293.305, at all elections held under the provisions of this title, the polls must open at 7 a.m. and close at 7 p.m.

2. ~~{Whenever}~~ ***Except as otherwise provided in this subsection, whenever*** at any election all the votes of the polling place, as shown on the roster, have been cast, the election board officers shall close the polls, and the counting of votes must begin and continue without unnecessary delay until the count is completed. ***This subsection does not apply to a polling place established pursuant to section 2 of this act.***

3. Upon opening the polls, one of the election board officers shall cause a proclamation to be made that all present may be aware of the fact that applications of registered voters to vote will be received.

4. No person other than election board officers engaged in receiving, preparing or depositing ballots may be permitted inside the guardrail during the time the polls are open, except by authority of the election board as necessary to keep order and carry out the provisions of this title.

Sec. 11. NRS 293.275 is hereby amended to read as follows:

293.275 ~~{No}~~

1. ***Except as otherwise provided in subsection 2, an*** election board may ***not*** perform its duty in serving registered voters at any polling place in any election provided for in this title, unless it has before it the roster for the polling place.

2. ***For a polling place established pursuant to section 2 or 27 of this act, an election board may perform its duty in serving registered voters at the polling place in an election if the election board has before it the roster for the county or city, as applicable.***

Sec. 12. NRS 293.277 is hereby amended to read as follows:

293.277 1. Except as otherwise provided in NRS 293.283 and 293.541, if a person's name appears in the roster or if the person provides an affirmation pursuant to NRS 293.525, the person is entitled to vote and must sign his or her name in the roster ***or on a signature card*** when he or she applies to vote. The signature must be compared by an election board officer with the signature or a facsimile thereof on the person's application to register to vote or one of the forms of identification listed in subsection 2.

2. Except as otherwise provided in NRS 293.2725, the forms of identification which may be used individually to identify a voter at the polling place are:

- (a) The card issued to the voter at the time he or she registered to vote;
- (b) A driver's license;
- (c) An identification card issued by the Department of Motor Vehicles;
- (d) A military identification card; or
- (e) Any other form of identification issued by a governmental agency which contains the voter's signature and physical description or picture.

3. ***The county clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted in that county in the election.***

Sec. 12.5. NRS 293.283 is hereby amended to read as follows:

293.283 1. If, because of physical limitations, a registered voter is unable to sign his or her name in the roster ***or on a signature card*** as required by NRS 293.277, the voter must be identified by:

- (a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;
- (b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or
- (c) Providing the election board officer with proof of identification as described in NRS 293.277 other than the card issued to the voter at the time he or she registered to vote.

2. If the identity of the voter is verified, the election board officer shall indicate in the roster "Identified" by the voter's name.

Sec. 13. NRS 293.285 is hereby amended to read as follows:

293.285 1. Except as otherwise provided in NRS 293.283, a registered voter applying to vote shall state his or her name to the election board officer in charge of the roster, and the officer shall immediately announce the name,

instruct the voter to sign the roster ~~and~~ **or signature card**, verify the signature of the voter in the manner set forth in NRS 293.277 ~~and verify that the registered voter has not already voted in that county in the current election.~~

2. If the signature does not match, the voter must be identified by:

(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or

(c) Providing the election board officer with proof of identification as described in NRS 293.277 other than the card issued to the voter at the time he or she registered to vote.

3. If the signature of the voter has changed in comparison to the signature on the application to register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

Sec. 14. 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 or when the registered voter 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 ~~this or her~~ **a** polling place ~~at which he or she is entitled to vote.~~

Sec. 15. NRS 293.3564 is hereby amended to read as follows:

293.3564 1. ~~The~~ **Each** county clerk ~~may~~ **shall** establish **at least one** permanent polling ~~places~~ **place** for early voting by personal appearance in the county. ~~at the locations selected pursuant to NRS 293.3561.~~

~~2. Except as otherwise provided in subsection 3, any~~

2. **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. 16. 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 , ***except as otherwise provided in this subsection***, extends through the Friday before election day, Sundays and federal holidays excepted. ***A county clerk may extend the period for early voting by personal appearance through the Sunday before election day.***

2. The county clerk may:

(a) ~~Include~~ ***Except as otherwise provided in subsection 3, include*** any Sunday or federal holiday that falls 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 permanent polling place for early voting must remain open:

(a) On Monday through Friday:

(1) During the first week of early voting, from 8 a.m. until 6 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) On any Saturday that falls within the period for early voting, for at least 4 hours between 10 a.m. and 6 p.m.

(c) ***If a county clerk extends the period for early voting by personal appearance through the Sunday before election day pursuant to subsection 1, on the Sunday before election day during such hours as the clerk may establish.***

(d) 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.

Sec. 17. NRS 293.3572 is hereby amended to read as follows:

293.3572 1. In addition to permanent polling places for early voting, ***except as otherwise provided in subsection 3***, the county clerk may establish temporary branch polling places for early voting which may include, without limitation, the clerk's office pursuant to NRS 293.3561.

2. ***If an Indian reservation or Indian colony is located in whole or in part within a county, the Indian tribe may submit a request to the county clerk for the establishment of a temporary branch polling place for early voting within the boundaries of the Indian reservation or Indian colony.***

3. ***A request for the establishment of a temporary branch polling place for early voting within the boundaries of an Indian reservation or Indian colony must:***

(a) Must be submitted to the county clerk by the Indian tribe on or before:

~~{(a)}~~ (1) If the request is for a primary election, the first Friday in January of the year in which the primary election is to be held.

~~{(b)}~~ (2) If the request is for a general election, the first Friday in July of the year in which the general election is to be held.

(b) May include one or more proposed locations within the boundaries of the Indian reservation or Indian colony for the temporary branch polling place and proposed hours of operation thereof. Any proposed location must satisfy the criteria established by the county clerk for the selection of temporary branch polling places pursuant to NRS 293.3561.

4. ~~{4}~~ Except as otherwise provided in this subsection, if the county clerk receives a request that satisfies the requirements set forth in subsection 3, the county clerk must establish at least one temporary branch polling place for early voting within the boundaries of the Indian reservation or Indian colony. The location and hours of operation of such a temporary branch polling place for early voting must be approved by the Indian tribe. The county clerk is not required to establish a temporary branch polling place within the boundaries of the Indian reservation or Indian colony if the county clerk determines that it is not logistically feasible to establish a temporary branch polling place within the boundaries of the Indian Reservation or colony.

5. The provisions of subsection 3 of NRS 293.3568 do not apply to a temporary **branch** 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.

~~{3-}~~ 6. The schedules for conducting voting are not required to be uniform among the temporary branch polling places.

~~{4-}~~ 7. 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. 17.5. NRS 293.3585 is hereby amended to read as follows:

293.3585 1. Except as otherwise provided in NRS 293.283, upon the appearance of a person to cast a ballot for early voting, an election board officer shall:

(a) Determine that the person is a registered voter in the county.

(b) Instruct the voter to sign the roster for early voting ~~{-}~~ **or a signature card.**

(c) Verify the signature of the voter in the manner set forth in NRS 293.277.

(d) Verify that the voter has not already voted **in that county** in the current election pursuant to this section.

2. If the signature of the voter does not match, the voter must be identified by:

(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or

(c) Providing the election board officer with proof of identification as described in NRS 293.277 other than the card issued to the voter at the time he or she registered to vote.

3. If the signature of the voter has changed in comparison to the signature on the application to register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

4. The county clerk shall prescribe a procedure, approved by the Secretary of State, to verify that the voter has not already voted *in that county* in the current election pursuant to this section.

5. The roster for early voting *or signature card, as applicable*, 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, if that information is available; and

(c) The date of voting early in person.

6. When a voter is entitled to cast a ballot and has identified himself or herself to the satisfaction of the election board officer, 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.

7. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the election board officer shall:

(a) Prepare the mechanical recording device for the voter;

(b) Ensure that the voter's precinct or voting district, if that information is available, 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.

8. A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293.303.

Sec. 17.7. 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 which identifies the mechanical recording device and the storage device required pursuant to NRS 293B.084;
- (3) The number of ballots voted on the mechanical recording device for that day; ~~and~~
- (4) The number of signatures in the roster for early voting for that day ~~}; and~~
- (5) ***The number of signatures on signature cards 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 signature cards used for early voting;***
- (d) The storage device required pursuant to NRS 293B.084 from each mechanical recording device used during the period for early voting; and
- ~~[(d)]~~ (e) 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) Indicate the number of ballots on an official statement of ballots; and
- (b) Place the storage devices 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 storage devices to the central counting place.

Sec. 18. NRS 293.4689 is hereby amended to read as follows:

293.4689 1. If a county clerk maintains a website on the Internet for information related to elections, the website must contain public information maintained, collected or compiled by the county clerk that relates to elections, which must include, without limitation:

- (a) The locations of polling places for casting a ballot on election day in such a format that a registered voter may search the list to determine the location of the polling place ***or places*** at which the registered voter is ~~required~~ ***entitled*** to cast a ballot; and

- (b) The abstract of votes required pursuant to the provisions of NRS 293.388.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by a county clerk pursuant to subsection 1 may be obtained by the public from a website on the

Internet maintained by the Secretary of State, another county clerk or a city clerk, the county clerk may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 19. NRS 293.511 is hereby amended to read as follows:

293.511 ~~{If a} The registrar of voters' register or {roster is kept by computer, the register or}~~ roster, as applicable, must include the name, address, precinct, political affiliation and signature or facsimile thereof of each voter and any additional information required by the county clerk.

Sec. 20. NRS 293.541 is hereby amended to read as follows:

293.541 1. The county clerk shall cancel the registration of a voter if:

(a) After consultation with the district attorney, the district attorney determines that there is probable cause to believe that information in the registration concerning the identity or residence of the voter is fraudulent;

(b) The county clerk provides a notice as required pursuant to subsection 2 or executes an affidavit of cancellation pursuant to subsection 3; and

(c) The voter fails to present satisfactory proof of identity and residence pursuant to subsection 2, 4 or 5.

2. Except as otherwise provided in subsection 3, the county clerk shall notify the voter by registered or certified mail, return receipt requested, of a determination made pursuant to subsection 1. The notice must set forth the grounds for cancellation. Unless the voter, within 15 days after the return receipt has been filed in the office of the county clerk, presents satisfactory proof of identity and residence to the county clerk, the county clerk shall cancel the voter's registration.

3. If insufficient time exists before a pending election to provide the notice required by subsection 2, the county clerk shall execute an affidavit of cancellation and file the affidavit of cancellation with the registrar of voters' register and ~~{~~:

~~—(a) In counties where records of registration are not kept by computer, the county clerk shall attach a copy of the affidavit of cancellation in the roster.~~

~~—(b) In counties where records of registration are kept by computer, the county clerk shall have the affidavit of cancellation printed on the computer entry for the registration and}~~ add a copy of ~~{it}~~ **the affidavit** to the roster.

4. If a voter appears to vote at the election next following the date that an affidavit of cancellation was executed for the voter pursuant to this section, the voter must be allowed to vote only if the voter furnishes:

(a) Official identification which contains a photograph of the voter, including, without limitation, a driver's license or other official document; and

(b) Satisfactory identification that contains proof of the address at which the voter actually resides and that address is consistent with the address listed on the roster.

5. If a determination is made pursuant to subsection 1 concerning information in the registration to vote of a voter and an absent ballot or a ballot voted by a voter who resides in a mailing precinct is received from the

voter, the ballot must be kept separate from other ballots and must not be counted unless the voter presents satisfactory proof to the county clerk of identity and residence before such ballots are counted on election day.

6. For the purposes of this section, a voter registration card issued pursuant to NRS 293.517 does not provide proof of the:

- (a) Address at which a person actually resides; or
- (b) Residence or identity of a person.

Sec. 21. NRS 293.547 is hereby amended to read as follows:

293.547 1. After the 30th day but not later than the 25th day before any election, a written challenge may be filed with the county clerk.

2. A registered voter may file a written challenge if:

(a) He or she is registered to vote in the same precinct as the person whose right to vote is challenged; and

(b) The challenge is based on the personal knowledge of the registered voter.

3. The challenge must be signed and verified by the registered voter and name the person whose right to vote is challenged and the ground of the challenge.

4. A challenge filed pursuant to this section must not contain the name of more than one person whose right to vote is challenged. The county clerk shall not accept for filing any challenge which contains more than one such name.

5. The county clerk shall:

- (a) File the challenge in the registrar of voters' register and ~~if:~~

~~—(1) In counties where records of registration are not kept by computer, he or she shall attach a copy of the challenge to the challenged registration in the roster.~~

~~—(2) In counties where records of registration are kept by computer, he or she shall have the challenge printed on the computer entry for the challenged registration and~~ add a copy of ~~it~~ **the challenge** to the roster.

(b) Within 5 days after a challenge is filed, mail a notice in the manner set forth in NRS 293.530 to the person whose right to vote has been challenged pursuant to this section informing the person of the challenge. If the person fails to respond or appear to vote within the required time, the county clerk shall cancel the person's registration. A copy of the challenge and information describing how to reregister properly must accompany the notice.

(c) Immediately notify the district attorney. A copy of the challenge must accompany the notice.

6. Upon receipt of a notice pursuant to this section, the district attorney shall investigate the challenge within 14 days and, if appropriate, cause proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. The court shall give such proceedings priority over other civil matters that are not expressly given priority by law. Upon

court order, the county clerk shall cancel the registration of the person whose right to vote has been challenged pursuant to this section.

Sec. 22. NRS 293.563 is hereby amended to read as follows:

293.563 1. During the interval between the closing of registration and the election, the county clerk shall prepare for ~~each~~ :

(a) *Each* polling place a roster containing the registered voters eligible to vote at the polling place.

(b) *Each polling place established pursuant to section 2 or 27 of this act, if any, a roster containing the registered voters eligible to vote in the county or city, respectively.*

2. The ~~roster~~ **rosters** must be delivered or caused to be delivered by the county or city clerk to an election board officer of the proper polling place before the opening of the polls.

Sec. 23. NRS 293.565 is hereby amended to read as follows:

293.565 1. Except as otherwise provided in subsection 3, sample ballots must include:

(a) If applicable, the statement required by NRS 293.267;

(b) The fiscal note or description of anticipated financial effect, as provided pursuant to NRS 218D.810, 293.250, 293.481, 295.015, 295.095 or 295.230 for each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(c) An explanation, as provided pursuant to NRS 218D.810, 293.250, 293.481, 295.121 or 295.230, of each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(d) Arguments for and against each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question, and rebuttals to each argument, as provided pursuant to NRS 218D.810, 293.250, 293.252 or 295.121; and

(e) The full text of each proposed constitutional amendment.

2. If, pursuant to the provisions of NRS 293.2565, the word “Incumbent” must appear on the ballot next to the name of the candidate who is the incumbent, the word “Incumbent” must appear on the sample ballot next to the name of the candidate who is the incumbent.

3. Sample ballots that are mailed to registered voters may be printed without the full text of each proposed constitutional amendment if:

(a) The cost of printing the sample ballots would be significantly reduced if the full text of each proposed constitutional amendment were not included;

(b) The county clerk ensures that a sample ballot that includes the full text of each proposed constitutional amendment is provided at no charge to each registered voter who requests such a sample ballot; and

(c) The sample ballots provided to each polling place include the full text of each proposed constitutional amendment.

4. A county clerk may establish a system for distributing sample ballots by electronic means to each registered voter who elects to receive a sample ballot by electronic means. Such a system may include, without limitation, electronic mail or electronic access through an Internet website. If a county clerk establishes such a system and a registered voter elects to receive a sample ballot by electronic means, the county clerk shall distribute the sample ballot to the registered voter by electronic means pursuant to the procedures and requirements set forth by regulations adopted by the Secretary of State.

5. If a registered voter does not elect to receive a sample ballot by electronic means pursuant to subsection 4, the county clerk shall distribute the sample ballot to the registered voter by mail.

6. Before the period for early voting for any election begins, the county clerk shall distribute to each registered voter in the county by mail or electronic means, as applicable, the sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place ~~H~~ **or places**. If the location of the polling place **or places** has changed since the last election:

(a) The county clerk shall mail a notice of the change to each registered voter in the county not sooner than 10 days before distributing the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE *OR PLACES* HAS CHANGED SINCE THE LAST ELECTION

7. Except as otherwise provided in subsection 8, a sample ballot required to be distributed pursuant to this section must:

(a) Be prepared in at least 12-point type; and

(b) Include on the front page, in a separate box created by bold lines, a notice prepared in at least 20-point bold type that states:

**NOTICE: TO RECEIVE A SAMPLE BALLOT IN
LARGE TYPE, CALL (Insert appropriate telephone number)**

8. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

9. The sample ballot distributed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be prepared in at least 14-point type, or larger when practicable.

10. If a person requests a sample ballot in large type, the county clerk shall ensure that all future sample ballots distributed to that person from the county are in large type.

11. The county clerk shall include in each sample ballot a statement indicating that the county clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place **or places** and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the county clerk has provided pursuant to subsection 4 of NRS 293.2955 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the county clerk shall include in the sample ballot a statement indicating:

- (a) The addresses of such centralized voting locations;
- (b) The types of specially equipped voting devices available at such centralized voting locations; and
- (c) That a voter who is elderly or disabled may cast his or her ballot at such a centralized voting location rather than at his or her regularly designated polling place ~~+~~ **or places**.

12. The cost of distributing sample ballots for any election other than a primary or general election must be borne by the political subdivision holding the election.

Sec. 24. NRS 293.730 is hereby amended to read as follows:

293.730 1. A person shall not:

- (a) Remain in or outside of any polling place so as to interfere with the conduct of the election.
- (b) Except an election board officer, receive from any voter a ballot prepared by the voter.
- (c) Remove a ballot from any polling place before the closing of the polls.
- (d) Apply for or receive a ballot at any election precinct or district other than ~~the~~ one at which the person is entitled to vote.
- (e) Show his or her ballot to any person, after voting, so as to reveal any of the names voted for.
- (f) Inside a polling place, ask another person for whom he or she intends to vote.
- (g) Except an election board officer, deliver a ballot to a voter.
- (h) Except an election board officer in the course of the election board officer's official duties, inside a polling place, ask another person his or her name, address or political affiliation.

2. A voter shall not:

- (a) Receive a ballot from any person other than an election board officer.
- (b) Deliver to an election board or to any member thereof any ballot other than the one received.
- (c) Place any mark upon his or her ballot by which it may afterward be identified as the one voted by the person.

3. Any person who violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 25. NRS 293.790 is hereby amended to read as follows:

293.790 If any person whose vote has been rejected offers to vote at the same election, at any polling place other than ~~the~~ one in which the person is ~~registered~~ **entitled** to vote, such person is guilty of a gross misdemeanor.

Sec. 26. Chapter 293C of NRS is hereby amended by adding thereto the provisions set forth as sections 27 to 31, inclusive, of this act.

Sec. 27. 1. *A city clerk may establish one or more polling places in the city where any person entitled to vote in the city by personal appearance may do so on the day of the primary city election or general city election.*

2. Any person entitled to vote in the city by personal appearance may do so at any polling place established pursuant to subsection 1.

Sec. 28. 1. *Except as otherwise provided in subsection 2, if a city clerk establishes one or more polling places pursuant to section 27 of this act, the city clerk must:*

(a) Publish during the week before the election in a newspaper of general circulation a notice of the location of each such polling place.

(b) Post a list of the location of each such polling place on any bulletin board used for posting notice of meetings of the governing body of the city. The list must be posted continuously for a period beginning not later than the fifth business day before the election and ending at 7 p.m. on the day of the election. The city clerk shall make copies of the list available to the public during the period of posting in reasonable quantities without charge.

2. The provisions of subsection 1 do not apply if every polling place in the city is designated as a polling place where any person entitled to vote in the city by personal appearance may do so on the day of the primary city election or general city election.

3. No additional polling place may be established pursuant to section 27 of this act after the publication pursuant to this section, except in the case of an emergency and if approved by the Secretary of State.

Sec. 29. 1. *For each polling place established pursuant to section 27 of this act, if any, the city clerk shall prepare a roster that contains, for every registered voter in the city, the voter's name, the address where he or she is registered to vote, his or her voter identification number, the voter's precinct or district number and the voter's signature.*

2. The roster must be delivered or caused to be delivered by the city clerk to an election board officer of the proper polling place before the opening of the polls.

Sec. 30. 1. *Except as otherwise provided in NRS 293C.272, upon the appearance of a person to cast a ballot at a polling place established pursuant to section 27 of this act, if any, the election board officer shall:*

(a) Determine that the person is a registered voter in the city and has not already voted in that city in the election;

(b) Instruct the voter to sign the roster or a signature card; and

(c) Verify the signature of the voter in the manner set forth in NRS 293C.270.

2. If the signature of the voter does not match, the voter must be identified by:

(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or

(c) Providing the election board officer with proof of identification as described in NRS 293C.270 other than the card issued to the voter at the time he or she registered to vote.

3. If the signature of the voter has changed in comparison to the signature on the application to register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

4. The city clerk shall prescribe a procedure, approved by the Secretary of State, to verify that the voter has not already voted in that city in the current election.

5. When a voter is entitled to cast a ballot and has identified himself or herself to the satisfaction of the election board officer, the voter is entitled to receive the appropriate ballot or ballots, but only for his or her own use at the polling place where he or she applies to vote.

6. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the election board officer shall:

(a) Prepare the mechanical voting device for the voter;

(b) Ensure that the voter's precinct or voting district and the form of the ballot are indicated on the voting receipt, if the city clerk uses voting receipts; and

(c) Allow the voter to cast a vote.

7. A voter applying to vote at a polling place established pursuant to section 27 of this act, if any, may be challenged pursuant to NRS 293C.292.

Sec. 31. 1. If an Indian reservation or Indian colony is located in whole or in part within a city, the Indian tribe may request to the city clerk for the establishment of a polling place within the boundaries of the Indian reservation or Indian colony.

2. A request for the establishment of a polling place within the boundaries of an Indian reservation or Indian colony ~~must~~ :

(a) Must be submitted to the city clerk by the Indian tribe on or before:

~~[(a)]~~ (1) If the request is for a primary city election that is held:

~~[(1)]~~ (1) On the dates set forth for primary elections pursuant to the provisions of chapter 293 of NRS, the first Friday in January of the year in which the primary city election is to be held.

~~[(2)]~~ (II) On the dates set forth for primary city elections pursuant to the provisions of this chapter, the first Friday in December of the year immediately preceding the year in which the primary city election is to be held.

~~[(b)]~~ **(2)** *If the request is for a general city election that is held:*

~~[(1)]~~ **(I)** *On the dates set forth for general elections pursuant to the provisions of chapter 293 of NRS, the first Friday in July of the year in which the general city election is to be held.*

~~[(2)]~~ **(II)** *On the dates set forth for general city elections pursuant to the provisions of this chapter, the first Friday in January of the year in which the general city election is to be held.*

(b) May include one or more proposed locations within the boundaries of the Indian reservation or Indian colony for the polling place. Any proposed location for a polling place must satisfy the criteria the city clerk uses for the establishment of any other polling place.

3. ~~[(1)]~~ Except as otherwise provided in this subsection, if the city clerk receives a request that satisfies the requirements set forth in subsection 2, the city clerk must establish at least one polling place within the boundaries of the Indian reservation or Indian colony at a location or locations, as applicable, approved by the Indian tribe. The city clerk is not required to establish a polling place within the boundaries of the Indian reservation or Indian colony if the city clerk established a temporary branch polling place within the boundaries of the Indian reservation or Indian colony for the same election.

Sec. 32. 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, **and section 31 of this act**, 293C.305 to 293C.340, inclusive, and 293C.355 to 293C.361, inclusive, 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. 33. NRS 293C.267 is hereby amended to read as follows:

293C.267 1. Except as otherwise provided in subsection 2 and NRS 293C.297, at all elections held pursuant to the provisions of this chapter, the polls must open at 7 a.m. and close at 7 p.m.

2. Whenever at any election all the votes of the polling place, as shown on the roster, have been cast, the election board officers shall close the polls and the counting of votes must begin and continue without unnecessary delay until the count is completed. **The provisions of this subsection do not apply to any polling place established pursuant to section 27 of this act where any**

person entitled to vote in the city by personal appearance on the day of the election may do so.

3. Upon opening the polls, one of the election board officers shall cause a proclamation to be made so that all present may be aware of the fact that applications of registered voters to vote will be received.

4. No person other than election board officers engaged in receiving, preparing or depositing ballots may be permitted inside the guardrail during the time the polls are open, except by authority of the election board as necessary to keep order and carry out the provisions of this chapter.

Sec. 34. NRS 293C.270 is hereby amended to read as follows:

293C.270 1. Except as otherwise provided in NRS 293C.272, if a person's name appears in the roster or if the person provides an affirmation pursuant to NRS 293C.525, the person is entitled to vote and must sign his or her name in the roster ***or on a signature card*** when he or she applies to vote. The signature must be compared by an election board officer with the signature or a facsimile thereof on the person's application to register to vote or one of the forms of identification listed in subsection 2.

2. The forms of identification that may be used to identify a voter at the polling place are:

- (a) The card issued to the voter at the time he or she registered to vote;
- (b) A driver's license;
- (c) An identification card issued by the Department of Motor Vehicles;
- (d) A military identification card; or
- (e) Any other form of identification issued by a governmental agency that contains the voter's signature and physical description or picture.

3. *The city clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted in that city in the current election.*

Sec. 34.5. NRS 293C.272 is hereby amended to read as follows:

293C.272 1. If, because of physical limitations, a registered voter is unable to sign his or her name in the roster ***or on a signature card*** as required by NRS 293C.270, the voter must be identified by:

- (a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;
- (b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or
- (c) Providing the election board officer with proof of identification as described in NRS 293C.270 other than the card issued to the voter at the time he or she registered to vote.

2. If the identity of the voter is verified, the election board officer shall indicate in the roster "Identified" by the voter's name.

Sec. 35. NRS 293C.275 is hereby amended to read as follows:

293C.275 1. Except as otherwise provided in NRS 293C.272, a registered voter who applies to vote must state his or her name to the election board officer in charge of the roster, and the officer shall immediately

announce the name, instruct the voter to sign the roster ~~{and}~~ **or signature card**, verify the signature of the voter in the manner set forth in NRS 293C.270 ~~{-}~~ **and verify that the registered voter has not already voted in that city in the current election.**

2. If the signature does not match, the voter must be identified by:

(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or

(c) Providing the election board officer with proof of identification as described in NRS 293C.270 other than the card issued to the voter at the time he or she registered to vote.

3. If the signature of the voter has changed in comparison to the signature on the application to register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

Sec. 36. 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 or when the registered voter 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}~~ **a polling place ~~{-}~~ at which he or she is entitled to vote.**

Sec. 37. NRS 293C.3564 is hereby amended to read as follows:

293C.3564 1. The city clerk ~~{may}~~ **in a city providing for early voting pursuant to subparagraph (1) of paragraph (b) of subsection 2 of NRS 293C.110 shall establish at least one** permanent polling ~~{places}~~ **place** for early voting by personal appearance in the city at the locations selected pursuant to NRS 293C.3561.

2. Any person entitled to vote early by personal appearance may do so at any polling place for early voting.

Sec. 38. 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 , ***except as otherwise provided in this subsection***, extends through the Friday before election day, ~~[Sundays and]~~ federal holidays excepted. ***A city clerk may extend the period for early voting by personal appearance through the Sunday before election day.***

2. The city clerk may:

(a) ~~Include~~ ***Except as otherwise provided in subsection 3, include*** any Sunday or federal holiday that falls 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 permanent polling place for early voting must remain open:

(a) On Monday through Friday:

(1) During the first week of early voting, from 8 a.m. until 6 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) On any Saturday that falls within the period for early voting, for at least 4 hours between 10 a.m. and 6 p.m.

(c) ***If a city clerk extends the period for early voting by personal appearance through the Sunday before election day pursuant to subsection 1, on the Sunday before election day during such hours as the clerk may establish.***

(d) 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.

Sec. 39. NRS 293C.3572 is hereby amended to read as follows:

293C.3572 1. In addition to permanent polling places for early voting, ***except as otherwise provided in subsection 3***, the city clerk may establish temporary branch polling places for early voting pursuant to NRS 293C.3561.

2. ***If an Indian reservation or Indian colony is located in whole or in part within a city, the Indian tribe may submit a request to the city clerk for the establishment of a temporary branch polling place within the boundaries of the Indian reservation or Indian colony.***

3. ***A request for the establishment of a temporary branch polling place within the boundaries of an Indian reservation or Indian colony must:***

(a) Must be submitted to the city clerk by the Indian tribe on or before:

~~[(a)]~~ ***(1) If the request is for a primary city election that is held:***

~~[(1)]~~ ***(I) On the dates set forth for primary elections pursuant to the provisions of chapter 293 of NRS, the first Friday in January of the year in which the primary city election is to be held.***

~~[(2)]~~ ***(II) On the dates set forth for primary city elections pursuant to the provisions of this chapter, the first Friday in December of the year immediately preceding the year in which the primary city election is to be held.***

~~[(b)]~~ ***(2) If the request is for a general city election that is held:***

~~{(1)}~~ *(I) On the dates set forth for general elections pursuant to the provisions of chapter 293 of NRS, the first Friday in July of the year in which the general city election is to be held.*

~~{(2)}~~ *(II) On the dates set forth for general city elections pursuant to the provisions of this chapter, the first Friday in January of the year in which the general city election is to be held.*

(b) May include one or more proposed locations within the boundaries of the Indian reservation or Indian colony for the temporary branch polling place and proposed hours thereof. Any proposed location must satisfy the criteria established by the city clerk pursuant to NRS 293C.3561.

4. ~~{(f)}~~ *Except as otherwise provided in this subsection, if the city clerk receives a request that satisfies the requirements set forth in subsection 3, the city clerk must establish at least one temporary branch polling place for early voting within the boundaries of the Indian reservation or Indian colony. The location and hours of operation of such a temporary branch polling place for early voting must be approved by the Indian tribe. The city clerk is not required to establish a temporary branch polling place within the boundaries of the Indian reservation or Indian colony if the city clerk determines that it is not logistically feasible to establish a temporary branch polling place within the boundaries of the Indian reservation or Indian colony.*

5. The provisions of subsection 3 of NRS 293C.3568 do not apply to a temporary **branch** 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.

~~{3-}~~ 6. The schedules for conducting voting are not required to be uniform among the temporary branch polling places.

~~{4-}~~ 7. 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. 39.5. NRS 293C.3585 is hereby amended to read as follows:

293C.3585 1. Except as otherwise provided in NRS 293C.272, upon the appearance of a person to cast a ballot for early voting, an election board officer shall:

(a) Determine that the person is a registered voter in the county.

(b) Instruct the voter to sign the roster for early voting ~~{-}~~ **or a signature card.**

(c) Verify the signature of the voter in the manner set forth in NRS 293C.270.

(d) Verify that the voter has not already voted **in that city** in the current election pursuant to this section.

2. If the signature does not match, the voter must be identified by:

(a) Answering questions from the election board officer covering the personal data which is reported on the application to register to vote;

(b) Providing the election board officer, orally or in writing, with other personal data which verifies the identity of the voter; or

(c) Providing the election board officer with proof of identification as described in NRS 293C.270 other than the card issued to the voter at the time he or she registered to vote.

3. If the signature of the voter has changed in comparison to the signature on the application to register to vote, the voter must update his or her signature on a form prescribed by the Secretary of State.

4. The city clerk shall prescribe a procedure, approved by the Secretary of State, to verify that the voter has not already voted *in that city* in the current election pursuant to this section.

5. The roster for early voting *or signature card, as applicable*, 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, if that information is available; and

(c) The date of voting early in person.

6. When a voter is entitled to cast a ballot and has identified himself or herself to the satisfaction of the election board officer, 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.

7. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the election board officer shall:

(a) Prepare the mechanical recording device for the voter;

(b) Ensure that the voter's precinct or voting district, if that information is available, 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.

8. A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293C.292.

Sec. 39.7. 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 which identifies the mechanical recording device and the storage device required pursuant to NRS 293B.084;

(3) The number of ballots voted on the mechanical recording device for that day; ~~and~~

(4) The number of signatures in the roster for early voting for that day ~~}; and~~

(5) The number of signatures on signature cards 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 signature cards used for early voting;

(d) The storage device required pursuant to NRS 293B.084 from each mechanical recording device used during the period for early voting; and

~~[(d)]~~ **(e)** 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) Indicate the number of ballots on an official statement of ballots; and

(b) Place the storage devices 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 storage devices to the central counting place.

Sec. 40. NRS 293C.530 is hereby amended to read as follows:

293C.530 1. A city clerk may establish a system for distributing sample ballots by electronic means to each registered voter who elects to receive a sample ballot by electronic means. Such a system may include, without limitation, electronic mail or electronic access through an Internet website. If a city clerk establishes such a system and a registered voter elects to receive a sample ballot by electronic means, the city clerk shall distribute the sample ballot to the registered voter by electronic means pursuant to the procedures and requirements set forth by regulations adopted by the Secretary of State.

2. If a registered voter does not elect to receive a sample ballot by electronic means pursuant to subsection 1, the city clerk shall distribute the sample ballot to the registered voter by mail.

3. Before the period for early voting for any election begins, the city clerk shall distribute to each registered voter in the city by mail or electronic means, as applicable, the sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place ~~}; or places~~. If the location of the polling place **or places** has changed since the last election:

(a) The city clerk shall mail a notice of the change to each registered voter in the city not sooner than 10 days before distributing the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE **OR**
PLACES HAS CHANGED SINCE THE LAST ELECTION

4. Except as otherwise provided in subsection 6, a sample ballot required to be distributed pursuant to this section must:

- (a) Be prepared in at least 12-point type;
- (b) Include the description of the anticipated financial effect and explanation of each citywide measure and advisory question, including arguments for and against the measure or question, as required pursuant to NRS 295.205 or 295.217; and
- (c) Include on the front page, in a separate box created by bold lines, a notice prepared in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN
LARGE TYPE, CALL (Insert appropriate telephone number)

5. The word “Incumbent” must appear on the sample ballot next to the name of the candidate who is the incumbent, if required pursuant to NRS 293.2565.

6. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

7. The sample ballot distributed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be prepared in at least 14-point type, or larger when practicable.

8. If a person requests a sample ballot in large type, the city clerk shall ensure that all future sample ballots distributed to that person from the city are in large type.

9. The city clerk shall include in each sample ballot a statement indicating that the city clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place **or places** and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the city clerk has provided pursuant to subsection 4 of NRS 293C.281 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the city clerk shall include in the sample ballot a statement indicating:

- (a) The addresses of such centralized voting locations;
- (b) The types of specially equipped voting devices available at such centralized voting locations; and

(c) That a voter who is elderly or disabled may cast his or her ballot at such a centralized voting location rather than at the voter's regularly designated polling place ~~or~~ **or places**.

10. The cost of distributing sample ballots for a city election must be borne by the city holding the election.

Sec. 41. NRS 293C.535 is hereby amended to read as follows:

293C.535 1. Except as otherwise provided by special charter, registration of electors in incorporated cities must be accomplished in the manner provided in this chapter.

2. The county clerk shall use the statewide voter registration list to prepare for the city clerk of each incorporated city within the county the roster of all electors eligible to vote at a regular or special city election.

3. ~~The~~ **Except as otherwise provided in section 27 of this act, the** rosters must be prepared, one for each ward or other voting district within each incorporated city. The entries in the roster must be arranged alphabetically with the surnames first.

4. The county clerk shall keep duplicate originals or copies of the applications to register to vote in the county clerk's office.

Sec. 42. NRS 293C.715 is hereby amended to read as follows:

293C.715 1. If a city clerk maintains a website on the Internet for information relating to elections, the website must contain public information maintained, collected or compiled by the city clerk that relates to elections, which must include, without limitation:

(a) The locations of polling places for casting a ballot on election day in such a form that a registered voter may search the list to determine the location of the polling place **or places** at which the registered voter is ~~required~~ **entitled** to cast a ballot; and

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293C.387.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by a city clerk pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by the Secretary of State, a county clerk or another city clerk, the city clerk may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 43. 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. 44. This act becomes effective:

1. On July 1, 2017, 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, 2018, for all other purposes.

Assemblywoman Diaz moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Benitez-Thompson moved that Assembly Bills Nos. 120, 228, 231, 232, 235, 241, 244, 246, 255, 286, 297, 299, 304, 310, 316, 317, 321, 324, 340, 341, 346, 347, 350, 356, 372, 376, 393, 408, 410, 412, 424, 427, 444, 445, 455, 459, 485, 26, 101, 242, 253, and 298; Assembly Joint Resolutions Nos. 4, 9, 11, and 13; Assembly Joint Resolution No. 10 of the 78th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Brooks, the privilege of the floor of the Assembly Chamber for this day was extended to Judy Miller Barrett and Jeff Tresley.

On request of Assemblyman Thompson, the privilege of the floor of the Assembly Chamber for this day was extended to Chuck Searle and Larry Bradley.

Assemblywoman Benitez-Thompson moved that the Assembly adjourn until Tuesday, April 25, 2017, at 11 a.m.

Motion carried.

Assembly adjourned at 9:49 p.m.

Approved:

JASON FRIERSON

Speaker of the Assembly

Attest: SUSAN FURLONG

Chief Clerk of the Assembly