

THE ONE HUNDRED AND SEVENTH DAY

CARSON CITY (Tuesday), May 23, 2017

Assembly called to order at 1:17 p.m.

Mr. Speaker presiding.

Roll called.

All present except Assemblyman Ellison, who was excused.

Prayer by the Chaplain, Reverend Richard Snyder.

Loving God, guide us this day with Your Spirit in all our doings and give to us Your continual help for our work begun, continued, and ended in You. Refresh us and give us clear minds and open spirits.

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.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2017

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 26, 117, 125, 177, 196, 218, 235, 275, 312, 411, 412, 444, 453, 458.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 142, Amendment No. 672; Assembly Bill No. 254, Amendment No. 704; Assembly Bill No. 314, Amendment No. 707; Assembly Bill No. 350, Amendment No. 653; Assembly Bill No. 454, Amendment No. 697, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 286, 361, 368.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 512.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in Assembly Amendment No. 675 to Senate Bill No. 31; Assembly Amendment No. 684 to Senate Bill No. 33; Assembly Amendment No. 717 to Senate Bill No. 50; Assembly Amendment No. 712 to Senate Bill No. 91; Assembly Amendment No. 758 to Senate Bill No. 173.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Benitez-Thompson moved that Assembly Concurrent Resolution No. 7 be taken from the Resolution File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 175 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblywoman Benitez-Thompson moved that Senate Bill No. 311 be taken from the Chief Clerk's desk and placed on the General File after Senate Bill 515.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bills Nos. 505, 506, 507, and 509; Senate Bills Nos. 356 and 393 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 52; Senate Bills Nos. 138, 292, and 411 be taken from their positions on the General File and placed at the bottom of the General File.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 286.

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

Motion carried.

Senate Bill No. 361.

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

Motion carried.

Senate Bill No. 368.

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

Motion carried.

Senate Bill No. 512.

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

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 343.

Bill read second time.

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

Amendment No. 763.

SUMMARY—Requiring the Legislative Committee on Health Care to study certain issues concerning the group homes ~~[in this State.]~~ **contracted with Southern Nevada Adult Mental Health Services.** (BDR S-1114)

AN ACT relating to group homes; requiring the Legislative Committee on Health Care to conduct an interim study concerning the rates ~~[charged by]~~ **paid by the State to the** group homes ~~[in this State.]~~ **contracted with Southern Nevada Adult Mental Health Services;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the Legislative Committee on Health Care to conduct an interim study concerning the rates ~~[charged by]~~ **paid by the State to the** group homes ~~[in this State.]~~ **contracted with Southern Nevada Adult Mental Health Services.** In relevant part, the Committee must review and evaluate the current rates that are ~~[charged by]~~ **paid by the State to the** group homes **contracted with Southern Nevada Adult Mental Health Services** and whether any changes in the rates may be necessary.

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

Section 1. 1. The Legislative Committee on Health Care shall conduct an interim study concerning the rates ~~[charged by]~~ **paid by the State to the** group homes ~~[in this State.]~~ **contracted with Southern Nevada Adult Mental Health Services.**

2. The study must include, without limitation:

(a) A comprehensive review and evaluation of the rates ~~[charged by]~~ **paid by the State to the** group homes ~~[in this State.]~~ **contracted with Southern Nevada Adult Mental Health Services** and whether any changes in the rates may be necessary;

(b) A comprehensive evaluation of the impact a change in such rates would have on group homes **contracted with Southern Nevada Adult Mental Health Services** as well as on any person who uses the services provided by **such** group homes ~~;~~ ~~[in this State.]~~

(c) A comprehensive evaluation of state and federal funding for **the** group homes ~~[in this State.]~~ **contracted with Southern Nevada Adult Mental Health Services** and the impact a change in the rates ~~[charged by]~~ **paid by the State to such** group homes would have on such funding;

(d) Consideration of the applicable provisions of federal law; and

(e) An examination of any other matter that the Legislative Committee on Health Care determines to be relevant to the study.

3. The Legislative Committee on Health Care shall ensure that the persons and entities that manage **the** group homes **contracted with Southern Nevada Adult Mental Health Services** or provide services on behalf of group homes ~~[in this State.]~~ **contracted with Southern Nevada Adult Mental Health Services** are involved in the study.

4. The Legislative Committee on Health Care shall submit a report of the results of the study conducted pursuant to subsection 2 and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the 80th Session of the Nevada Legislature.

5. As used in this section, "group homes" includes, without limitation, the facilities, homes, houses and institutions ~~described~~ **that are:**

(a) Contracted with Southern Nevada Adult Mental Health Services;
and

(b) Described in subsection 1 of NRS 244.3549.

Sec. 2. This act becomes effective on July 1, 2017.

Assemblywoman Diaz moved the adoption of the amendment.

Remarks by Assemblywoman Diaz.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 26.

Bill read second time and ordered to third reading.

Senate Bill No. 41.

Bill read second time and ordered to third reading.

Senate Bill No. 47.

Bill read second time.

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

Amendment No. 832.

AN ACT relating to water; requiring the State Engineer to prepare a water budget and inventory of groundwater for each basin in this State; declaring the policy of this State to manage conjunctively all sources of water in this State; revising provisions relating to certain applications to appropriate water; revising provisions relating to certain fees collected by the State Engineer; revising the provisions governing the procedures for the State Engineer to declare a forfeiture of certain water rights; revising provisions relating to the Program for the Management of Groundwater in the Las Vegas Valley Groundwater Basin; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State Engineer is charged with managing the appropriation of water in this State. (Title 48 of NRS) **Section 1** of this bill requires the State Engineer to prepare a water budget and calculate and maintain an inventory of groundwater for each basin located in whole or in part in this State. **Section 1.3** of this bill declares the policy of this State to manage conjunctively the appropriation, use and administration of all water in the State, regardless of the source.

Existing law requires any person who wishes to appropriate public waters to apply to the State Engineer for a permit to do so. (NRS 533.325) **Section 1.7** of this bill revises the requirements for an application for a permit to appropriate water. **Section 2** of this bill requires the State Engineer to publish notice of an application to appropriate water in a newspaper of general circulation where the point of diversion is located.

Existing law requires the State Engineer to conduct an inventory of a basin from which water is to be exported before approving an application for an interbasin transfer of more than 250 acre-feet of groundwater if the basin has not previously been studied or inventoried. (NRS 533.364) **Section 3** of this bill authorizes the applicant to waive the time limit for completion of the inventory by the State Engineer.

Upon approving an application for a permit to appropriate water, existing law authorizes the State Engineer to extend the deadline by which construction related to the appropriation of water or the application of water to a beneficial use must be completed or made. A single extension for a municipal or quasi-municipal use for a public water system may not exceed 5 years and an extension for any other use may not exceed 1 year. (NRS 533.380) **Section 4** of this bill increases to 5 years the period of a single extension for a use other than for a municipal or quasi-municipal use for a public water system and requires an application to extend the deadline to include evidence of good faith on the part of the applicant in pursuing the perfection of the application.

Section 5 of this bill eliminates the requirement that a certificate of appropriation set forth the post office address of each holder of the permit.

Section 6 of this bill revises provisions relating to certain fees collected by the State Engineer.

Existing law recognizes a subsisting right to water livestock which may be proved by the owner of livestock by submitting certain evidence to the State Engineer. (NRS 533.492) **Section 7** of this bill revises the scale required for a topographic map showing the location of a subsisting right to water livestock from not less than 1:100,000 to not less than 1:24,000. ~~[Section 7 also provides that a subsisting right to water livestock is a pre-statutory vested right.]~~

Existing law prohibits the denial of an application to change the point of diversion under an existing water right on the basis that the proposed point of diversion is situated in another state. **Section 8** of this bill adds the same restriction for applications to change the manner of use or place of use.

Existing law requires, under certain circumstances, the State Engineer to notify the owner of a water right that the owner has 1 year after the date of the notice to either: (1) use the water right beneficially and provide proof of such use to the State Engineer; or (2) apply to the State Engineer for an extension of time to work a forfeiture of the water right. If, after 1 year after the date of the notice, the owner of the water right has not taken either action, the State Engineer is required to declare the right forfeited within 30 days.

(NRS 534.090) **Section 9** of this bill requires the State Engineer to send a final notice to the owner of the water right before the 30-day period begins. **Section 9** also provides certain additional factors which the State Engineer is required to consider when deciding whether to grant an extension of time to work a forfeiture.

Existing law creates the Advisory Committee for the Management of Groundwater in the Las Vegas Valley Groundwater Basin and provides for the membership, meetings and duties of the Advisory Committee. (Sections 8 and 9, Chapter 572, Statutes of Nevada 1997, p. 2800, as amended by chapter 180, Statutes of Nevada 2011, p. 820) **Section 16** of this bill makes creation of the Advisory Committee discretionary by the Southern Nevada Water Authority and reduces the term of the members of such an Advisory Committee to 2 years. **Section 19** of this bill removes the requirement that the Advisory Committee meet at least once every year.

Under existing law, the Southern Nevada Water Authority and the Advisory Committee are required to hold at least annually a joint workshop to discuss issues related to the basin and the management program. (Section 11 of chapter 572, Statutes of Nevada 1997, p. 2801) **Section 17** of this bill eliminates the required participation of the Advisory Committee in the workshop. **Section 18** 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. Chapter 532 of NRS is hereby amended by adding thereto a new section to read as follows:

For each basin located in whole or in part in the State, the State Engineer shall prepare a water budget and calculate and maintain an inventory of water which includes, without limitation:

1. The total amount of groundwater appropriated in the basin in accordance with decreed, certified and permitted rights regardless of whether the water appropriations are temporary in nature;

2. An estimate of the amount of groundwater used by domestic wells in the basin; and

3. An estimate of the amount of all groundwater that is available for appropriation in the basin.

Sec. 1.3. NRS 533.024 is hereby amended to read as follows:

533.024 The Legislature declares that:

1. It is the policy of this State:

(a) To encourage and promote the use of effluent, where that use is not contrary to the public health, safety or welfare, and where that use does not interfere with federal obligations to deliver water of the Colorado River.

(b) To recognize the importance of domestic wells as appurtenances to private homes, to create a protectable interest in such wells and to protect their supply of water from unreasonable adverse effects which are caused by

municipal, quasi-municipal or industrial uses and which cannot reasonably be mitigated.

(c) To encourage the State Engineer to consider the best available science in rendering decisions concerning the available surface and underground sources of water in Nevada.

(d) To encourage and promote the use of water to prevent or reduce the spread of wildfire or to rehabilitate areas burned by wildfire, including, without limitation, through the establishment of vegetative cover that is resistant to fire.

(e) To manage conjunctively the appropriation, use and administration of all waters of this State, regardless of the source of the water.

2. The procedures in this chapter for changing the place of diversion, manner of use or place of use of water, and for confirming a report of conveyance, are not intended to have the effect of quieting title to or changing ownership of a water right and that only a court of competent jurisdiction has the power to determine conflicting claims to ownership of a water right.

Sec. 1.7. NRS 533.335 is hereby amended to read as follows:

533.335 Each application for a permit to appropriate water shall contain the following information:

1. The name and post office address of the applicant and, if the applicant is a corporation, the date and place of incorporation.

2. The name of the source from which the appropriation is to be made.

3. The amount of water which it is desired to appropriate, expressed in terms of cubic feet per second ~~[-]~~ ***and acre-feet per year***, except in ~~[-]~~ :

(a) An application for a permit to store water, where the amount shall be expressed in acre-feet [-]; and

(b) An application for generating hydroelectric power or a diversion rate only application, where the amount shall be expressed in cubic feet per second.

4. The purpose for which the application is to be made.

5. A substantially accurate description of the location of the place at which the water is to be diverted from its source and, if any of such water is to be returned to the source, a description of the location of the place of return.

6. A description of the proposed works.

7. The estimated cost of such works.

8. The estimated time required to construct the works, and the estimated time required to complete the application of the water to beneficial use.

9. The signature of the applicant or a properly authorized agent thereof.

Sec. 2. NRS 533.360 is hereby amended to read as follows:

533.360 1. Except as otherwise provided in subsection 4, NRS 533.345 and subsection 2 of NRS 533.370, when an application is filed in compliance with this chapter, the State Engineer shall, within 30 days, publish or cause to be published once a week for 4 consecutive weeks in a newspaper of general

circulation ~~[and printed and published]~~ in the county where the ~~[water is sought to be appropriated,]~~ *point of diversion is located*, a notice of the application which sets forth:

- (a) That the application has been filed.
- (b) The date of the filing.
- (c) The name and address of the applicant.
- (d) The name of the source from which the appropriation is to be made.
- (e) The location of the place of diversion, described by legal subdivision or metes and bounds and by a physical description of that place of diversion.
- (f) The purpose for which the water is to be appropriated.

➡ The publisher shall add thereto the date of the first publication and the date of the last publication.

2. Except as otherwise provided in subsection 4, proof of publication must be filed within 30 days after the final day of publication. The State Engineer shall pay for the publication from the application fee. If the application is cancelled for any reason before publication, the State Engineer shall return to the applicant that portion of the application fee collected for publication.

3. If the application is for a proposed well:

- (a) For municipal, quasi-municipal or industrial use; and
- (b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,

➡ the applicant shall mail a copy of the notice of application to each owner of real property containing a domestic well that is within 2,500 feet of the proposed well, to the owner's address as shown in the latest records of the county assessor. If there are not more than six such wells, notices must be sent to each owner by certified mail, return receipt requested. If there are more than six such wells, at least six notices must be sent to owners by certified mail, return receipt requested. The return receipts from these notices must be filed with the State Engineer before the State Engineer may consider the application.

4. The provisions of this section do not apply to an environmental permit or a temporary permit issued pursuant to NRS 533.436 or 533.504.

Sec. 3. NRS 533.364 is hereby amended to read as follows:

533.364 1. In addition to the requirements of NRS 533.370, before approving an application for an interbasin transfer of more than 250 acre-feet of groundwater from a basin which the State Engineer has not previously inventoried or for which the State Engineer has not conducted, or caused to be conducted, a study pursuant to NRS 532.165 or 533.368, the State Engineer or a person designated by the State Engineer shall conduct an inventory of the basin from which the water is to be exported. The inventory must include:

- (a) The total amount of surface water and groundwater appropriated in accordance with a decreed, certified or permitted right;

(b) An estimate of the amount and location of all surface water and groundwater that is available for appropriation in the basin; and

(c) The name of each owner of record set forth in the records of the Office of the State Engineer for each decreed, certified or permitted right in the basin.

2. The provisions of this section do not:

(a) Require the State Engineer to initiate or complete a determination of the surface water or groundwater rights pursuant to NRS 533.090 to 533.320, inclusive, or to otherwise quantify any vested claims of water rights in the basin before approving an application for an interbasin transfer of groundwater from the basin; or

(b) Prohibit the State Engineer from considering information received from or work completed by another person to include in the inventory, if the inventory is otherwise conducted in accordance with the provisions of subsection 1.

3. The State Engineer shall charge the applicant a fee to cover the cost of the inventory. The amount of the fee must not exceed the cost to the State Engineer of conducting the inventory.

4. The State Engineer shall complete any inventory conducted pursuant to subsection 1 within 1 year after commencing the inventory ~~[-]~~, ***unless the time limit is waived by the applicant.***

Sec. 4. NRS 533.380 is hereby amended to read as follows:

533.380 1. Except as otherwise provided in subsection 5, in an endorsement of approval upon any application, the State Engineer shall:

(a) Set a time before which the construction of the work must be completed, which must be within 5 years after the date of approval.

(b) Except as otherwise provided in this paragraph, set a time before which the complete application of water to a beneficial use must be made, which must not exceed 10 years after the date of the approval. The time set under this paragraph respecting an application for a permit to apply water to a municipal or quasi-municipal use on any land:

(1) For which a final subdivision map has been recorded pursuant to chapter 278 of NRS;

(2) For which a plan for the development of a project has been approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(3) On any land for which a plan for the development of a planned unit development has been recorded pursuant to chapter 278A of NRS,

↪ must not be less than 5 years.

2. The State Engineer may limit the applicant to a smaller quantity of water, to a shorter time for the completion of work, and, except as otherwise provided in paragraph (b) of subsection 1, to a shorter time for the perfecting of the application than named in the application.

3. Except as otherwise provided in subsection 4 and NRS 533.395 and 533.4377, the State Engineer may, for good cause shown, grant any number of extensions of time within which construction work must be completed, or

water must be applied to a beneficial use under any permit therefor issued by the State Engineer, but a single extension of time ~~for a municipal or quasi-municipal use for a public water system, as defined in NRS 445A.235,]~~ must not exceed 5 years. ~~[-, and any other single extension of time must not exceed 1 year.]~~ An application for the extension must in all cases be:

(a) Made within 30 days following notice by registered or certified mail that proof of the work is due as provided for in NRS 533.390 and 533.410; and

(b) Accompanied by proof and evidence of the *good faith and* reasonable diligence with which the applicant is pursuing the perfection of the application.

↪ The State Engineer shall not grant an extension of time unless the State Engineer determines from the proof and evidence so submitted that the applicant is proceeding in good faith and with reasonable diligence to perfect the application. The failure to provide the proof and evidence required pursuant to this subsection is prima facie evidence that the holder is not proceeding in good faith and with reasonable diligence to perfect the application.

4. Except as otherwise provided in subsection 5 and NRS 533.395, whenever the holder of a permit issued for any municipal or quasi-municipal use of water on any land referred to in paragraph (b) of subsection 1, or for any use which may be served by a county, city, town, public water district or public water company, requests an extension of time to apply the water to a beneficial use, the State Engineer shall, in determining whether to grant or deny the extension, consider, among other factors:

(a) Whether the holder has shown good cause for not having made a complete application of the water to a beneficial use;

(b) The number of parcels and commercial or residential units which are contained in or planned for the land being developed or the area being served by the county, city, town, public water district or public water company;

(c) Any economic conditions which affect the ability of the holder to make a complete application of the water to a beneficial use;

(d) Any delays in the development of the land or the area being served by the county, city, town, public water district or public water company which were caused by unanticipated natural conditions; and

(e) The period contemplated in the:

(1) Plan for the development of a project approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(2) Plan for the development of a planned unit development recorded pursuant to chapter 278A of NRS,

↪ if any, for completing the development of the land.

5. The provisions of subsections 1 and 4 do not apply to an environmental permit or a temporary permit issued pursuant to NRS 533.436 or 533.504.

6. For the purposes of this section, the measure of reasonable diligence is the steady application of effort to perfect the application in a reasonably expedient and efficient manner under all the facts and circumstances. When a project or integrated system is composed of several features, work on one feature of the project or system may be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system.

Sec. 5. NRS 533.425 is hereby amended to read as follows:

533.425 1. Except as otherwise provided in NRS 533.503, as soon as practicable after satisfactory proof has been made to the State Engineer that any application to appropriate water or any application for permission to change the place of diversion, manner or place of use of water already appropriated has been perfected in accordance with the provisions of this chapter, the State Engineer shall issue to the holder or holders of the permit a certificate setting forth:

- (a) The name ~~[and post office address]~~ of each holder of the permit.
- (b) The date, source, purpose and amount of appropriation.
- (c) If for irrigation, a description of the irrigated lands by legal subdivisions, when possible, to which the water is appurtenant.
- (d) The number of the permit under which the certificate is issued.

2. If the water is appropriated from an underground source, the State Engineer shall issue with the certificate a notice of the provisions governing the forfeiture and abandonment of such water rights. The notice must set forth the provisions of NRS 534.090.

Sec. 6. NRS 533.435 is hereby amended to read as follows:

533.435 1. The State Engineer shall collect the following fees:

For examining and filing an application for a permit to appropriate water..... \$360.00
 This fee includes the cost of publication, which is \$50.

For reviewing a corrected application or map, or both, in connection with an application for a water right permit..... 100.00

For examining and acting upon plans and specifications for construction of a dam 1,200.00

For examining and filing an application for each permit to change the point of diversion, manner of use or place of use of an existing right..... 240.00

This fee includes the cost of publication, which is \$50.

For examining and filing an application for a temporary permit to change the point of diversion, manner of use or place of use of an existing right 180.00

For issuing and recording each permit to appropriate water for any purpose, except for generating

hydroelectric power which results in nonconsumptive use of the water , watering livestock or wildlife purposes	360.00
plus \$3 per acre-foot approved or fraction thereof.	
Except for generating hydroelectric power , watering livestock or wildlife purposes, for issuing and recording each permit to change an existing water right whether temporary or permanent for any purpose.....	300.00
plus \$3 per acre-foot approved or fraction thereof.	
For issuing and recording each permit for additional rate of diversion from a well where no additional volume of water is granted	1,000.00
For issuing and recording each permit to change the point of diversion or place of use {only} of an existing right whether temporary or permanent for {irrigational} irrigation purposes, a maximum fee of.....	750.00
For issuing and recording each permit to appropriate or change the point of diversion or place of use of an existing right whether temporary or permanent for watering livestock or wildlife purposes.....	240.00
plus \$50 for each cubic foot of water per second approved or fraction thereof.	
For issuing and recording each permit to appropriate or change an existing right whether temporary or permanent for water for generating hydroelectric power which results in nonconsumptive use of the water.....	480.00
plus \$50 for each {second} cubic foot per second of water approved or fraction thereof.	
For {issuing} filing and examining a request for a waiver in connection with an application to drill a well	120.00
For filing and examining a notice of intent to drill a well	25.00
For filing and examining an affidavit to relinquish water rights in favor of use of water for domestic wells	300.00
For filing a secondary application under a reservoir permit	300.00
For approving and recording a secondary permit under a reservoir permit	540.00
For reviewing each tentative subdivision map	180.00
plus \$1 per lot.	
For reviewing and approving each final subdivision map	120.00
For storage approved under a dam permit for privately owned nonagricultural dams which store more than 50 acre-feet.....	480.00

plus \$1.25 per acre-foot storage capacity. This fee includes the cost of inspection and must be paid annually.	
For flood control detention basins	480.00
plus \$1.25 per acre-foot storage capacity. This fee includes the cost of inspection and must be paid annually.	
For filing proof of completion of work	60.00
For filing proof of beneficial use	60.00
For issuing and recording a certificate upon approval of the proof of beneficial use	350.00
For filing proof of resumption of a water right	360.00
For filing any protest	30.00
For filing any application for extension of time within which to file proofs, of completion or beneficial use, for each year for which the extension of time is sought	120.00
For filing any application for extension of time to prevent a forfeiture, for each year for which the extension of time is sought	120.00
For reviewing a cancellation of a water right pursuant to a petition for review	360.00
For examining and filing a report of conveyance filed pursuant to paragraph (a) of subsection 1 of NRS 533.384.....	120.00
plus \$20 per conveyance document.	
For filing any other instrument.....	10.00
For making a copy of any document recorded or filed in the Office of the State Engineer, for the first page	1.00
For each additional page.....	.20
For certifying to copies of documents, records or maps, for each certificate	6.00
For each copy of any full size drawing or map	6.00
For each color copy of any full size drawing or map (2' x 3')	12.00
For each copy of any full size drawing or map (2' x 3')	3.00
For colored mylar plots	10.00

2. When fees are not specified in subsection 1 for work required of the Office of the State Engineer, the State Engineer shall collect the actual cost of the work.

3. Except as otherwise provided in this subsection, all fees collected by the State Engineer under the provisions of this section must be deposited in the State Treasury for credit to the Water Distribution Revolving Account created pursuant to NRS 532.210. All fees received for ~~blueprint~~ copies of any drawing or map must be kept by the State Engineer and used only to pay the costs of printing, replacement and maintenance of printing equipment.

Any publication fees received which are not used by the State Engineer for publication expenses must be returned to the persons who paid the fees. If, after exercising due diligence, the State Engineer is unable to make the refunds, the State Engineer shall deposit the fees in the State Treasury for credit to the Water Distribution Revolving Account created pursuant to NRS 532.210.

Sec. 7. NRS 533.492 is hereby amended to read as follows:

533.492 1. A subsisting right to water livestock ~~is which is a pre-statutory vested right for watering livestock,~~ may be proven by an owner of livestock by one or more of the following items of evidence for the number of livestock and date of priority:

(a) As to water rights on open range, whether public lands or unfenced private lands or a combination of these:

(1) A statement of priority of use submitted to the Taylor Grazing Service, predecessor to the Bureau of Land Management, to show the numbers of livestock grazed upon the open range, for years from 1928 to 1934, inclusive, if accompanied by evidence of changes or absence of change since the date of the statement;

(2) A license issued by the Taylor Grazing Service for use upon the open range; or

(3) A statement of priority of use, or a license, issued by the United States Forest Service for the grazing of livestock before 1950.

(b) As to water rights on other privately owned land:

(1) An affidavit concerning the number and kind of livestock by a person familiar with the use made of the lands;

(2) A record of livestock assessed to the claimant of the right, or the claimant's predecessor, by a county assessor;

(3) A count of livestock belonging to the claimant or the claimant's predecessor made by a lender; or

(4) An affidavit of a disinterested person.

2. The location of a subsisting right to water livestock and its extent along a stream may be shown by marking upon a topographic map whose scale is not less than ~~[1:100,000]~~ **1:24,000** or a map prepared by the United States Geological Survey covering a quadrangle of 7 1/2 minutes of latitude and longitude and by further identifying the location or extent by one-sixteenth sections within a numbered section, township and range as certified by a registered state water right surveyor.

Sec. 8. NRS 533.515 is hereby amended to read as follows:

533.515 1. No permit for the appropriation of water or application to change the point of diversion, *manner of use or place of use* under an existing water right may be denied because of the fact that the point of diversion described in the application for the permit, or any portion of the works in the application described and to be constructed for the purpose of storing, conserving, diverting or distributing the water are situated in any other state; but in all such cases where the place of intended use, or the lands,

or part of the lands ~~[to be irrigated by means of the water,]~~ **identified as the place of use**, are situated within this state, the permit must be issued as in other cases, pursuant to the provisions of NRS 533.324 to 533.450, inclusive, and chapter 534 of NRS.

2. The permit must not purport to authorize the doing or refraining from any act or thing, in connection with the system of appropriation, not properly within the scope of the jurisdiction of this state and the State Engineer to grant.

Sec. 9. 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.

2. If the records of the State Engineer or any other documents ~~[specified]~~ **obtained by or provided to** the State Engineer indicate ~~[at least]~~ **4 or more** 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]~~ :

(a) **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 **of the nonuse and** that the owner has 1 year after the date of the notice **of nonuse** 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]~~ **3** to avoid forfeiting the water right.

(b) If, after 1 year after the date of the notice ~~[]~~ **of nonuse pursuant to paragraph (a)**, 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, **send a final notice to 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 water right is held for forfeiture. If the owner of the water right, within 30 days after the date of such final notice, fails to file the required proof of resumption of beneficial use or an application for an extension of time to prevent forfeiture, the State Engineer shall** declare the right **, or the portion of the right not returned to beneficial use**, 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]~~ **The State Engineer shall send notice of the declaration of forfeiture**, by registered or certified mail, to the owner of record ~~[whose]~~ **, as determined in the records of the Office of the State Engineer, of the water right that** has been declared forfeited **.** ~~[]~~

(c) *If, after receipt of a notice of the declaration of forfeiture pursuant to paragraph (b), the owner of record of the water right 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.] Upon the forfeiture of the water right, the water reverts to the public and is available for further appropriation, subject to existing rights.~~

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 2 if the request is made before the expiration of the time necessary to work a forfeiture. The State Engineer may grant, upon request and for good cause shown, any number of extensions, but a single extension must not exceed 1 year. In determining whether to grant or deny a request, the State Engineer shall, among other reasons, consider:

(a) Whether the holder has ~~[shown good cause for]~~ *submitted proof and evidence that the ~~[holder's failure to use all or any part of the]~~ holder is proceeding in good faith and with reasonable diligence to resume use of the* water beneficially for the purpose for which the holder's right is acquired or claimed;

(b) The ~~[unavailability of]~~ *number of years during which the* water ~~[to]~~ *has not been* put to ~~[a]~~ *the* beneficial use *for which the right is* ~~[beyond the control of the holder;]~~ *acquired or claimed;*

(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;] within a county under a declaration of drought by the Governor, United States Secretary of Agriculture or the President of the United States;~~

(e) Whether a groundwater management plan has been approved for the basin *where the water right is located* pursuant to NRS 534.037; ~~[and]~~

(f) Whether the holder has demonstrated ~~[efficient ways of using the] efforts to conserve~~ water ~~[for agricultural purposes, such as center pivot irrigation;]~~ *which have resulted in a reduction in water consumption;*

(g) *The date of priority of the water right as it relates to the potential curtailment of water use in the basin;*

(h) *The availability of water in the basin, including, without limitation, whether withdrawals of water consistently exceed the perennial yield of the basin; and*

(i) *Any orders restricting use or appropriation of water in 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 *send a final notice to the owner of the water right, by registered or certified mail, that the water right will be declared forfeited if the owner of the water right fails to file the required proof of resumption of beneficial use or an application for an extension of time to prevent forfeiture within 30 days after the date of the final notice. If the owner of the water right fails to file the required proof of resumption of beneficial use or an application for an extension of time to prevent forfeiture within 30 days after the date of such final notice, the State Engineer shall* declare the water right , *or the portion of the right not returned to beneficial use,* forfeited . ~~[within 30 days after the expiration of the extension granted pursuant to this subsection.~~

~~—3. If the failure to use the water pursuant to subsection 1 is because of the use of center pivot irrigation before July 1, 1983, and such use could result in a forfeiture of a portion of a right, the State Engineer shall, by registered or certified mail, send to the owner of record a notice of intent to declare a forfeiture. The notice must provide that the owner has at least 1 year after the date of the notice to use the water beneficially or apply for additional relief pursuant to subsection 2 before forfeiture of the owner's right is declared by the State Engineer.]~~

4. *The failure to receive a notice pursuant to subsection 2 or 3 does not nullify the forfeiture or extend the time necessary to work the forfeiture of a water right.*

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. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. Section 8 of the Southern Nevada Water Authority Act being chapter 572, Statutes of Nevada 1997, as amended by chapter 180, Statutes of Nevada 2011, at page 820, is hereby amended to read as follows:

Sec. 8. 1. The *Southern Nevada Water Authority may create an* Advisory Committee for the Management of Groundwater in the Las Vegas Valley Groundwater Basin . ~~It is hereby created. The~~ *If created, the* Advisory Committee consists of:

(a) Seven members to be appointed by the Board of Directors, including:

(1) Two persons who own and operate domestic wells located in the Basin;

(2) One representative of an organization that owns and operates a quasi-municipal well located in the Basin;

(3) One representative of an industrial or commercial user of groundwater which is located in the Basin;

(4) One representative of a private water company which operates in the Basin;

(5) One consumer whose water service is provided entirely by a municipal water purveyor which is located in the Basin; and

(6) One representative of a municipal water purveyor that owns and operates wells located in the Basin;

(b) The State Engineer, or a designated representative of the State Engineer, who is an ex officio nonvoting member of the Advisory Committee; and

(c) The Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources, or a designated representative of the Administrator, who is an ex officio nonvoting member of the Advisory Committee.

2. Members of the Advisory Committee serve without compensation . ~~It, except that while engaged in the business of the Advisory Committee, each member is entitled to the per diem allowance and travel expenses provided for state officers and employees generally, to be paid by the Southern Nevada Water Authority.~~

3. ~~After the initial term, the~~ *The* term of each appointed member is ~~2~~ 2 years. Members may be reappointed. ~~At the expiration of the term of a member, or if~~ *If* a member resigns or is otherwise unable to ~~complete his or her term,~~ *serve*, the Board of Directors shall, not later than 90 days after the vacancy occurs, appoint a person pursuant to subsection 4 to fill the vacancy.

4. In ~~replacing a member~~ *appointing the members* described in:

(a) Subparagraph (1), (2) or (3) of paragraph (a) of subsection 1, the Board of Directors shall consider recommendations solicited from a representative sampling of owners of domestic wells, persons and organizations associated with quasi-municipal wells, and industrial and commercial users of groundwater, respectively.

(b) Subparagraph (4), (5) or (6) of paragraph (a) of subsection 1, the Board of Directors shall consider recommendations solicited from the various entities that comprise the Southern Nevada Water Authority.

Sec. 17. Section 11 of the Southern Nevada Water Authority Act, being chapter 572, Statutes of Nevada 1997, at page 2801, is hereby amended to read as follows:

Sec. 11. 1. At least once each calendar year, the ~~Advisory committee and the~~ Southern Nevada Water Authority shall conduct a ~~joint~~ workshop to discuss issues related to the basin and the management program. The Southern Nevada Water Authority shall give public notice of the workshop in accordance with NRS 241.020. ~~[Members of the general public, owners of wells and other interested persons must be encouraged to attend the joint workshop.]~~

2. The issues and concerns expressed on the record by persons attending the ~~joint~~ workshop must be recorded in writing and appended to the summary and ~~joint~~ reports prepared pursuant to section 12 of this act.

Sec. 18. Section 12 of the Southern Nevada Water Authority Act, being chapter 572, Statutes of Nevada 1997, as amended by chapter 180, Statutes of Nevada 2011, at page 821, is hereby amended to read as follows:

Sec. 12. On or before December 31 of each even-numbered year, the Southern Nevada Water Authority shall prepare a report and submit the report to the Director of the Legislative Counsel Bureau for transmittal to the Nevada Legislature. The report must include, without limitation:

1. A summary of all of the activities, studies and research conducted on behalf of the Management Program during the previous 2 calendar years;

2. A detailed assessment of the ~~joint~~ public workshops conducted by the Southern Nevada Water Authority ~~and the Advisory Committee~~ during the previous 2 calendar years, including documentation of the comments made on the record by the members of the general public who attended the workshops;

3. A statement of income and expenditures related to the Management Program; and

4. An assessment from the Advisory Committee , *if created*, concerning the status of the groundwater in the Basin and the activities related to the management of the Basin, including any recommendations concerning:

(a) Whether activities, fees and other aspects of the Management Program should be continued, modified or terminated; and

(b) Plans for additional activities for the management of groundwater in the Basin, and for the protection of the aquifer in which the Basin is located.

Sec. 19. Section 9 of chapter 572, Statutes of Nevada 1997, as amended by chapter 180, Statutes of Nevada 2011, at page 821, is hereby repealed.

Sec. 20. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

Section 9 of Chapter 572, Statutes of Nevada 1997:

Sec. 9. The Advisory Committee shall meet at least once every year.

Assemblywoman Swank moved the adoption of the amendment.

Remarks by Assemblywoman Swank.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 125.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 793.

SUMMARY—Revises provisions governing the ~~restoration of certain civil rights for ex felons.~~ **sealing of criminal records.** (BDR 14-20)

AN ACT relating to ~~civil rights; revising provisions governing the restoration of certain civil rights to certain persons who have been convicted of felonies;~~ **criminal records;** revising provisions governing the sealing of the criminal records of a person; 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 upon: (1) an honorable discharge from probation; (2) the sealing of his or her records by a court; (3) the granting of a pardon with the restoration of the right to vote; (4) an honorable discharge from parole; or (5) the completion of his or her sentence and release from prison. (NRS 176A.850, 179.285, 213.090, 213.155, 213.157) Section 1 of this bill provides that unless a probationer was convicted of certain specified felonies, the probationer's right to vote, right to serve as a juror in a civil action and right to serve as a juror in a criminal action must be restored to the probationer upon completion of 1 year of his or her term of probation. Similarly, section 7 of this bill provides that unless a parolee was convicted of certain specified felonies, the parolee's right to vote, right to serve as a juror in a civil action and right to serve as a juror in a criminal action must be restored to the parolee upon: (1) completion of his or her term of parole, if his or her term of parole is less than 1 year; or (2) completion of 1 year of parole, if his or her term of parole is 1 year or longer.]~~

Existing law ~~also~~ authorizes a person to petition the court in certain circumstances for the sealing of all records of criminal history relating to a conviction of a crime. (NRS 179.245) **Section 4** of this bill revises the waiting period for a person convicted of certain crimes before being authorized to petition the court for sealing of his or her records of criminal history relating to the conviction.

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

Section 1. ~~[Chapter 176A of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Except as otherwise provided in subsection 4, a person who has completed 1 year of his or her term of probation is immediately restored to the following civil rights:~~

~~(a) The right to vote;~~

~~(b) The right to serve as a juror in a civil action; and~~

~~(c) The right to serve as a juror in a criminal action;~~

~~and must be provided an official document which states that the person has been restored to the civil rights set forth in this subsection.~~

~~2. A person whose official documentation of the restoration to the civil rights set forth in subsection 1 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 completed 1 year of his or her term of probation 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 those civil rights. A person must not be required to pay a fee to receive such an order.~~

~~3. A person whose civil rights have been restored pursuant to subsection 1 may present, as proof that the person has been restored to those civil rights:~~

~~(a) The official documentation received pursuant to subsection 1; or~~

~~(b) A court order restoring the person's civil rights pursuant to this section.~~

~~4. Except as otherwise provided in this subsection, the civil rights to vote, to serve as a juror in a civil action and to serve as a juror in a criminal action are not restored to a person upon completion of 1 year of his or her term of 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 completion of 1 year of his or her term of 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 completion of 1 year of his or her term of probation.*~~

~~*— (c) 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.*~~

~~*— 5. A person described in subsection 4 may petition a court of competent jurisdiction for an order granting the restoration of the following civil rights:*~~

~~*— (a) The right to vote;*~~

~~*— (b) The right to serve as a juror in a civil action; and*~~

~~*— (c) The right to serve as a juror in a criminal action.*~~ (Deleted by amendment.)

Sec. 2. ~~[NRS 176A.850 is hereby amended to read as follows:~~

~~176A.850 1. A person who:~~

~~— (a) Has fulfilled the conditions of probation for the entire period thereof;~~

~~— (b) Is recommended for earlier discharge by the Division; or~~

~~— (c) Has demonstrated fitness for honorable discharge but because of economic hardship, verified by the Division, has been unable to make restitution as ordered by the court;~~

~~*— may be granted an honorable discharge from probation by order of the court.*~~

~~— 2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of discharge and is enforceable pursuant to NRS 176.275.~~

~~— 3. Except as otherwise provided in subsection 4, a person who has been honorably discharged from probation:~~

~~— (a) Is free from the terms and conditions of probation.~~

~~— (b) Is immediately restored to the following civil rights:~~

~~— (1) The right to vote; and~~

~~— (2) The right to serve as a juror in a civil action.~~

~~— (c) Four years after the date of honorable discharge from probation, is restored to the *civil* right to hold office.~~

~~— [(d) Six years after the date of honorable discharge from probation, is restored to the right to serve as a juror in a criminal action.~~

~~— (e) If the person meets the requirements of NRS 179.245, may apply to the court for the sealing of records relating to the conviction.~~

~~— [(f) (d) Must be informed of the provisions of this section and NRS 179.245 in the person's probation papers.~~

~~— [(g) (e) Is exempt from the requirements of chapter 179C of NRS, but is not exempt from the requirements of chapter 179D of NRS.~~

~~— [(h) (f) 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)] (g) Except as otherwise provided in paragraph [(h)], (f), 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] **right to hold office** is 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 *the* civil [rights as set forth in subsection 3.] **right to hold office**.~~

~~— 5. The prior conviction of a person who has been honorably discharged from probation may be used for purposes of impeachment. In any subsequent prosecution of the person, the prior conviction may be pleaded and proved if otherwise admissible.~~

~~— 6. Except for a person subject to the limitations set forth in subsection 4, upon honorable discharge from probation, the person so discharged must be given an official document which provides:~~

~~— (a) That the person has received an honorable discharge from probation;~~
~~**and**~~

~~— (b) [That the person has been restored to his or her civil rights to vote and to serve as a juror in a civil action as of the date of honorable discharge from probation;~~

~~— (c)] The date on which the person’s civil right to hold office will be restored pursuant to paragraph [(c)] (b) of subsection 3. [; and~~

~~— (d) The date on which the person’s civil right to serve as a juror in a criminal action will be restored pursuant to paragraph (d) of subsection 3.]~~

~~— 7. Subject to the limitations set forth in subsection 4, a person who has been honorably discharged from probation in this State or elsewhere and whose official documentation of honorable discharge from probation is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore the person’s civil [rights] **right to hold office** pursuant to this section. Upon verification that the person has been honorably~~

~~discharged from probation and is eligible to be restored to the civil [rights set forth] **right to hold office as provided** in subsection 3, the court shall issue an order restoring the person to the civil [rights set forth] **right to hold office as provided** in subsection 3. A person must not be required to pay a fee to receive such an order.~~

~~8. A person who has been honorably discharged from probation in this State or elsewhere may present:~~

~~(a) Official documentation of honorable discharge from probation, if it contains the provisions set forth in subsection 6; or~~

~~(b) A court order restoring the person's civil [rights,] **right to hold office,** as proof that the person has been restored to the civil [rights set forth] **right to hold office as provided** in subsection 3.] (Deleted by amendment.)~~

Sec. 3. [NRS 176A.870 is hereby amended to read as follows:

~~176A.870 A defendant whose term of probation has expired and:~~

~~1. Whose whereabouts are unknown;~~

~~2. Who has failed to make restitution in full as ordered by the court, without a verified showing of economic hardship; or~~

~~3. Who has otherwise failed to qualify for an honorable discharge as provided in NRS 176A.850,~~

~~is not eligible for an honorable discharge and must be given a dishonorable discharge. A dishonorable discharge releases the probationer from any further obligation, except a civil liability arising on the date of discharge for any unpaid restitution which is enforceable pursuant to NRS 176.275, but does not entitle the probationer to any privilege conferred by NRS 176A.850 [.] **or section 1 of this act.** (Deleted by amendment.)~~

Sec. 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, 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 ~~for B~~ felony, **a crime of violence or a burglary of a residence**, after ~~15~~ 10 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(b) ~~A~~ **Except as otherwise provided in paragraphs (a) and (e)**, category B, C or D felony after ~~12~~ 5 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~~ 2 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~~ 2 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) *Except as otherwise provided in paragraph (e), a misdemeanor for battery pursuant to NRS 200.481, a misdemeanor for harassment, a misdemeanor for stalking or a misdemeanor for a violation of a temporary or extended order for protection against harassment or stalking, 2 years after the date of release from actual custody or after the date when the person is no longer under a suspended sentence, whichever occurs later; or*

(g) Any other misdemeanor after ~~{2 years}~~ **1 year** 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 ~~[,]~~, ***unless the context otherwise requires:***

(a) “Crime against a child” has the meaning ascribed to it in NRS 179D.0357.

(b) ***“Crime of violence” means any felony for which there is a substantial risk that force or violence may be used against the person or property of another in the commission of the felony.***

(c) ***“Harassment” means a violation of NRS 200.571.***

(d) ***“Residence” means any house, room, apartment, tenement or other building, vehicle, vehicle trailer, semitrailer, house trailer or boat designed or intended for occupancy as a residence.***

(e) “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.

(f) “Stalking” means a violation of NRS 200.575.

Sec. 5. ~~NRS 179.259 is hereby amended to read as follows:~~

~~179.259 1. Except as otherwise provided in subsections 3, 4 and 5, 5 years after an eligible person completes a program for reentry, the court may order sealed all documents, papers and exhibits in the eligible person’s record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court’s order. The court may order those records sealed without a hearing unless the Division of Parole and Probation of the Department of Public Safety petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.~~

~~2. If the court orders sealed the record of an eligible person, the court shall send a copy of the order to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.~~

~~3. A professional licensing board is entitled, for the purpose of determining suitability for a license or liability to discipline for misconduct, to inspect and to copy from a record sealed pursuant to this section.~~

~~4. The Division of Insurance of the Department of Business and Industry is entitled, for the purpose of determining suitability for a license or liability to discipline for misconduct, to inspect and to copy from a record sealed pursuant to this section.~~

~~5. A person may not petition the court to seal records relating to a conviction of a crime against a child or a sexual offense.~~

~~6. As used in this section:~~

~~(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.0357.~~

~~(b) "Eligible person" means a person who has:~~

~~(1) Successfully completed a program for reentry, which the person participated in pursuant to NRS 209.4886, 209.4888, 213.625 or 213.632; and~~

~~(2) Been convicted of a single offense which was punishable as a felony and which did not involve the use or threatened use of force or violence against the victim. For the purposes of this subparagraph, multiple convictions for an offense punishable as a felony shall be deemed to constitute a single offense if those offenses arose out of the same transaction or occurrence.~~

~~(c) "Program for reentry" means:~~

~~(1) A correctional program for reentry of offenders and parolees into the community that is established by the Director of the Department of Corrections pursuant to NRS 209.4887; or~~

~~(2) A judicial program for reentry of offenders and parolees into the community that is established in a judicial district pursuant to NRS 209.4882.~~

~~(d) "Sexual offense" has the meaning ascribed to it in paragraph [(b)] (c) of subsection 7 of NRS 179.245.] (Deleted by amendment.)~~

~~Sec. 5.5. [NRS 6.010 is hereby amended to read as follows:~~

~~6.010 Except as otherwise provided in this section, every qualified elector of the State, whether registered or not, who has sufficient knowledge of the English language, and who has not been convicted of treason, a felony, or other infamous crime, and who is not rendered incapable by reason of physical or mental infirmity, is a qualified juror of the county in which the person resides. A person who has been convicted of a felony is not a qualified juror of the county in which the person resides until the person's civil right to serve as a juror has been restored pursuant to NRS [176A.850,] 179.285, 213.090 [, 213.155] or 213.157.] (Deleted by amendment.)~~

~~Sec. 6. [NRS 209.511 is hereby amended to read as follows:~~

~~209.511 1. When an offender is released from prison by expiration of his or her term of sentence, by pardon or by parole, the Director:~~

~~(a) May furnish the offender with a sum of money not to exceed \$100, the amount to be based upon the offender's economic need as determined by the Director;~~

~~(b) Shall give the offender notice of the provisions of chapter 179C of NRS and NRS 202.357 and 202.360;~~

~~— (c) Shall require the offender to sign an acknowledgment of the notice required in paragraph (b);~~

~~— (d) Shall give the offender notice of the provisions of NRS 179.245 and the provisions of NRS 213.090, 213.155, [or] 213.157 [,] or section 7 of this act, as applicable;~~

~~— (e) Shall provide the offender with information relating to obtaining employment, including, without limitation, any programs which may provide bonding for an offender entering the workplace and any organizations which may provide employment or bonding assistance to such a person;~~

~~— (f) Shall provide the offender with a photo identification card issued by the Department and information and reasonable assistance relating to acquiring a valid driver's license or identification card to enable the offender to obtain employment, if the offender:~~

~~— (1) Requests a photo identification card; or~~

~~— (2) Requests such information and assistance and is eligible to acquire a valid driver's license or identification card from the Department of Motor Vehicles;~~

~~— (g) May provide the offender with clothing suitable for reentering society;~~

~~— (h) May provide the offender with the cost of transportation to his or her place of residence anywhere within the continental United States, or to the place of his or her conviction;~~

~~— (i) May, but is not required to, release the offender to a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS; and~~

~~— (j) Shall require the offender to submit to at least one test for exposure to the human immunodeficiency virus.~~

~~2. The costs authorized in paragraphs (a), (f), (g), (h) and (j) of subsection 1 must be paid out of the appropriate account within the State General Fund for the use of the Department as other claims against the State are paid to the extent that the costs have not been paid in accordance with subsection 5 of NRS 209.221 and NRS 209.246.~~

~~3. As used in this section:~~

~~— (a) "Facility for transitional living for released offenders" has the meaning ascribed to it in NRS 449.0055.~~

~~— (b) "Photo identification card" means a document which includes the name, date of birth and a color picture of the offender.} (Deleted by amendment.)~~

Sec. 7. ~~{Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Except as otherwise provided in subsection 4, a person who completes:~~

~~— (a) A term of parole of less than 1 year; or~~

~~— (b) One year of his or her term of parole;~~

~~→ is immediately restored to the civil rights to vote, to serve as a juror in a civil action and to serve as a juror in a criminal action. A person whose~~

~~civil rights are restored pursuant to this subsection must be provided an official document which states that the person has been restored to the civil rights set forth in this subsection.~~

~~2. A person whose official documentation of the restoration to the civil rights set forth in subsection 1 is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore the civil rights pursuant to this section. Upon verification that the person has completed a term of parole of less than 1 year or completed 1 year of his or her term of 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 those civil rights. A person must not be required to pay a fee to receive such an order.~~

~~3. A person whose civil rights have been restored pursuant to subsection 1 may present, as proof that the person has been restored to those civil rights:~~

~~(a) The official documentation received pursuant to subsection 1; or~~

~~(b) A court order restoring the person's civil rights pursuant to this section.~~

~~4. Except as otherwise provided in this subsection, the civil rights to vote, to serve as a juror in a civil action and to serve as a juror in a criminal action are not restored to a person upon completion of a term of parole of less than 1 year or completion of 1 year of his or her term of 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 completion of a term of parole of less than 1 year or completion of 1 year of his or her term of 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 completion of a term of parole of less than 1 year or completion of 1 year of his or her term of 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.~~

~~5. A person described in subsection 4 may petition a court of competent jurisdiction for an order granting the restoration of the following civil rights:~~

~~(a) The right to vote;~~

~~(b) The right to serve as a juror in a civil action; and~~

~~(c) The right to serve as a juror in a criminal action.~~

~~6. The Board may adopt regulations necessary or convenient for the purposes of this section.} (Deleted by amendment.)~~

Sec. 8. ~~[NRS 213.107 is hereby amended to read as follows:~~

~~213.107 As used in NRS 213.107 to 213.157, inclusive, and section 7 of this act, unless the context otherwise requires:~~

- ~~1. “Board” means the State Board of Parole Commissioners.~~
- ~~2. “Chief” means the Chief Parole and Probation Officer.~~
- ~~3. “Division” means the Division of Parole and Probation of the Department of Public Safety.~~
- ~~4. “Residential confinement” means the confinement of a person convicted of a crime to his or her place of residence under the terms and conditions established by the Board.~~
- ~~5. “Sex offender” means any person who has been or is convicted of a sexual offense.~~
- ~~6. “Sexual offense” means:~~
 - ~~(a) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, 201.230, 201.450, 201.540 or 201.550 or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;~~
 - ~~(b) An attempt to commit any offense listed in paragraph (a); or~~
 - ~~(c) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.~~
- ~~7. “Standards” means the objective standards for granting or revoking parole or probation which are adopted by the Board or the Chief.] (Deleted by amendment.)~~

Sec. 9. ~~[NRS 213.155 is hereby amended to read as follows:~~

- ~~213.155 1. Except as otherwise provided in subsection 2, a person who receives an honorable discharge from parole pursuant to NRS 213.154 [:~~
 - ~~(a) Is immediately restored to the following civil rights:~~
 - ~~(1) The right to vote; and~~
 - ~~(2) The right to serve as a juror in a civil action.~~
 - ~~(b) Four] 4 years after the date of [his or her] honorable discharge from parole [,] is restored to the civil right to hold office.~~
 - ~~[(c) Six years after the date of his or her honorable discharge from parole, is restored to the right to serve as a juror in a criminal action.]~~
- ~~2. Except as otherwise provided in this subsection, the civil [rights set forth in subsection 1 are] **right to hold office** is 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] *the* civil [rights] *right to hold office* as [set forth] *provided* in subsection 1.~~

~~— 3. Except for a person subject to the limitations set forth in subsection 2, upon [his or her] honorable discharge from parole, a person so discharged must be given an official document which provides:~~

~~— (a) That the person has received an honorable discharge from parole; *and*~~

~~— (b) [That the person has been restored to his or her civil rights to vote and to serve as a juror in a civil action as of the date of his or her honorable discharge from parole;~~

~~— (c)] The date on which [his or her] *the person's* civil right to hold office will be restored [to the person] pursuant to [paragraph (b) of] subsection 1. [; and~~

~~— (d) The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to paragraph (c) of subsection 1.]~~

~~— 4. Subject to the limitations set forth in subsection 2, a person who has been honorably discharged from parole in this State or elsewhere and whose official documentation of [his or her] honorable discharge from parole is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore [his or her] *the person's* civil [rights] *right to hold office* pursuant to this section. Upon verification that the person has been honorably discharged from parole and is eligible to be restored to the civil [rights set forth] *right to hold office as provided* in subsection 1, the court shall issue an order restoring the person to the civil [rights set forth] *right to hold office as provided* in subsection 1. A person must not be required to pay a fee to receive such an order.~~

~~— 5. A person who has been honorably discharged from parole in this State or elsewhere may present:~~

~~— (a) Official documentation of [his or her] honorable discharge from parole, if it contains the provisions set forth in subsection 3; or~~

~~— (b) A court order restoring [his or her] *the person's* civil [rights,] *right to hold office*;~~

~~→ as proof that the person has been restored to the civil [rights set forth] *right to hold office as provided* in subsection 1.~~

~~— 6. The Board may adopt regulations necessary or convenient for the purposes of this section.] (Deleted by amendment.)~~

Sec. 10. ~~[NRS 213.157 is hereby amended to read as follows:~~

~~213.157 1. Except as otherwise provided in subsection 2, 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 [.] ; and~~

~~(3) **The right to serve as a juror in a criminal action.**~~

~~(b) Four years after the date of his or her release from prison, is restored to the right to hold office;~~

~~[(c) Six years after the date of his or her release from prison, is restored to the right to serve as a juror in a criminal action.]~~

~~2. Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has been released from prison if the person has previously been convicted in this State:~~

~~(a) Of a category A felony;~~

~~(b) Of an offense that would constitute a category A felony if committed as of the date of his or her release from prison;~~

~~(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim;~~

~~(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his or her release from prison;~~

~~(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.~~

~~➤ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of his or her civil rights as set forth in subsection 1.~~

~~3. Except for a person subject to the limitations set forth in subsection 2, upon his or her release from prison, a person so released must be given an official document which provides:~~

~~(a) That the person has been released from prison;~~

~~(b) That the person has been restored to his or her civil rights to vote, [and] to serve as a juror in a civil action **and to serve as a juror in a criminal action** as of the date of his or her release from prison; and~~

~~(c) The date on which his or her civil right to hold office will be restored to the person pursuant to paragraph (b) of subsection 1. [; and~~

~~(d) The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to paragraph (c) of subsection 1.]~~

~~4. Subject to the limitations set forth in subsection 2, a person who has been released from prison in this State or elsewhere and whose official documentation of his or her release from prison is lost, damaged or destroyed~~

~~may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has been released from prison and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.~~

~~5. A person who has been released from prison in this State or elsewhere may present:~~

~~(a) Official documentation of his or her release from prison, if it contains the provisions set forth in subsection 3; or~~

~~(b) A court order restoring his or her civil rights;~~

~~as proof that the person has been restored to the civil rights set forth in subsection 1.] (Deleted by amendment.)~~

Sec. 11. ~~[NRS 293.540 is hereby amended to read as follows:~~

~~293.540 The county clerk shall cancel the registration:~~

~~1. If the county clerk has personal knowledge of the death of the person registered, or if an authenticated certificate of the death of any elector is filed in the county clerk's office.~~

~~2. If the county clerk is provided a certified copy of a court order stating that the court specifically finds by clear and convincing evidence that the person registered lacks the mental capacity to vote because he or she cannot communicate, with or without accommodations, a specific desire to participate in the voting process.~~

~~3. Upon the determination that the person registered has been convicted of a felony unless:~~

~~(a) If the person registered was convicted of a felony in this State, the right to vote of the person has been restored pursuant to the provisions of NRS 213.090 [213.155] or 213.157 [.] or section 7 of this act.~~

~~(b) If the person registered was convicted of a felony in another state, the right to vote of the person has been restored pursuant to the laws of the state in which the person was convicted.~~

~~4. Upon the production of a certified copy of the judgment of any court directing the cancellation to be made.~~

~~5. Upon the request of any registered voter to affiliate with any political party or to change affiliation, if that change is made before the end of the last day to register to vote in the election.~~

~~6. At the request of the person registered.~~

~~7. If the county clerk has discovered an incorrect registration pursuant to the provisions of NRS 293.5235, 293.530 or 293.535 and the elector has failed to respond or appear to vote within the required time.~~

~~8. As required by NRS 293.541.~~

~~9. Upon verification that the application to register to vote is a duplicate if the county clerk has the original or another duplicate of the application on file in the county clerk's office.] (Deleted by amendment.)~~

Sec. 12. ~~[NRS 293.543 is hereby amended to read as follows:~~

~~293.543 1. If the registration of an elector is cancelled pursuant to subsection 2 of NRS 293.540, the county clerk shall reregister the elector upon notice from the clerk of the district court that the elector has been found by the district court to have the mental capacity to vote. The court must include the finding in a court order and, not later than 30 days after issuing the order, provide a certified copy of the order to the county clerk of the county in which the person is a resident and to the Office of the Secretary of State.~~

~~2. If the registration of an elector is cancelled pursuant to subsection 3 of NRS 293.540, the elector may reregister after presenting satisfactory evidence which demonstrates that the elector's:~~

~~(a) Conviction has been overturned; or~~

~~(b) Civil rights have been restored.~~

~~(1) If the elector was convicted in this State, pursuant to the provisions of NRS 213.090 [, 213.155] or 213.157 [.] or section 7 of this act.~~

~~(2) If the elector was convicted in another state, pursuant to the laws of the state in which he or she was convicted.~~

~~3. If the registration of an elector is cancelled pursuant to the provisions of subsection 5 of NRS 293.540, the elector may reregister immediately.~~

~~4. If the registration of an elector is cancelled pursuant to the provisions of subsection 6 of NRS 293.540, after the close of registration for a primary election, the elector may not reregister until after the primary election.]~~

(Deleted by amendment.)

Assemblyman Ohrenschall moved the adoption of the amendment.

Remarks by Assemblyman Ohrenschall.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 149.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 767.

AN ACT relating to regional transportation commissions; authorizing a regional transportation commission to provide grants of money for the research, development or implementation of transportation projects that use new technologies; authorizing a regional transportation commission to enter into agreements with private entities for certain projects; authorizing a regional transportation commission to recommend the imposition of certain taxes to fund the transportation projects of the commission; authorizing the board of county commissioners to submit the recommendation for the imposition of such taxes to the voters of the county; requiring the board of county commissioners to adopt an ordinance imposing any such taxes that are approved by the voters; revising provisions governing the composition of

regional transportation commissions; authorizing a regional transportation commission to develop and maintain high-capacity transit systems; authorizing a regional transportation commission to adopt rules for the parking of unauthorized vehicles at facilities of the commission and the imposition of fees for the use of services or facilities of the commission; repealing provisions requiring certain regional transportation commissions to establish a regional rapid transit authority; revising various provisions relating to the powers and duties of regional transportation commissions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a county may, by ordinance, create a regional transportation commission if a streets and highways plan has been adopted by the county or regional planning commission. (NRS 277A.170) Existing law also provides a regional transportation commission the exclusive right to operate a system of public transportation within its jurisdiction, as well as enter into contracts, leases and agreements with state agencies and local governments to perform its functions. (NRS 277A.270)

Section 3 of this bill authorizes a regional transportation commission to: (1) provide grants of money to conduct research for and otherwise develop and implement certain transportation projects; and (2) enter into agreements with private entities for certain transportation projects in accordance with federal law.

Section 13 of this bill authorizes a regional transportation commission to construct, develop and operate a high-capacity transit system with the approval of the county or city which owns any public right-of-way. **Section 3.5** of this bill requires a regional transportation commission to enter into agreements with other local governments to coordinate and collaborate on the development of a project or high-capacity transit system and to share the costs related to such projects. If a regional transportation commission enters into such an agreement, **section 4** of this bill requires the commission to create and administer an account that will hold any money appropriated by the commission or a local government in accordance with the agreement. **Section 14** of this bill authorizes a regional transportation commission to use a turnkey procurement process or competitive negotiation process in connection with a high-capacity transit project.

Sections 5 and 6 of this bill provide that a regional transportation commission in certain larger counties (currently Clark and Washoe Counties) may recommend the imposition of an additional tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail. The recommendations of the commission must specify the rate of the recommended tax, the period during which the recommended tax will be imposed and the type and location of the transportation projects the recommended tax would support, if the commission submits its recommendations to the board of county commissioners, the board of county commissioners may submit a question to the voters at the next general

election asking whether the tax recommended by the commission 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 tax at the rate specified in the question submitted to the voters. **Section 7** of this bill provides that the proceeds resulting from the imposition of such taxes must be remitted to the commission for its use in accordance with the provisions of existing law governing regional transportation commissions.

Existing law generally sets forth the authority and powers of a regional transportation commission. (NRS 277A.160, 277A.210, 277A.250) **Section 10** of this bill requires that the provisions of existing law governing regional transportation commissions be liberally construed as to allow a regional transportation commission to meet any of its objectives.

Existing law requires a regional transportation commission in certain larger counties (currently Clark and Washoe Counties) to be composed of members of the board of county commissioners and the governing body of each city in the county. **Section 10.5** of this bill provides that if a mayor of a city in such a county is not a member of the governing body of the city, the governing body may appoint the mayor to be a member of the regional transportation commission.

Section 12 of this bill authorizes a regional transportation commission to impose: (1) civil penalties for the unauthorized parking of a vehicle at a transportation facility; and (2) fees for the use of commission services or facilities.

Existing law requires the regional transportation commission in any county whose population is 700,000 or more (currently Clark County) to establish a regional rapid transit authority. **Section 18** of this bill repeals that provision.

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

Section 1. Chapter 277A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *“High-capacity transit” means a public transit system that may provide a higher level of passenger capacity by increasing, without limitation, the number of vehicles utilized by the system, the size of the vehicles, the frequency of vehicle rides, travel speed or any combination thereof, and that operates in conjunction with public transit stations. The term includes, without limitation, bus rapid transit, fixed guideway, light rail transit, commuter rail, streetcar and heavy rail.*

Sec. 3. *A commission may:*

1. Provide grants of money to conduct research for and otherwise develop and implement transportation projects that promote innovative transportation and transit technology, including, without limitation, autonomous technology as defined in NRS 482A.025.

2. Enter into agreements in accordance with 49 U.S.C. § 5315 and any guidelines adopted pursuant thereto.

Sec. 3.5. 1. Except as otherwise provided in subsection 2, before constructing a transportation project or high-capacity transit system, a commission shall enter into agreements with any county, city, town and other political subdivision to coordinate and collaborate on the development of the transportation project or high-capacity transit system, including, without limitation, the use of public rights-of-way and the sharing of costs related to such a project.

2. A commission may make changes to bus schedules and bus routes and relocate bus stops within the public right-of-way without executing an agreement pursuant to subsection 1.

Sec. 4. If a commission enters into an agreement with a county, city, town or other political subdivision to share costs relating to a transportation project pursuant to section 3.5 of this act, the commission shall create an account administered by the commission and deposit into such account any money appropriated by each participating entity in accordance with the amounts established under the agreement. The money in the account, including any interest and income earned on the money in the account, must not be transferred to any other fund or account or used for any purpose other than the purposes set forth in the agreement entered into pursuant to section 3.5 of this act.

Sec. 5. 1. In a county whose population is 100,000 or more, a commission may:

(a) Prepare recommendations for the imposition of the tax described in section 6 of this act in the county to provide funding for the commission for the purposes set forth in this chapter. The recommendations must specify the proposed rate for the recommended tax, the period during which the recommended tax will be imposed and the type and location of the transportation ~~project~~ projects the recommended tax will support.

(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 may, at the next general election, submit a question to the voters of the county asking whether the recommended tax should be imposed in the county. The question submitted to the voters of the county must specify the proposed rate for the recommended tax, the period during which the recommended tax will be imposed, if the period was specified in the recommendations submitted pursuant to subsection 1, and the type and location of the transportation ~~project~~ projects the recommended tax will support.

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 in accordance with the provisions of section 6 of this act at the rate specified in the question submitted to the voters pursuant to subsection 2.

(b) The tax must be imposed notwithstanding the provisions of any specific statute to the contrary and, except as otherwise specifically

provided in this section and sections 6 and 7 of this act, such tax is not subject to any limitations set forth in any statute which authorizes the board of county commissioners to impose such tax, including, without limitation, any limitations on the maximum rate which may be imposed or the duration of the period during which such tax may be imposed.

Sec. 6. *Upon approval of the registered voters of a county voting on a question presented to the voters pursuant to section 5 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 a tax by ordinance 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 tax must be imposed throughout the county, including all cities within the county, upon all retailers in the business of selling tangible personal property. Any ordinance enacted under this subsection must include provisions in substance as follows:*

1. Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

2. A provision that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of the ordinance.

3. A provision that the county shall, before the effective date of the ordinance, contract with the Department to perform all functions incident to the administration or operation of the tax in the county.

4. A provision that a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed upon the sale of, and the storage, use or other consumption in a county of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property, entered into on or before the effective date of the tax or the increase in the tax, or for which a binding bid was submitted before the date if the bid was afterward accepted, if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the tax or the increase in the tax.

Sec. 7. *The proceeds of any tax imposed pursuant to sections 5 and 6 of this act must be remitted by the Department of Taxation to the commission for use in accordance with the provisions of this chapter.*

Sec. 8. NRS 277A.020 is hereby amended to read as follows:

277A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 277A.030 to 277A.150, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 9. NRS 277A.120 is hereby amended to read as follows:

277A.120 “Public transit system” means a system employing motor buses, rails , *high-capacity transit* or any other means of conveyance, by

whatever type of power, operated for public use in the conveyance of persons.

Sec. 10. NRS 277A.160 is hereby amended to read as follows:

277A.160 This chapter , *being necessary to secure and preserve the public health, safety, convenience and welfare*, shall be so interpreted and *liberally* construed as to ~~make~~ :

1. *Make* uniform so far as possible the laws and regulations of this State and other states and of the government of the United States having to do with the subject of transportation ~~[-]~~ ; *and*

2. *Effect any other purpose and objective for which this chapter is intended.*

Sec. 10.5. NRS 277A.180 is hereby amended to read as follows:

277A.180 1. In counties whose population is 100,000 or more, the commission must be composed of representatives selected by the following entities : ~~[-from among their members;-]~~

(a) Two by the board ~~[-]~~ *from among its members.*

(b) Two by the governing body of the largest city in the county ~~[-]~~ *from among its members or, if the mayor of the city is not a member of the governing body, from among its members and the mayor of the city.*

(c) One by the governing body of each additional city in the county ~~[-]~~ *from among its members or, if the mayor of the city is not a member of the governing body, from among its members and the mayor of the city.*

2. In counties whose population is less than 100,000, the commission must be composed of representatives selected as follows:

(a) If the county contains three or more cities:

(1) Two by the board.

(2) One by the governing body of the largest city.

(b) If the county contains only two cities:

(1) Three by the board, at least one of whom is a representative of the public who is a resident of the county.

(2) One by the governing body of each city in the county.

(c) If the county contains only one city:

(1) Two by the board.

(2) One by the governing body of the city.

(d) If the county contains no city, the board shall select:

(1) Two members of the board; and

(2) One representative of the public, who is a resident of the largest town, if any, in the county.

3. In Carson City, the commission must be composed of representatives selected by the Board of Supervisors as follows:

(a) Two members of the Board of Supervisors, one of whom must be designated by the commission to serve as chair of the commission.

(b) Three representatives of the city at large.

4. The first representatives must be selected within 30 days after passage of the ordinance creating the commission, and, except as otherwise provided

in subsections 5, 6 and 7, must serve until the next ensuing December 31 of an even-numbered year. The representative of any city incorporated after passage of the ordinance must be selected within 30 days after the first meeting of the governing body, and, except as otherwise provided in subsection 7, must serve until the next ensuing December 31 of an even-numbered year. Their successors must serve for terms of 2 years, and vacancies must be filled for the unexpired term.

5. In Carson City:

(a) One representative of the commission who is a member of the Board of Supervisors and one representative of the commission who is a representative of the city at large must serve until the next ensuing December 31 of an even-numbered year; and

(b) One representative of the commission who is a member of the Board of Supervisors and two representatives of the commission who are representatives of the city at large must serve until the next ensuing December 31 of an odd-numbered year.

6. In counties whose population is 100,000 or more, but less than 700,000:

(a) One representative selected by the board and one representative selected by the governing body of the largest city in the county must serve until the next ensuing December 31 of an even-numbered year; and

(b) One representative selected by the board and one representative selected by the governing body of the largest city in the county must serve until the next ensuing December 31 of an odd-numbered year.

7. In counties whose population is 700,000 or more, the first representatives and the representative of any city incorporated after passage of the ordinance must serve until the next ensuing June 30 of an odd-numbered year.

Sec. 11. NRS 277A.210 is hereby amended to read as follows:

277A.210 **1.** A commission may:

~~{1-}~~ (a) Sue and be sued.

~~{2-}~~ (b) Prepare and approve budgets for the regional street and highway fund, the public transit fund and money it receives from any source.

~~{3-}~~ (c) Adopt bylaws for the administration of its affairs and rules for the administration and operation of facilities under its control.

~~{4-}~~ (d) Conduct studies, develop plans and conduct public hearings to establish and approve short-range and regional plans for transportation.

~~{5-}~~ (e) Purchase insurance or establish a reserve or fund for self-insurance, or adopt any combination of these, to insure against loss by reason of:

~~{(a)}~~ (1) Damages resulting from fire, theft, accident or other casualty; or

~~{(b)}~~ (2) The commission's liability for other damages to persons or property which occur in the construction or operation of facilities or equipment under its control or in the conduct of its activities.

2. A commission shall have a perpetual succession, subject to termination in accordance with statute.

Sec. 12. NRS 277A.250 is hereby amended to read as follows:

277A.250 A commission may:

1. Acquire and own both real and personal property.
2. Exercise the power of eminent domain, if the city or county which has jurisdiction over the property approves, for the acquisition, construction, repair or maintenance of public roads, or for any other purpose related to public mass transportation.
3. Sell, lease or convey or otherwise dispose of rights, interests or properties.
4. Adopt regulations for:
 - (a) Financing eligible activities; ~~{and}~~
 - (b) ***Unauthorized parking of vehicles at a transportation facility within the jurisdiction of the commission, including, without limitation, the imposition of a civil penalty for a violation of such regulations;***
 - (c) ***The imposition of fees for the use of the facilities or services of the commission and the use of such fees for the construction or operation of transportation facilities; and***
 - (d) The operation of systems or services provided by the commission.

Sec. 13. NRS 277A.270 is hereby amended to read as follows:

277A.270 1. A commission may:

- (a) Operate , ***develop and maintain*** a system of public transportation , ***including, without limitation, a high-capacity transit system,*** to the exclusion of any other publicly owned system of transportation within its area of jurisdiction.
- (b) ***Construct high-capacity transit systems in the county or a city within the county which owns a public right-of-way if the county or city within the county approves of such construction.***
- (c) Use streets, roads, highways and other public rights-of-way for public transportation.

~~{(e)}~~ (d) Enter into agreements for the joint use of facilities, installations and properties and the joint exercise of statutory powers.

~~{(d)}~~ (e) Prohibit the use of any facility, installation or property owned, operated or leased by the commission, including, without limitation, a transit stop or bus turnout, by any person other than the commission or its agents.

~~{(e)}~~ (f) Enter into contracts, leases and agreements with and accept grants and loans from federal and state agencies, counties, cities, towns, other political subdivisions, public or private corporations and other persons, and may perform all acts necessary for the full exercise of the powers vested in the commission.

2. The powers and duties of a commission set forth in this chapter do not apply to any 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.

3. As used in this section, “bus turnout” means a fixed area that is:

(a) Adjacent or appurtenant to, or within a reasonable proximity of, a public highway; and

(b) To be occupied exclusively by buses in receiving or discharging passengers.

Sec. 14. NRS 277A.280 is hereby amended to read as follows:

277A.280 1. A commission, a county whose population is less than 100,000 or a city within such a county may establish or operate a public transit system consisting of:

(a) Regular routes and fixed schedules to serve the public;

(b) Nonemergency medical transportation of persons to facilitate their participation in jobs and day training services as defined in NRS 435.176, if the transportation is available upon request and without regard to regular routes or fixed schedules;

(c) Nonmedical transportation of persons with disabilities without regard to regular routes or fixed schedules; or

(d) In a county whose population is less than 100,000 or a city within such a county, nonmedical transportation of persons if the transportation is available by reservation 1 day in advance of the transportation and without regard to regular routes or fixed schedules.

2. A commission may lease vehicles to or from or enter into other contracts with a private operator for the provision of such a system.

3. In a county whose population is less than 700,000, such a system may also provide service which includes:

(a) Minor deviations from the regular routes and fixed schedules required by paragraph (a) of subsection 1 on a recurring basis to serve the public transportation needs of passengers. The deviations must not exceed one-half mile from the regular routes.

(b) The transporting of persons other than those specified in paragraph (b), (c) or (d) of subsection 1 upon request without regard to regular routes or fixed schedules, if the service is provided by a common motor carrier which has a certificate of public convenience and necessity issued by the Nevada Transportation Authority pursuant to NRS 706.386 to 706.411, inclusive, and the service is subject to the rules and regulations adopted by the Nevada Transportation Authority for a fully regulated carrier.

4. Notwithstanding the provisions of chapter 332 of NRS or NRS 625.530, a commission may utilize a turnkey procurement process to select a person to design, build, **finance**, operate and maintain, or any combination thereof, a ~~fixed-guideway~~ **high-capacity transit** system, including, without limitation, any minimum operable segment thereof. The commission shall determine whether to utilize turnkey procurement for a ~~fixed-guideway~~ **high-capacity transit** project before the completion of the preliminary engineering phase of the project. In making that determination, the commission shall evaluate whether turnkey procurement is the most cost-

effective method of constructing the project on schedule and in satisfaction of its transportation objectives.

5. Notwithstanding the provisions of chapter 332 of NRS, a commission may utilize a competitive negotiation procurement process to procure rolling stock for a ~~{fixed-guideway}~~ **high-capacity transit** project, rolling stock for a public transit system, facilities and any other equipment that is related to public transportation. The award of a contract under such a process must be made to the person whose proposal is determined to be the most advantageous to the commission, based on price and other factors specified in the procurement documents.

6. If a commission develops a ~~{fixed-guideway}~~ **high-capacity transit** project, the Department of Transportation is hereby designated to serve as the oversight agency to ensure compliance with the federal safety regulations for rail fixed guideway systems set forth in 49 C.F.R. Part 659.

7. As used in this section:

(a) "Fully regulated carrier" means a common carrier or contract carrier of passengers or household goods who is required to obtain from the Nevada Transportation Authority a certificate of public convenience and necessity or a contract carrier's permit and whose rates, routes and services are subject to regulation by the Nevada Transportation Authority.

(b) "Minimum operable segment" means the shortest portion of a ~~{fixed-guideway}~~ **high-capacity transit** system that is technically capable of providing viable public transportation between two end points.

(c) "Turnkey procurement" means a competitive procurement process by which a person is selected by a commission, based on evaluation criteria established by the commission, to design, build, operate and maintain, or any combination thereof, a ~~{fixed-guideway}~~ **high-capacity transit** system, or a portion thereof, in accordance with performance criteria and technical specifications established by the commission.

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. NRS 277A.345 is hereby repealed.

Sec. 19. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

277A.345 Counties whose population is 700,000 or more: Establishment of regional rapid transit authority; development of plan for establishment of regional rapid transit system by authority.

1. In a county whose population is 700,000 or more, the commission shall establish a regional rapid transit authority. The membership of the regional rapid transit authority must consist of:

(a) The general manager of the commission, who shall act as chair of the authority;

(b) One member appointed by the board of county commissioners;

(c) Three members, one from each of the three largest cities within the county, who are appointed by the respective governing bodies of each city;

(d) One member selected by the association of gaming establishments whose membership collectively paid the most gaming license fees to the State pursuant to NRS 463.370 in the county in the preceding year;

(e) One member who is selected by the economic development authority in the county;

(f) One member selected by the Department of Transportation; and

(g) One member who has expertise in urban planning and design or architecture selected by the Nevada Arts Council.

2. The regional rapid transit authority shall develop a plan for the establishment of a regional rapid transit system:

(a) In cooperation with economic development, engineering, planning, tourism and utility interests in the county; and

(b) With the goal of quantifying the implications of introducing an exclusive rapid transit system in identified corridors in the county.

3. In carrying out its duties pursuant to subsection 2, the regional rapid transit authority shall:

(a) Hold public meetings to, without limitation:

(1) Evaluate the need for and desirability of a regional rapid transit system;

(2) Assess corridor and route feasibility and desirability; and

(3) Review existing mass transit options to determine how to incorporate such options into a regional rapid transit system;

(b) Undertake an analysis of various considerations involved with introducing and implementing a regional rapid transit system in the county, including, without limitation:

(1) An assessment of the available rapid transit technologies, including, without limitation, technologies that use solar power or other renewable energy sources to minimize or eliminate the use of carbon-based fuels;

(2) An assessment of the opportunities, costs and constraints of corridor options, including, without limitation:

(I) An examination and evaluation of existing rail corridors and transit routes for inclusion in the regional rapid transit system;

(II) An evaluation of potential sites for stations and facilities for the regional rapid transit system; and

(III) Identification of locations in the county that would benefit most from proximity to a regional rapid transit system, including, without limitation, airports and existing or proposed special event venues such as stadiums and racetracks;

(3) Estimates as to capital and operating costs;

(4) An assessment of potential ridership and passenger demand;

(5) An assessment of the environmental impact;

(6) A potential project schedule; and

(7) An assessment of financing options and funding sources, including, without limitation:

(I) Processes for securing federal funding; and

(II) The potential for voter approval for bonds to support any portion of the regional rapid transit system.

4. On or before February 1 of each year, the regional rapid transit authority shall submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committee or committees of the Legislature. The report must set forth, without limitation:

(a) The activities and meetings of the authority;

(b) Any findings made by the authority regarding the analysis required by subsection 3; and

(c) The plan or current draft of the plan developed by the authority pursuant to subsection 2.

Assemblyman Carrillo moved the adoption of the amendment.

Remarks by Assemblyman Carrillo.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 151.

Bill read second time and ordered to third reading.

Senate Bill No. 164.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 789.

AN ACT relating to education; authorizing a school district to lease school buses or vehicles belonging to the school district in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the board of trustees of a school district to allow school buses or vehicles belonging to the school district to be used for the transportation of public school pupils and children in certain circumstances. (NRS 386.790, 386.815) This bill authorizes a board of trustees to enter into a written agreement to lease school buses or vehicles belonging to the school district for special events taking place within the county in which the school district is located when a commercial bus is not reasonably available under certain circumstances. This bill also requires that any such agreement include provisions requiring the lessee to: (1) provide a security deposit; (2) pay a fee for the use of the school bus or vehicle; (3) accept responsibility for any damage to the bus or vehicle; (4) provide indemnification to the lessor school district and the school district's bus driver against any claim; (5) provide proof that each driver is licensed under the laws of this State and proof of insurance; (6) provide proof of a permit or other approval for the special event, if required by a governmental entity; ~~and~~ (7) give preference to

hiring a driver who is employed by the school district ~~to~~ ; and (8) **acknowledge that the lessee is not entitled to the limitation on damages that applies to government employees and entities (NRS 41.035).**

Additionally, this bill limits the number of school buses and vehicles a school district may lease during any period of time to not more than 8.5 percent of the total number of school buses and vehicles belonging to that school district.

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

Section 1. Chapter 386 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a school district may, except as otherwise provided in subsections 5 and 6, authorize the school district to enter into a written agreement to lease school buses or vehicles belonging to the school district for special events that take place within the county in which the school district is located, provided that such an agreement will not interfere with or prevent the school district from furnishing transportation for pupils for the purposes described in NRS 386.790 and 386.815.

2. If a school district enters into an agreement pursuant to this section, the agreement must include, without limitation, a provision requiring the lessee to:

(a) Provide a security deposit in an amount which is not less than 20 percent of the estimated total amount of the fee set forth in the agreement;

(b) Pay a fee in an amount which is not less than the total cost per mile for the use of a school bus or vehicle to the school district, as determined by the transportation department of the school district, if the school district has such a department, or by the board of trustees, if the school district does not have such a department, and any additional costs or expenses related to the use of the school bus or vehicle, including, without limitation, fuel, wear and tear, maintenance, appropriate staffing, administrative costs and an additional rental service fee;

(c) Indemnify and hold the school district harmless against any claim, demand, judgment or legal action, whatsoever, including, without limitation, any losses, damages, legal costs or expenses incident thereto;

(d) Indemnify and hold the driver of a school bus or vehicle harmless against any claim, demand, judgment or legal action, whatsoever, including, without limitation, any losses, damages, legal costs or expenses incident thereto incurred when acting in the scope of his or her employment;

(e) Accept responsibility for any damage to the school bus or vehicle while leased as determined by the transportation department of the school district, if the school district has such a department, or by the board of trustees, if the school district does not have such a department;

(f) Provide proof that the school bus or vehicle leased will be operated by a person licensed under the laws of this State to operate the particular type of bus or vehicle leased;

(g) Provide proof of insurance which covers the school bus or vehicle while operated by the lessee up to an amount determined by the transportation department of the school district, if the school district has such a department, or by the board of trustees, if the school district does not have such a department;

(h) Provide proof of a permit or other approval for the special event, if required by a governmental entity; ~~and~~

(i) Give preference to a driver of a school bus or vehicle who is employed by the school district before hiring another driver who is not employed by the school district ~~and~~; and

(j) Acknowledge that by entering into such an agreement, the lessee does not become an agent or employee of the school district and is not entitled to the limitation on damages set forth in NRS 41.032 to 41.038, inclusive, for any act or failure to act by the lessee or an agent or employee of the lessee.

3. Except as otherwise provided in this subsection, whenever any school bus or vehicle belonging to a school district is leased, any lettering on the school bus or vehicle designating the vehicle as a school bus or vehicle must be covered and concealed, no signs or wording may be affixed to the school bus or vehicle and any system of flashing red lights or a mechanical device attached to the front of the school bus or vehicle must not be used in the operation of the school bus or vehicle by the lessee except in the case of an emergency. A system of flashing red lights or a mechanical device attached to the front of the school bus or vehicle may be used in the operation of a school bus or vehicle only during an emergency.

4. A school district shall separately account for any money collected as a result of an agreement to lease a school bus or vehicle which exceeds the actual cost to the school district and , except as otherwise provided in this subsection, such money ~~must~~ may be used ~~for the replacement of school buses and vehicles belonging to~~ at the discretion of the school district. A school district may not use any money collected as a result of an agreement to lease a school bus or vehicle to:

(a) Settle or arbitrate disputes between a recognized organization representing employees of the school district and the school district, or to settle any negotiations; or

(b) Adjust the district-wide schedules of salaries and benefits of the employees of the school district.

5. A school district may not enter into an agreement pursuant to this section:

(a) For special events that take place outside the county in which the school district is located.

(b) If the school district determines that transportation by a commercial bus is reasonably available for a special event.

6. *A school district may not lease during any period of time more than 8.5 percent of the total number of school buses and vehicles belonging to the school district.*

7. *For the purposes of this section, “special event” means an event or series of events that does not take place during the regular school day and is not an interscholastic contest, school festival or other activity properly a part of a school program.*

Sec. 2. NRS 386.815 is hereby amended to read as follows:

386.815 1. A board of trustees of a school district may permit school buses or vehicles belonging to the school district to be used for the transportation of public school pupils to and from:

- (a) Interscholastic contests;
- (b) School festivals; or
- (c) Other activities properly a part of a school program.

2. In addition to the use of school buses and vehicles authorized pursuant to subsection 1, the board of trustees of a school district may permit school buses and vehicles belonging to the school district to be used for the transportation of children to and from:

- (a) Programs for the supervision of children before and after school; and
- (b) Other programs or activities that the board of trustees deems appropriate,

↪ regardless of whether such programs or activities are part of a school program.

3. The use of school buses or vehicles belonging to the school district for the purposes enumerated in subsections 1 and 2 is governed by regulations made by the board of trustees, which must not conflict with regulations of the State Board. Proper supervision for each vehicle so used must be furnished by school authorities, and each school bus must be operated by a driver qualified under the provisions of NRS 386.790 to 386.840, inclusive ~~[]~~, **and section 1 of this act.**

4. A driver shall not operate a vehicle for the purposes enumerated in subsections 1 and 2 for more than 10 hours in a 15-hour period. The time spent operating, inspecting, loading, unloading, repairing and servicing the vehicle and waiting for passengers must be included in determining the 15-hour period. After 10 hours of operating a vehicle, the driver must rest for 10 hours before he or she again operates a vehicle for such purposes.

5. Before January 1, 1984, the State Board shall adopt regulations to carry out the provisions of subsection 4.

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

Assemblyman Thompson moved the adoption of the amendment.

Remarks by Assemblyman Thompson.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 185.

Bill read second time.

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

Amendment No. 727.

SENATORS PARKS; MANENDO AND SEGERBLOM

JOINT SPONSORS: ASSEMBLYMEN COHEN, NEAL, SPIEGEL AND YEAGER

SUMMARY—~~Prohibits form contracts for consumer goods or services from including provisions that interfere with a consumer's rights to provide certain information to others.~~ **Makes various changes relating to trade regulations.** (BDR 52-27)

AN ACT relating to trade regulations; prohibiting a seller or lessor of consumer goods or services from including certain provisions in form contracts with consumers; authorizing a consumer and certain governmental entities to bring an action for the recovery of civil penalties for violating the prohibition; **prohibiting a person from offering certain types of leases; requiring that certain retail installment contracts be subject to the federal Truth in Lending Act;** providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law regulates trade practices and other commercial activities. (Title 52 of NRS) ~~(This bill)~~ **Section 2 of this** bill prohibits a seller or lessor of consumer goods or services who uses a form contract, which is a contract that has standardized terms and is imposed on a consumer without a meaningful opportunity for negotiation by the consumer concerning the standardized terms, from including in the contract a provision that: (1) limits or requires the consumer to waive his or her rights to provide a review, comment or other statement concerning the seller or lessor or the goods or services; (2) imposes a penalty on the consumer for providing such a review, comment or other statement; or (3) declares that the provision of such a review, comment or other statement by the consumer is a breach of the contract. ~~(This bill)~~ **Section 2** provides that any such provision included in a form contract is unenforceable. ~~(This bill)~~ **Section 2** further provides that any person who violates its provisions is guilty of a misdemeanor and, in addition to any criminal penalty, is liable for civil penalties of up to \$2,500 for the person's first violation, up to \$5,000 for each subsequent violation and an additional penalty of up to \$10,000 if the court finds that the violation is reckless, willful or wanton. ~~(The bill)~~ **Section 2** authorizes the consumer, the Attorney General, a district attorney or city attorney to bring an action to recover the civil penalty and to retain any money awarded by the court. ~~(The bill)~~ **Section 2** does not prohibit a person who maintains an online forum, such as an Internet website, from removing from the forum any statement or information that the person is lawfully entitled to remove.

Section 3 of this bill prohibits a person from leasing any living animal or goods intended for personal, family or household use if the living

animal or good is expected to have not more than a minimal residual financial value at the end of the term of the lease or contract. Section 3 further requires that any retail installment contract for the sale of any living animal or goods intended for personal, family or household use be subject to the federal Truth in Lending Act. Section 3 additionally sets forth that a failure to comply with or a violation of section 3 constitutes a deceptive trade practice or consumer fraud, respectively. Finally, section 3 exempts any lease or contract on furniture or household electronics from the provisions of section 3.

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~~ new section to read as follows: the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. A seller or lessor of consumer goods or services shall not:

(a) Include in any form contract or proposed form contract with a consumer for the purchase, lease or rental of consumer goods or services any provision that:

(1) Limits or requires the consumer to waive his or her rights to provide a review, comment or other statement concerning the consumer goods or services or the seller or lessor;

(2) Imposes a penalty on the consumer for providing such a review, comment or other statement; or

(3) Declares that the provision of such a review, comment or other statement by the consumer is a breach of the form contract;

(b) Enforce or threaten to enforce a provision described in paragraph (a); or

(c) Refuse or threaten to refuse to enter into a form contract with a consumer solely because the consumer does not agree to the inclusion in the form contract of a provision described in paragraph (a).

2. Any provision that is included in a form contract with a consumer for the purchase, lease or rental of consumer goods or services in violation of subsection 1, with or without consideration, is against public policy and is void and unenforceable.

3. Any person who violates subsection 1 is guilty of a misdemeanor and, in addition to any criminal penalty, is liable for:

(a) A civil penalty of not more than:

(1) For the first violation, \$2,500;

(2) For the second or subsequent violation, \$5,000 for each violation; and

(3) If the court finds that the violation is reckless, willful or wanton, \$10,000, in addition to the civil penalty set forth in subparagraph (1) or (2); and

(b) The costs incurred to recover the civil penalty, including, without limitation:

- (1) The costs, if any, of conducting an investigation into the violation;*
- (2) Reasonable costs specified in NRS 18.005; and*
- (3) Reasonable attorney's fees.*

4. An action to recover the civil penalty may be brought by the consumer, the Attorney General or a district attorney or city attorney, as appropriate. The action may be instituted in any court of competent jurisdiction in the city or county in which either party resides, the defendant can be found or in which the violation occurred.

5. Any money awarded by a court pursuant to this section must be awarded to the person or governmental entity that brought the action.

6. The civil remedy provided by this section is in addition to, and not exclusive of, any other available remedy or penalty.

7. This section does not prohibit a person who maintains an online forum, including, without limitation, an Internet website, from removing from the forum any statement that the person is lawfully entitled to remove.

8. Nothing in this section shall be construed as affecting:

- (a) Any duty of confidentiality imposed by law; or*
- (b) Any civil cause of action for defamation, libel, slander or any similar cause of action.*

9. As used in this section:

- (a) "Consumer" means a natural person.*
- (b) "Consumer goods or services" has the meaning ascribed to it in NRS 598.170.*

(c) "Form contract" means a contract or agreement with standardized terms that is:

(1) Used by a seller or lessor in the course of selling, leasing or renting consumer goods or services of the seller or lessor; and

(2) Imposed on a consumer without a meaningful opportunity for the consumer to negotiate the standardized terms.

(d) "Lessor" means a lessor and any agent or employee of the lessor.

(e) "Seller" means a seller and any agent or employee of the seller.

Sec. 3. 1. A person shall not offer to lease any living animal or goods intended for personal, family or household use, including, without limitation, pets, tires, batteries and hearing aids, if the living animal or good is expected to have not more than a de minimis residual financial value at the end of the term of the lease or contract.

2. Any retail installment contract for the sale of any living animal or goods intended for personal, family or household use, including, without limitation, pets, tires, batteries and hearing aids, is subject to the provisions of the Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and any regulations adopted pursuant thereto.

3. The failure of a person to comply with this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

4. A violation of this section constitutes consumer fraud for the purposes of NRS 41.600.

5. The provisions of this section do not apply to any lease or contract on furniture or household electronics.

6. As used in this section:

(a) "Goods" has the meaning ascribed to it in NRS 104.2105.

(b) "Household electronics" means electronic devices, personal effects and property of an electronic nature used or to be used in a dwelling.

(c) "Residual financial value" means the amount the living animal or good is worth at the end of the term of the lease or contract and includes, without limitation, the salvage value of the living animal or good.

(d) "Retail installment contract" has the meaning ascribed to it in NRS 97.105.

(e) "Salvage value" means the amount expected to be obtained when the living animal or good is disposed of at the end of its useful life.

~~{Sec. 2.}~~ **Sec. 4.** This act becomes effective on July 1, 2017.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Remarks by Assemblywoman Bustamante Adams.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 199.

Bill read second time.

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

Amendment No. 728.

AN ACT relating to alcoholic beverages; providing for the licensing and operation of estate distilleries in this State; setting forth the conditions under which spirits manufactured at such estate distilleries may be sold; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the operation of craft distilleries. (NRS 597.235) Under existing law, craft distilleries must be licensed, a fee is imposed for the license and a person who engages in business in this State without having the appropriate permit or license for the business is guilty of a misdemeanor. (NRS 360.490, 369.180, 369.300) Existing law further sets forth the scope of operation of a craft distillery, including, without limitation, authorizing a craft distillery to sell and transport not more than 10,000 cases of spirits each calendar year to a wholesale dealer of liquor within this State and to manufacture for exportation to another state not more than 40,000 cases of spirits each calendar year. (NRS 597.235)

This bill provides for the operation of estate distilleries. **Section 2** of this bill defines an “estate distillery” as a distillery where at least 85 percent of the agricultural raw materials from which distilled spirits are manufactured, in the aggregate, were grown on land within this State which is owned or controlled by the owner of the distillery. **Sections 1, 3, 4 and 8** of this bill authorize a person to operate an estate distillery if the person is licensed. **Sections 1 and 2** further set forth the permissible scope of operation of an estate distillery, which includes, without limitation, an authorization to sell and transport not more than 75,000 cases of spirits each calendar year to a wholesale dealer of liquor within this State and to manufacture for exportation to another state not more than 400,000 cases of spirits each calendar year. Under **section 1**, the amount of spirits manufactured on the premises of the estate distillery which may be sold at retail for off-premises consumption is limited to 7,500 cases or less per year. **Section 9** of this bill imposes a licensing fee of \$75.

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person may operate an estate distillery if the person:

- (a) Obtains a license for the facility pursuant to chapter 369 of NRS;*
- (b) Complies with the requirements of this chapter; and*
- (c) Complies with any other applicable governmental requirements.*

2. A person who operates an estate distillery pursuant to this section may:

(a) In addition to manufacturing spirits from agricultural raw materials through distillation, blend, age, store and bottle the spirits so manufactured. The person operating the estate distillery shall ensure that none of the spirits manufactured at the estate distillery are derived from neutral or distilled spirits manufactured by another manufacturer.

(b) Except as otherwise provided in paragraphs (f) and (g), in any calendar year, sell and transport in Nevada not more than a combined total of 75,000 cases of spirits at ~~all~~ the estate ~~distilleries that the person operates~~ distillery to a person who holds a license to engage in business as a wholesale dealer of liquor pursuant to chapter 369 of NRS.

(c) In any calendar year, manufacture for exportation to another state, not more than a combined total of 400,000 cases of spirits at all the estate distilleries the person operates.

(d) On the premises of the estate distillery, serve samples of the spirits manufactured at the estate distillery. Any such samples must not exceed, per person, per day, 4 fluid ounces in volume.

(e) On the premises of the estate distillery, sell the spirits manufactured at the estate distillery at retail for consumption on or off the premises. Any such spirits sold at retail for off-premises consumption must not exceed,

per person, per month, 1 case of spirits and not exceed, per person, per year, 6 cases of spirits. The total amount of such spirits sold at retail for off-premises consumption must not exceed 7,500 cases per year. Spirits purchased on the premises of an estate distillery must not be resold by the purchaser or any retail liquor store. A person who operates an estate distillery shall prominently display on the premises a notice that the resale of spirits purchased on the premises is prohibited.

(f) Donate for charitable or nonprofit purposes and transport neutral or distilled spirits manufactured at the estate distillery in accordance with the terms and conditions of a special permit for the transportation of the neutral or distilled spirits obtained from the Department of Taxation pursuant to subsection 4 of NRS 369.450.

(g) Transfer in bulk neutral or distilled spirits manufactured at the estate distillery to a supplier. Any such transfer:

(1) Is taxable only when the neutral or distilled spirits are rectified and bottled in original packages for sale within this State; and

(2) Is not a sale for the purposes of paragraph (b) or manufacturing for exportation for the purposes of paragraph (c).

Sec. 2. NRS 597.200 is hereby amended to read as follows:

597.200 As used in NRS 597.190 to 597.255, inclusive, *and section 1 of this act*, unless the context otherwise requires:

1. “Alcoholic beverage” means any malt beverage or spirituous, vinous or malt liquor which contains 1 percent or more ethyl alcohol by volume.

2. “Brew pub” means an establishment which manufactures malt beverages and sells those malt beverages at retail pursuant to the provisions of NRS 597.230.

3. “*Case of spirits*” means 12 bottles, each containing 750 milliliters of distilled spirits.

4. “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-}~~ 5. “Estate distillery” means an establishment which:

(a) *Manufactures distilled spirits from agricultural raw materials through distillation, provided that 85 percent of such agricultural raw materials, in the aggregate, were grown on land within this State which is owned or controlled by the owner of the distillery; and*

(b) *Is authorized to sell those distilled spirits pursuant to the provisions of this chapter.*

6. “Distillation” means the process of producing or purifying spirituous liquor by successive evaporation and condensation.

~~{5-}~~ 7. “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-}~~ 8. “Instructional wine-making facility” means an instructional wine-making facility operated pursuant to NRS 597.245.

~~{7-}~~ 9. “Legal age” means the age at which a person is legally permitted to purchase an alcoholic beverage pursuant to NRS 202.020.

~~{8-}~~ 10. “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-}~~ 11. “Supplier” has the meaning ascribed to it in NRS 597.140.

~~{10-}~~ 12. “Wine” has the meaning ascribed to it in NRS 369.140.

Sec. 3. NRS 597.210 is hereby amended to read as follows:

597.210 1. Except as otherwise provided in subsection 2, a person engaged in business as a supplier or engaged in the business of manufacturing, blending or bottling alcoholic beverages within or without this State shall not:

(a) Engage in the business of importing, wholesaling or retailing alcoholic beverages; or

(b) Operate or otherwise locate his or her business on the premises or property of another person engaged in the business of importing, wholesaling or retailing alcoholic beverages.

2. This section does not:

(a) Preclude any person engaged in the business of importing, wholesaling or retailing alcoholic beverages from owning less than 2 percent of the outstanding ownership equity in any organization which manufactures, blends or bottles alcoholic beverages.

(b) Prohibit a person engaged in the business of rectifying or bottling alcoholic beverages from importing neutral or distilled spirits in bulk only for the express purpose of rectification pursuant to NRS 369.415.

(c) Prohibit a person from operating a brew pub pursuant to NRS 597.230.

(d) Prohibit a person from operating an instructional wine-making facility pursuant to NRS 597.245.

(e) Prohibit a person from operating a craft distillery pursuant to NRS 597.235.

(f) *Prohibit a person from operating an estate distillery pursuant to section 1 of this act.*

(g) Prohibit a person from operating a winery pursuant to NRS 597.240.

Sec. 4. NRS 597.220 is hereby amended to read as follows:

597.220 1. Except as otherwise provided in NRS 597.235, *and section 1 of this act*, a person who is engaged in the business of importing or wholesaling alcoholic beverages in the State of Nevada shall not:

(a) Engage in the business of retailing alcoholic beverages in this state; or

(b) Operate or otherwise locate his or her business on the premises or other property of any supplier.

2. For the purposes of this section, a person who transfers or receives alcoholic beverages in the manner described in NRS 369.4865 must not be

considered to be engaged in the business of wholesaling alcoholic beverages based solely upon those transfers.

Sec. 5. NRS 597.235 is hereby amended to read as follows:

597.235 1. A person may operate a craft distillery if the person:

- (a) Obtains a license for the facility pursuant to chapter 369 of NRS;
- (b) Complies with the requirements of this chapter; and
- (c) Complies with any other applicable governmental requirements.

2. A person who operates a craft distillery pursuant to this section may:

(a) In addition to manufacturing spirits from agricultural raw materials through distillation, blend, age, store and bottle the spirits so manufactured. The person operating the craft distillery shall ensure that none of the spirits manufactured at the craft distillery are derived from neutral or distilled spirits manufactured by another manufacturer.

(b) Except as otherwise provided in paragraphs (f) and (g), in any calendar year, sell and transport in Nevada not more than a combined total of 10,000 cases of spirits at all the craft distilleries that the person operates to a person who holds a license to engage in business as a wholesale dealer of liquor pursuant to chapter 369 of NRS.

(c) In any calendar year, manufacture for exportation to another state, not more than a combined total of 40,000 cases of spirits at all the craft distilleries the person operates.

(d) On the premises of the craft distillery, serve samples of the spirits manufactured at the craft distillery. Any such samples must not exceed, per person, per day, 4 fluid ounces in volume.

(e) On the premises of the craft distillery, sell the spirits manufactured at the craft distillery at retail for consumption on or off the premises. Any such spirits sold at retail for off-premises consumption must not exceed, per person, per month, 1 case of spirits and not exceed, per person, per year, 6 cases of spirits. Spirits purchased on the premises of a craft distillery must not be resold by the purchaser or any retail liquor store.

(f) Donate for charitable or nonprofit purposes and transport neutral or distilled spirits manufactured at the craft distillery in accordance with the terms and conditions of a special permit for the transportation of the neutral or distilled spirits obtained from the Department of Taxation pursuant to subsection 4 of NRS 369.450.

(g) Transfer in bulk neutral or distilled spirits manufactured at the craft distillery to a supplier. Any such transfer:

(1) Is taxable only when the neutral or distilled spirits are rectified and bottled in original packages for sale within this State; and

(2) Is not a sale for the purposes of paragraph (b) or manufacturing for exportation for the purposes of paragraph (c).

~~{3. As used in this section:~~

~~—(a) “Case of spirits” means 12 bottles, each containing 750 milliliters of distilled spirits.~~

~~—(b) “Supplier” has the meaning ascribed to it in NRS 597.140.}~~

Sec. 6. NRS 597.250 is hereby amended to read as follows:

597.250 The license of any person who violates the provisions of NRS 597.210, 597.220, 597.230, 597.235 or 597.245 **or section 1 of this act** must be suspended or revoked in the manner provided in chapter 369 of NRS.

Sec. 7. NRS 597.255 is hereby amended to read as follows:

597.255 1. A person who has suffered injury, including, without limitation, economic damage, as the proximate result of a violation of the provisions of this section and NRS 597.190 to 597.245, inclusive, **and section 1 of this act** may bring a civil action against the person who committed the violation to recover:

(a) For the first violation, \$100 plus the injured person's actual damages, attorney's fees and costs, if any.

(b) For the second violation, \$250 plus the injured person's actual damages, attorney's fees and costs, if any.

(c) For the third and any subsequent violation, \$500 plus the injured person's actual damages, attorney's fees and costs, if any, and any punitive damages that the facts may warrant.

2. Any person, including, without limitation, a director, officer, agent or employee of the person, who knowingly violates or knowingly aids or assists in the violation of any provision of this section and NRS 597.190 to 597.245, inclusive, **and section 1 of this act** is liable under this section.

3. Except as otherwise provided in NRS 597.157, 597.170 and 597.260, and in addition to any legal action brought pursuant to NRS 597.262, the provisions of this section do not preclude a person from seeking any other legal remedy available.

Sec. 8. 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.

(i) Operate an estate distillery in this State unless the person first secures an estate distiller's license from this State.

2. 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. 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. *A person who holds a license for an estate distillery:*

(a) May engage in any activity authorized by section 1 of this act.

(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.

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) "Estate distillery" has the meaning ascribed to it in NRS 597.200.

(e) "Malt beverage" has the meaning ascribed to it in NRS 597.200.

Sec. 9. NRS 369.300 is hereby amended to read as follows:

369.300 The following is a schedule of fees to be charged for licenses:

Importer's wine, beer and liquor license	\$500
Importer's beer license	150
Wholesale wine, beer and liquor license	250
Wholesale beer dealer's license.....	75
Wine-maker's license	75
License for an instructional wine-making facility	75
Brew pub's license	75
Brewer's license	75
Craft distiller's license.....	75
<i>Estate distiller's license</i>	<i>75</i>

Sec. 10. NRS 369.382 is hereby amended to read as follows:

369.382 Except as otherwise provided in NRS 369.386, 369.415 and 597.235, *and section 1 of this act*, a supplier shall not engage in the business of importing, wholesaling or retailing alcoholic beverages in this State.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Remarks by Assemblywoman Bustamante Adams.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 209.

Bill read second time.

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

Amendment No. 756.

SUMMARY—Revises provisions relating to insurance. (BDR ~~{53-485}~~
57-485)

AN ACT relating to insurance; ~~[authorizing an insurer to process claims of industrial insurance at an office located outside of this State; requiring that persons processing claims of industrial insurance be accessible to an employer and his or her employees who are located in this State; removing the requirement that an insurer who provides industrial insurance provide an office in this State;]~~ authorizing the Commissioner of Insurance to accept an independent audit in lieu of an examination of a nonprofit organization of surplus lines brokers; limiting when a surplus lines broker may charge a fee; authorizing the Commissioner to adopt regulations for the charging and collection of certain fees for the purchase of individual or group life or health insurance or an individual or group annuity; authorizing an employee or authorized representative of a vendor to receive compensation for selling or offering portable electronics insurance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law requires an insurer who provides industrial insurance to provide an office in this State that is operated by the insurer or its third party administrator. Such an office must have persons authorized to act for the insurer who may receive information related to a claim and provide services to an employer and his or her employees. Additionally, an insurer shall provide a statewide toll free telephone service to its in state office or accept collect calls from injured employees. (NRS 616B.027) Section 1 of this bill authorizes persons who are authorized to act for the insurer to handle, at an office located outside of this State, a claim of industrial insurance that is filed in this State. Section 1 further requires that such persons located outside of this State be accessible: (1) through electronic communications, videoconferencing, teleconferencing or other available technology that is provided by the insurer; and (2) by a statewide toll free telephone service provided by the insurer or by the insurer accepting collect calls from injured employees on all days other than Saturdays, Sundays and legal holidays in the jurisdiction in which the office is located from 9 a.m. to 5 p.m. Pacific time. Section 1 additionally sets forth that such persons located outside of~~

~~this State are subject to the jurisdiction of the courts of this State and to service of process. Section 1 additionally authorizes the Administrator of the Division of Industrial Relations of the Department of Business and Industry to adopt regulations concerning: (1) the handling of a claim that is filed in this State at an office located outside of this State; and (2) the accessibility to persons located outside of this State who are working on such claims.~~

~~Section 3 of this bill amends existing law by removing the requirement that an insurer who provides industrial insurance provide an office in this State that is operated by the insurer or its third party administrator. Sections 2, 4 and 5 of this bill make conforming changes.]~~

Existing law requires the Commissioner of Insurance to make an examination of the affairs, transactions, accounts, records and assets of a nonprofit organization of surplus lines brokers. (NRS 685A.075) **Section 7** of this bill authorizes the Commissioner to accept the report of an independent audit in lieu of an examination if the Commissioner deems an independent audit to be in the best interest of the residents of this State.

Existing law authorizes a surplus lines broker to charge a fee for procuring surplus lines coverage. (NRS 685A.155) **Section 8** of this bill limits existing law by only authorizing a broker who places any insurance coverage with an authorized insurer to charge a fee for procuring surplus lines coverage.

Existing law authorizes the Commissioner to adopt regulations to allow for the charging and collection of a fee by an insurance broker, consultant or financial planner for consultation or related advice on the purchase of life or health insurance or an annuity. (NRS 686A.230) **Section 11** of this bill clarifies existing law by authorizing the Commissioner to adopt regulations to allow for the charging and collection of a fee by an insurance broker, consultant or financial planner for consultation or related advice on the purchase of individual or group life or health insurance or an individual or group annuity.

Section 12 of this bill authorizes an employee or authorized representative of a vendor to receive from the vendor compensation for the selling or offering of coverage under a policy of portable electronics insurance. **Section 6** of this bill makes conforming changes.

Existing law authorizes the Commissioner, with the approval of the State Board of Examiners, to enter into a multi-state agreement to preserve the ability of this State to collect premium tax on multi-state risks. (NRS 685A.185) **Section 13** of this bill repeals this provision. **Sections 9 and 10** 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 616B of NRS is hereby amended by adding thereto a new section to read as follows:]~~

~~**1. Persons authorized to act for an insurer at an office located outside of this State may process a claim filed in this State.**~~

~~2. In processing a claim filed in this State, persons authorized to act for an insurer at an office located outside of this State may receive information related to that claim and provide the services to an employer and his or her employees required by chapters 616A to 617, inclusive, of NRS. Such persons must be accessible:~~

~~(a) Through electronic communications, videoconferencing, teleconferencing or other available technology that is provided by the insurer; and~~

~~(b) By a statewide toll free telephone service provided by the insurer or by the insurer accepting collect calls from injured employees on all days, other than Saturdays, Sundays and legal holidays in the jurisdiction in which the office is located, from 9 a.m. to 5 p.m. Pacific time.~~

~~3. In processing a claim filed in this State pursuant to this section, persons authorized to act for an insurer at an office located outside of this State are, to the extent not inconsistent with the Nevada Constitution or the United States Constitution, subject to the jurisdiction of the courts of this State and to service of process as provided in NRS 14.065.~~

~~4. The Administrator may adopt regulations concerning the:~~

~~(a) Processing of a claim filed in this State at an office located outside of this State pursuant to subsection 1; and~~

~~(b) Access required by subsection 2 to persons who are authorized to act for an insurer pursuant to subsection 1.~~

~~5. As used in this section, "Pacific time" means the actual measure of time that is used and observed by the general population as the uniform time for the portion of Nevada which lies within the Pacific time zone, or any legal successor to the Pacific time zone, and which includes the seat of government of this State as designated by Section 1 of Article 15 of the Nevada Constitution.~~ (Deleted by amendment.)

Sec. 2. [NRS 616B.021 is hereby amended to read as follows:

~~616B.021 1. An insurer shall provide access to the files of claims in its offices.~~

~~2. The physical records in a file concerning a claim filed in this State may be kept at an office located outside this State if all records in the file are accessible at its offices [located in this State] on computer in a microphotographic, electronic or other similar format that produces an accurate reproduction of the original. If a claim filed in this State is open, the records in the file must be reproduced and available for inspection during regular business hours within 24 hours after requested by the employee or the employee's designated agent, the employer or the employer's designated agent, or the Administrator or the Administrator's designated agent. If a claim filed in this State is closed, the records in the file must be reproduced and available for inspection during regular business hours within 14 days after requested by such persons.~~

~~3. Upon request, the insurer shall make copies or other reproductions of anything in the file and may charge a reasonable fee for this service. Copies~~

~~or other reproductions of materials in the file which are requested by the Administrator or the Administrator's designated agent, or the Nevada Attorney for Injured Workers or his or her designated agent must be provided free of charge.~~

~~4. The Administrator may adopt regulations concerning the:~~

~~(a) Maintenance of records in a file on claims that are open or closed; and~~

~~(b) Preservation, examination and use of records which have been stored on computer or in a microphotographic, electronic or similar format by an insurer.~~

~~5. This section does not require an insurer to allow inspection or reproduction of material regarding which a legal privilege against disclosure has been conferred.] (Deleted by amendment.)~~

Sec. 3. [NRS 616B.027 is hereby amended to read as follows:

~~616B.027 1. Every insurer and third party administrator shall:~~

~~(a) Provide [an office] in this State : [operated by the insurer or its third party administrator in which:]~~

~~(1) A complete file of [each] a claim [is accessible,] filed by the employee or the representative of the employee, in accordance with the provisions of NRS 616B.021 [;], upon request of the employee or his or her representative; and~~

~~(2) Persons authorized to act for the insurer and, if necessary, licensed pursuant to chapter 683A of NRS, including, without limitation, persons authorized pursuant to section 1 of this act, who may receive information related to a claim and provide the services to an employer and his or her employees required by chapters 616A to 617, inclusive, of NRS . [; and~~

~~(3) An employee or his or her employer, upon request, is provided with information related to a claim filed by the employee or a copy or other reproduction of the information from the file for that claim, in accordance with the provisions of NRS 616B.021.]~~

~~(b) Provide statewide toll-free telephone service [to the office maintained pursuant to paragraph (a)] or accept collect calls from injured employees.~~

~~2. Each private carrier shall provide:~~

~~(a) Adequate services to its insured employers in controlling losses; and~~

~~(b) Adequate information on the prevention of industrial accidents and occupational diseases.] (Deleted by amendment.)~~

Sec. 4. [NRS 616B.500 is hereby amended to read as follows:

~~616B.500 1. An insurer may enter into a contract to have his or her plan of insurance administered by a third party administrator.~~

~~2. An insurer shall not enter into a contract with any person for the administration of any part of the plan of insurance unless that person [maintains an office in this State and] has a certificate issued by the Commissioner pursuant to NRS 683A.08524.] (Deleted by amendment.)~~

Sec. 5. ~~[NRS 616B.503 is hereby amended to read as follows:~~

~~616B.503 1. A person shall not act as a third-party administrator for an insurer without a certificate issued by the Commissioner pursuant to NRS 683A.08524.~~

~~2. A person who acts as a third-party administrator pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS shall:~~

~~(a) Administer from one or more offices [located in this State] all of the claims arising under each plan of insurance that the person administers and maintain in those offices all of the records concerning those claims;~~

~~(b) Administer each plan of insurance directly, without subcontracting with another third-party administrator; and~~

~~(c) Upon the termination of the person's contract with an insurer, transfer forthwith to a certified third-party administrator chosen by the insurer all of the records in the person's possession concerning claims arising under the plan of insurance.~~

~~3. The Commissioner may, under exceptional circumstances, waive the requirements of subsection 2.] (Deleted by amendment.)~~

Sec. 6. NRS 683A.325 is hereby amended to read as follows:

683A.325 1. Except as otherwise provided in NRS 683A.3687 ~~[.]~~ **or 691D.220**, a producer of insurance who is appointed as an agent may pay a commission or compensation for or on account of the selling, soliciting, procuring or negotiating of insurance in this State only to a licensed and appointed producer of insurance of the insurer with whom insurance was placed or to a licensed producer acting as a broker.

2. A licensee shall not accept any commission or compensation to which the licensee is not entitled pursuant to the provisions of this title.

Sec. 7. NRS 685A.075 is hereby amended to read as follows:

685A.075 1. A nonprofit organization of surplus lines brokers may be formed to:

(a) Facilitate and encourage compliance by its members with the laws of this State and the rules and regulations of the Commissioner concerning surplus lines insurance;

(b) Provide a means for the review of all surplus lines coverage written in this State;

(c) Communicate with organizations of admitted insurers with respect to the proper use of the surplus lines market;

(d) Receive and disseminate to brokers information relative to surplus lines coverages; and

(e) Charge members a filing fee, approved by the Commissioner, for the review of surplus lines coverages.

2. Every such organization shall exercise its powers through a board of directors and shall file with the Commissioner:

(a) A copy of its constitution, articles of agreement or association or certificate of incorporation;

(b) A copy of its bylaws, rules and regulations governing its activities;

(c) A copy of its plan of operations established and approved by the Commissioner;

(d) A current list of its members;

(e) The name and address of a resident of this State upon whom notices or orders of the Commissioner or processes issued at the direction of the Commissioner may be served; and

(f) An agreement that the Commissioner may examine the organization in accordance with the provisions of this section.

3. The Commissioner shall make an examination of the affairs, transactions, accounts, records and assets of such an organization and any of its members as often as the Commissioner deems necessary for the protection of the interests of the people of this State, but no less frequently than once every 3 years. The officers, managers, agents and employees of such an organization may be examined at any time, under oath, and shall provide to the Commissioner all books, records, accounts, documents or agreements governing its method of operation. The Commissioner shall furnish two copies of the examination report to the organization examined and shall notify the organization that it may, within 20 days thereof, request a hearing on the report or on any facts or recommendations set forth therein. If the Commissioner finds such an organization or any member thereof to be in violation of this chapter, the Commissioner may, in addition to any administrative fine or penalty imposed pursuant to this Code, issue an order requiring the discontinuance of such violations. *In lieu of an examination conducted pursuant to this subsection, the Commissioner may accept the report of an independent audit of such an organization if the Commissioner deems that an independent audit is in the best interest of the residents of this State.*

4. The board of directors of such an organization must consist of not fewer than five persons. The members of the board must be appointed by the Commissioner and serve at the pleasure of the Commissioner.

5. A broker must be a member of such an organization as a condition of continued licensure under this chapter.

Sec. 8. NRS 685A.155 is hereby amended to read as follows:

685A.155 A broker *who places any insurance coverage with an authorized insurer pursuant to subsection 3 of NRS 685A.060* may charge a fee for procuring surplus lines coverage. Except as otherwise provided by agreement between the insurer and broker, the fee must not exceed 20 percent of the premium charged, after deduction of any other commissions, fees and charges payable to the broker.

Sec. 9. NRS 685A.175 is hereby amended to read as follows:

685A.175 1. A broker who has written coverage for which this State is the insured's home state shall pay, by the date described in subsection 2, the tax for each calendar quarter as directed by the Commissioner and shall file as directed by the Commissioner a copy of a quarterly report which includes an accounting of:

- (a) The aggregate gross premiums for the quarter;
- (b) The aggregate of the return premiums received; *and*
- (c) The amount of tax remitted to the Commissioner . ~~}; and~~
- ~~— (d) The distribution of the exposures of insureds by state in accordance with the requirements of any multi state agreement entered into by the Commissioner pursuant to NRS 685A.185.}~~

➔ The report must be on a form approved by the Commissioner.

2. The tax filings and payments required by subsection 1 must be submitted by:

- (a) February 15 for the calendar quarter ending the preceding December 31.
- (b) May 15 for the calendar quarter ending the preceding March 31.
- (c) August 15 for the calendar quarter ending the preceding June 30.
- (d) November 15 for the calendar quarter ending the preceding September 30.

Sec. 10. NRS 685A.180 is hereby amended to read as follows:

685A.180 1. ~~{Except as otherwise provided in subsection 6, on}~~ *On* or before the date described in subsection 2 of NRS 685A.175 for each quarter, each broker shall pay as directed by the Commissioner a tax on surplus lines coverages for which this State is the insured's home state written by the broker in unauthorized insurers during the preceding calendar quarter at the same rate of tax as imposed by law on the premiums of similar coverages written by authorized insurers, in addition to any fees imposed pursuant to NRS 685A.075.

2. ~~{Except as otherwise provided in subsection 6, on}~~ *On* or before the date described in subsection 2 of NRS 685A.175 for each quarter, each insured for which this State is the home state shall pay as directed by the Commissioner a tax on independently procured insurance written for the insured by an unauthorized insurer during the preceding calendar quarter at the same rate of tax as imposed by law on the premiums of similar coverages written by authorized insurers, in addition to any fees imposed pursuant to NRS 685A.075.

3. For the purposes of this section, the "premium" on surplus lines coverages includes:

- (a) The gross amount charged by the insurer for the insurance, less any return premium;
- (b) Any fee allowed by NRS 685A.155;
- (c) Any policy fee;
- (d) Any membership fee;
- (e) Any inspection fee; and
- (f) Any other fees or assessments charged by the insurer as consideration for the insurance.

➔ Premium does not include any additional amount charged for state or federal tax, or for executing or completing affidavits or reports of coverage.

4. All taxes collected as directed by the Commissioner pursuant to this section ~~[and not intended for disbursement to other states by a clearinghouse established through any multi state agreement entered into by the Commissioner pursuant to NRS 685A.185]~~ must be promptly deposited with the State Treasurer ~~[,]~~ to the credit of the State General Fund.

5. A broker who receives a credit for tax paid shall refund to each insured the amount of the credit attributable to the insured when the insurer pays a return premium or within 30 days, whichever is earlier.

~~[6. If the Commissioner has entered into a multi state agreement pursuant to NRS 685A.185, the Commissioner may require that each broker who has written surplus line coverages for multi state risks for which this State is the insured's home state and each insured for which this State is the home state who has obtained independently procured insurance for multi state risks pay a premium tax:~~

~~—(a) For the portion of the premium allocated to Nevada, at the tax rate applicable to nonadmitted insurance pursuant to this chapter;~~

~~—(b) For the portion of the premium allocated to any other state that also participates in the multi state agreement, at the tax rate applicable to nonadmitted insurance as established by that state; and~~

~~—(c) For the portion of the premium allocated to any other state that does not participate in the multi state agreement, at the tax rate applicable to nonadmitted insurance pursuant to this chapter. The tax for this portion of the premium must be deposited with the State Treasurer, to the credit of the State General Fund, after it is processed by the clearinghouse established through the multi state agreement.]~~

Sec. 11. NRS 686A.230 is hereby amended to read as follows:

686A.230 1. A person shall not willfully collect any sum as a premium or charge for insurance which is not then provided or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy issued by an insurer as authorized by this Code.

2. Except as otherwise provided in subsection 3, a person shall not willfully collect as a premium or charge for insurance any sum in excess of the premium or charge applicable to the insurance and as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the Commissioner. In cases where classifications, premiums or rates are not required by this Code to be so filed and approved, the premiums and charges must not be in excess of those specified in the policy and as fixed by the insurer. This subsection does not prohibit:

(a) The charging and collection by surplus lines brokers licensed under chapter 685A of NRS of the amount permitted by chapter 685A of NRS and regulations adopted by the Commissioner.

(b) The charging and collection by a life insurer of amounts actually to be expended for the medical examination of any applicant for life insurance or for reinstatement of a life insurance policy.

3. The Commissioner may adopt regulations to allow the charging and collection of a fee by an insurance broker, consultant or financial planner:

(a) In lieu of any other charge or commission for solicitation, negotiation or procurement of a policy of insurance which covers commercial or business risks;

(b) For consultation or any related advice on the insuring of commercial or business risks which does not result in the procurement of a policy of insurance; and

(c) For consultation or related advice on the purchase of *individual or group* life or health insurance or an *individual or group* annuity, whether or not it results in the purchase of a policy of insurance or annuity. In such a case, the fee must be set forth in a written contract signed by the client before the consultation begins.

4. An agent or broker who provides consultation or related advice pursuant to this section shall do so pursuant to a written contract specifying the compensation the agent or broker will receive. The compensation may be in addition to or in lieu of a commission and is not a premium as defined in NRS 679A.115.

Sec. 12. NRS 691D.220 is hereby amended to read as follows:

691D.220 1. Notwithstanding any other provision of law, an employee or authorized representative of a vendor that holds a license as a producer of insurance in portable electronics insurance issued by the Commissioner pursuant to NRS 683A.261 or 683A.271 may, without a license issued by the Commissioner, sell or offer coverage under a policy of portable electronics insurance at any location at which the vendor does business if:

(a) The employee or authorized representative of the vendor sells or offers coverage under a policy of portable electronics insurance only on behalf of, and under the supervision of, the vendor; and

(b) Before the employee or authorized representative of the vendor sells or offers coverage under a policy of portable electronics insurance, he or she completes a program of training provided by the vendor pursuant to NRS 691D.300.

2. An employee or authorized representative of a vendor who sells or offers coverage under a policy of portable electronics insurance pursuant to this section shall not advertise, represent or otherwise hold himself or herself out as a licensed producer of insurance unless the person is licensed as a producer of insurance.

3. *An employee or authorized representative of a vendor who sells or offers coverage under a policy of portable electronics insurance pursuant to this section may receive from that vendor compensation related to the selling or offering of coverage under a policy of portable electronics insurance.*

Sec. 13. NRS 685A.185 is hereby repealed.

Sec. 14. This act becomes effective on July 1, 2017.

TEXT OF REPEALED SECTION**685A.185 Multi-state agreement to collect premium tax on multi-state risks.**

1. The Commissioner may, with the approval of the State Board of Examiners, on behalf of the State enter into a multi-state agreement to preserve the ability of this State to collect premium tax on multi-state risks.

2. If, within 18 months after the Commissioner enters into a multi-state agreement pursuant to subsection 1, the Commissioner conducts a hearing pursuant to the provisions of chapter 233B of NRS concerning participation in the multi-state agreement, the Commissioner shall submit to the State Board of Examiners and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the findings of the Commissioner pursuant to the hearing.

3. The State Board of Examiners shall review and may accept the findings of the Commissioner. If the Commissioner finds and the State Board of Examiners accepts that because of the effect of the multi-state agreement on the gross receipt of premiums collected in this State:

(a) It is in the best interest of the State to continue to participate in the multi-state agreement, the State Board of Examiners may approve the State's continued participation in the multi-state agreement.

(b) It is not in the best interest of the State to continue to participate in the multi-state agreement, the State Board of Examiners may approve the State's withdrawal from the multi-state agreement.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Remarks by Assemblywoman Bustamante Adams.

Amendment adopted.

The following amendment was proposed by the Assemblywoman Bustamante Adams:

Amendment No. 757.

AN ACT relating to insurance; authorizing an insurer to process claims of industrial insurance at an office located outside of this State; requiring that persons processing claims of industrial insurance be accessible to an employer and his or her employees who are located in this State; removing the requirement that an insurer who provides industrial insurance provide an office in this State; authorizing the Commissioner of Insurance to accept an independent audit in lieu of an examination of a nonprofit organization of surplus lines brokers; limiting when a surplus lines broker may charge a fee; authorizing the Commissioner to adopt regulations for the charging and collection of certain fees for the purchase of individual or group life or health insurance or an individual or group annuity; authorizing an employee or authorized representative of a vendor to receive certain compensation ~~for~~

~~selling or~~ relating to offering portable electronics insurance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires an insurer who provides industrial insurance to provide an office in this State that is operated by the insurer or its third-party administrator. Such an office must have persons authorized to act for the insurer who may receive information related to a claim and provide services to an employer and his or her employees. Additionally, an insurer shall provide a statewide toll-free telephone service to its in-state office or accept collect calls from injured employees. (NRS 616B.027) **Section 1** of this bill authorizes persons who are authorized to act for the insurer to handle, at an office located outside of this State, a claim of industrial insurance that is filed in this State. **Section 1** further requires that such persons located outside of this State be accessible: (1) through electronic communications, videoconferencing, teleconferencing or other available technology that is provided by the insurer; and (2) by a statewide toll-free telephone service provided by the insurer or by the insurer accepting collect calls from injured employees on all days other than Saturdays, Sundays and legal holidays in the jurisdiction in which the office is located from 9 a.m. to 5 p.m. Pacific time. **Section 1** additionally sets forth that such persons located outside of this State are subject to the jurisdiction of the courts of this State and to service of process. **Section 1** additionally authorizes the Administrator of the Division of Industrial Relations of the Department of Business and Industry to adopt regulations concerning: (1) the handling of a claim that is filed in this State at an office located outside of this State; and (2) the accessibility to persons located outside of this State who are working on such claims.

Section 3 of this bill amends existing law by removing the requirement that an insurer who provides industrial insurance provide an office in this State that is operated by the insurer or its third-party administrator. **Sections 2, 4 and 5** of this bill make conforming changes.

Existing law requires the Commissioner of Insurance to make an examination of the affairs, transactions, accounts, records and assets of a nonprofit organization of surplus lines brokers. (NRS 685A.075) **Section 7** of this bill authorizes the Commissioner to accept the report of an independent audit in lieu of an examination if the Commissioner deems an independent audit to be in the best interest of the residents of this State.

Existing law authorizes a surplus lines broker to charge a fee for procuring surplus lines coverage. (NRS 685A.155) **Section 8** of this bill limits existing law by only authorizing a broker who places any insurance coverage with an authorized insurer to charge a fee for procuring surplus lines coverage.

Existing law authorizes the Commissioner to adopt regulations to allow for the charging and collection of a fee by an insurance broker, consultant or financial planner for consultation or related advice on the purchase of life or health insurance or an annuity. (NRS 686A.230) **Section 11** of this bill clarifies existing law by authorizing the Commissioner to adopt regulations

to allow for the charging and collection of a fee by an insurance broker, consultant or financial planner for consultation or related advice on the purchase of individual or group life or health insurance or an individual or group annuity.

Section 12 of this bill authorizes an employee or authorized representative of a vendor to receive from the vendor **certain incidental** compensation ~~for the selling or~~ **relating to** offering ~~for~~ coverage **and enrolling a customer** under a policy of portable electronics insurance. **Section 6** of this bill makes conforming changes.

Existing law authorizes the Commissioner, with the approval of the State Board of Examiners, to enter into a multi-state agreement to preserve the ability of this State to collect premium tax on multi-state risks. (NRS 685A.185) **Section 13** of this bill repeals this provision. **Sections 9 and 10** 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 616B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Persons authorized to act for an insurer at an office located outside of this State may process a claim filed in this State.

2. In processing a claim filed in this State, persons authorized to act for an insurer at an office located outside of this State may receive information related to that claim and provide the services to an employer and his or her employees required by chapters 616A to 617, inclusive, of NRS. Such persons must be accessible:

(a) Through electronic communications, videoconferencing, teleconferencing or other available technology that is provided by the insurer; and

(b) By a statewide toll-free telephone service provided by the insurer or by the insurer accepting collect calls from injured employees on all days, other than Saturdays, Sundays and legal holidays in the jurisdiction in which the office is located, from 9 a.m. to 5 p.m. Pacific time.

3. In processing a claim filed in this State pursuant to this section, persons authorized to act for an insurer at an office located outside of this State are, to the extent not inconsistent with the Nevada Constitution or the United States Constitution, subject to the jurisdiction of the courts of this State and to service of process as provided in NRS 14.065.

4. The Administrator may adopt regulations concerning the:

(a) Processing of a claim filed in this State at an office located outside of this State pursuant to subsection 1; and

(b) Access required by subsection 2 to persons who are authorized to act for an insurer pursuant to subsection 1.

5. As used in this section, "Pacific time" means the actual measure of time that is used and observed by the general population as the uniform

time for the portion of Nevada which lies within the Pacific time zone, or any legal successor to the Pacific time zone, and which includes the seat of government of this State as designated by Section 1 of Article 15 of the Nevada Constitution.

Sec. 2. NRS 616B.021 is hereby amended to read as follows:

616B.021 1. An insurer shall provide access to the files of claims in its offices.

2. The physical records in a file concerning a claim filed in this State may be kept at an office located outside this State if all records in the file are accessible at *its* offices ~~[located in this State]~~ on computer in a microphotographic, electronic or other similar format that produces an accurate reproduction of the original. If a claim filed in this State is open, the records in the file must be reproduced and available for inspection during regular business hours within 24 hours after requested by the employee or the employee's designated agent, the employer or the employer's designated agent, or the Administrator or the Administrator's designated agent. If a claim filed in this State is closed, the records in the file must be reproduced and available for inspection during regular business hours within 14 days after requested by such persons.

3. Upon request, the insurer shall make copies or other reproductions of anything in the file and may charge a reasonable fee for this service. Copies or other reproductions of materials in the file which are requested by the Administrator or the Administrator's designated agent, or the Nevada Attorney for Injured Workers or his or her designated agent must be provided free of charge.

4. The Administrator may adopt regulations concerning the:

(a) Maintenance of records in a file on claims that are open or closed; and
(b) Preservation, examination and use of records which have been stored on computer or in a microphotographic, electronic or similar format by an insurer.

5. This section does not require an insurer to allow inspection or reproduction of material regarding which a legal privilege against disclosure has been conferred.

Sec. 3. NRS 616B.027 is hereby amended to read as follows:

616B.027 1. Every insurer *and third-party administrator* shall:

(a) Provide ~~[an office]~~ in this State : ~~[operated by the insurer or its third-party administrator in which:]~~

(1) A complete file of ~~[each]~~ a claim ~~[is accessible,]~~ *filed by the employee or the representative of the employee*, in accordance with the provisions of NRS 616B.021 ~~[,]~~, *upon request of the employee or his or her representative; and*

(2) Persons authorized to act for the insurer and, if necessary, licensed pursuant to chapter 683A of NRS, *including, without limitation, persons authorized pursuant to section 1 of this act, who* may receive information

related to a claim and provide the services to an employer and his or her employees required by chapters 616A to 617, inclusive, of NRS . ~~[-and~~

~~—(3) An employee or his or her employer, upon request, is provided with information related to a claim filed by the employee or a copy or other reproduction of the information from the file for that claim, in accordance with the provisions of NRS 616B.021.]~~

(b) Provide statewide toll-free telephone service ~~[to the office maintained pursuant to paragraph (a)]~~ or accept collect calls from injured employees.

2. Each private carrier shall provide:

(a) Adequate services to its insured employers in controlling losses; and

(b) Adequate information on the prevention of industrial accidents and occupational diseases.

Sec. 4. NRS 616B.500 is hereby amended to read as follows:

616B.500 1. An insurer may enter into a contract to have his or her plan of insurance administered by a third-party administrator.

2. An insurer shall not enter into a contract with any person for the administration of any part of the plan of insurance unless that person ~~[maintains an office in this State and]~~ has a certificate issued by the Commissioner pursuant to NRS 683A.08524.

Sec. 5. NRS 616B.503 is hereby amended to read as follows:

616B.503 1. A person shall not act as a third-party administrator for an insurer without a certificate issued by the Commissioner pursuant to NRS 683A.08524.

2. A person who acts as a third-party administrator pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS shall:

(a) Administer from one or more offices ~~[located in this State]~~ all of the claims arising under each plan of insurance that the person administers and maintain in those offices all of the records concerning those claims;

(b) Administer each plan of insurance directly, without subcontracting with another third-party administrator; and

(c) Upon the termination of the person's contract with an insurer, transfer forthwith to a certified third-party administrator chosen by the insurer all of the records in the person's possession concerning claims arising under the plan of insurance.

3. The Commissioner may, under exceptional circumstances, waive the requirements of subsection 2.

Sec. 6. NRS 683A.325 is hereby amended to read as follows:

683A.325 1. Except as otherwise provided in NRS 683A.3687 ~~[-]~~ **or 691D.220**, a producer of insurance who is appointed as an agent may pay a commission or compensation for or on account of the selling, soliciting, procuring or negotiating of insurance in this State only to a licensed and appointed producer of insurance of the insurer with whom insurance was placed or to a licensed producer acting as a broker.

2. A licensee shall not accept any commission or compensation to which the licensee is not entitled pursuant to the provisions of this title.

Sec. 7. NRS 685A.075 is hereby amended to read as follows:

685A.075 1. A nonprofit organization of surplus lines brokers may be formed to:

(a) Facilitate and encourage compliance by its members with the laws of this State and the rules and regulations of the Commissioner concerning surplus lines insurance;

(b) Provide a means for the review of all surplus lines coverage written in this State;

(c) Communicate with organizations of admitted insurers with respect to the proper use of the surplus lines market;

(d) Receive and disseminate to brokers information relative to surplus lines coverages; and

(e) Charge members a filing fee, approved by the Commissioner, for the review of surplus lines coverages.

2. Every such organization shall exercise its powers through a board of directors and shall file with the Commissioner:

(a) A copy of its constitution, articles of agreement or association or certificate of incorporation;

(b) A copy of its bylaws, rules and regulations governing its activities;

(c) A copy of its plan of operations established and approved by the Commissioner;

(d) A current list of its members;

(e) The name and address of a resident of this State upon whom notices or orders of the Commissioner or processes issued at the direction of the Commissioner may be served; and

(f) An agreement that the Commissioner may examine the organization in accordance with the provisions of this section.

3. The Commissioner shall make an examination of the affairs, transactions, accounts, records and assets of such an organization and any of its members as often as the Commissioner deems necessary for the protection of the interests of the people of this State, but no less frequently than once every 3 years. The officers, managers, agents and employees of such an organization may be examined at any time, under oath, and shall provide to the Commissioner all books, records, accounts, documents or agreements governing its method of operation. The Commissioner shall furnish two copies of the examination report to the organization examined and shall notify the organization that it may, within 20 days thereof, request a hearing on the report or on any facts or recommendations set forth therein. If the Commissioner finds such an organization or any member thereof to be in violation of this chapter, the Commissioner may, in addition to any administrative fine or penalty imposed pursuant to this Code, issue an order requiring the discontinuance of such violations. *In lieu of an examination conducted pursuant to this subsection, the Commissioner may accept the report of an independent audit of such an organization if the*

Commissioner deems that an independent audit is in the best interest of the residents of this State.

4. The board of directors of such an organization must consist of not fewer than five persons. The members of the board must be appointed by the Commissioner and serve at the pleasure of the Commissioner.

5. A broker must be a member of such an organization as a condition of continued licensure under this chapter.

Sec. 8. NRS 685A.155 is hereby amended to read as follows:

685A.155 A broker *who places any insurance coverage with an authorized insurer pursuant to subsection 3 of NRS 685A.060* may charge a fee for procuring surplus lines coverage. Except as otherwise provided by agreement between the insurer and broker, the fee must not exceed 20 percent of the premium charged, after deduction of any other commissions, fees and charges payable to the broker.

Sec. 9. NRS 685A.175 is hereby amended to read as follows:

685A.175 1. A broker who has written coverage for which this State is the insured's home state shall pay, by the date described in subsection 2, the tax for each calendar quarter as directed by the Commissioner and shall file as directed by the Commissioner a copy of a quarterly report which includes an accounting of:

- (a) The aggregate gross premiums for the quarter;
- (b) The aggregate of the return premiums received; *and*
- (c) The amount of tax remitted to the Commissioner. ~~[-; and~~
- ~~—(d) The distribution of the exposures of insureds by state in accordance with the requirements of any multi state agreement entered into by the Commissioner pursuant to NRS 685A.185.]~~

↪ The report must be on a form approved by the Commissioner.

2. The tax filings and payments required by subsection 1 must be submitted by:

- (a) February 15 for the calendar quarter ending the preceding December 31.
- (b) May 15 for the calendar quarter ending the preceding March 31.
- (c) August 15 for the calendar quarter ending the preceding June 30.
- (d) November 15 for the calendar quarter ending the preceding September 30.

Sec. 10. NRS 685A.180 is hereby amended to read as follows:

685A.180 1. ~~[Except as otherwise provided in subsection 6, on]~~ *On* or before the date described in subsection 2 of NRS 685A.175 for each quarter, each broker shall pay as directed by the Commissioner a tax on surplus lines coverages for which this State is the insured's home state written by the broker in unauthorized insurers during the preceding calendar quarter at the same rate of tax as imposed by law on the premiums of similar coverages written by authorized insurers, in addition to any fees imposed pursuant to NRS 685A.075.

2. ~~[Except as otherwise provided in subsection 6, on]~~ **On** or before the date described in subsection 2 of NRS 685A.175 for each quarter, each insured for which this State is the home state shall pay as directed by the Commissioner a tax on independently procured insurance written for the insured by an unauthorized insurer during the preceding calendar quarter at the same rate of tax as imposed by law on the premiums of similar coverages written by authorized insurers, in addition to any fees imposed pursuant to NRS 685A.075.

3. For the purposes of this section, the “premium” on surplus lines coverages includes:

(a) The gross amount charged by the insurer for the insurance, less any return premium;

(b) Any fee allowed by NRS 685A.155;

(c) Any policy fee;

(d) Any membership fee;

(e) Any inspection fee; and

(f) Any other fees or assessments charged by the insurer as consideration for the insurance.

➡ Premium does not include any additional amount charged for state or federal tax, or for executing or completing affidavits or reports of coverage.

4. All taxes collected as directed by the Commissioner pursuant to this section ~~[and not intended for disbursement to other states by a clearinghouse established through any multi state agreement entered into by the Commissioner pursuant to NRS 685A.185]~~ must be promptly deposited with the State Treasurer ~~[,]~~ to the credit of the State General Fund.

5. A broker who receives a credit for tax paid shall refund to each insured the amount of the credit attributable to the insured when the insurer pays a return premium or within 30 days, whichever is earlier.

~~[6. If the Commissioner has entered into a multi state agreement pursuant to NRS 685A.185, the Commissioner may require that each broker who has written surplus line coverages for multi state risks for which this State is the insured’s home state and each insured for which this State is the home state who has obtained independently procured insurance for multi state risks pay a premium tax:~~

~~—(a) For the portion of the premium allocated to Nevada, at the tax rate applicable to nonadmitted insurance pursuant to this chapter;~~

~~—(b) For the portion of the premium allocated to any other state that also participates in the multi state agreement, at the tax rate applicable to nonadmitted insurance as established by that state; and~~

~~—(c) For the portion of the premium allocated to any other state that does not participate in the multi state agreement, at the tax rate applicable to nonadmitted insurance pursuant to this chapter. The tax for this portion of the premium must be deposited with the State Treasurer, to the credit of the State General Fund, after it is processed by the clearinghouse established through the multi state agreement.]~~

Sec. 11. NRS 686A.230 is hereby amended to read as follows:

686A.230 1. A person shall not willfully collect any sum as a premium or charge for insurance which is not then provided or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy issued by an insurer as authorized by this Code.

2. Except as otherwise provided in subsection 3, a person shall not willfully collect as a premium or charge for insurance any sum in excess of the premium or charge applicable to the insurance and as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the Commissioner. In cases where classifications, premiums or rates are not required by this Code to be so filed and approved, the premiums and charges must not be in excess of those specified in the policy and as fixed by the insurer. This subsection does not prohibit:

(a) The charging and collection by surplus lines brokers licensed under chapter 685A of NRS of the amount permitted by chapter 685A of NRS and regulations adopted by the Commissioner.

(b) The charging and collection by a life insurer of amounts actually to be expended for the medical examination of any applicant for life insurance or for reinstatement of a life insurance policy.

3. The Commissioner may adopt regulations to allow the charging and collection of a fee by an insurance broker, consultant or financial planner:

(a) In lieu of any other charge or commission for solicitation, negotiation or procurement of a policy of insurance which covers commercial or business risks;

(b) For consultation or any related advice on the insuring of commercial or business risks which does not result in the procurement of a policy of insurance; and

(c) For consultation or related advice on the purchase of *individual or group* life or health insurance or an *individual or group* annuity, whether or not it results in the purchase of a policy of insurance or annuity. In such a case, the fee must be set forth in a written contract signed by the client before the consultation begins.

4. An agent or broker who provides consultation or related advice pursuant to this section shall do so pursuant to a written contract specifying the compensation the agent or broker will receive. The compensation may be in addition to or in lieu of a commission and is not a premium as defined in NRS 679A.115.

Sec. 12. NRS 691D.220 is hereby amended to read as follows:

691D.220 1. Notwithstanding any other provision of law, an employee or authorized representative of a vendor that holds a license as a producer of insurance in portable electronics insurance issued by the Commissioner pursuant to NRS 683A.261 or 683A.271 may, without a license issued by the Commissioner, sell or offer coverage under a policy of portable electronics insurance at any location at which the vendor does business if:

(a) The employee or authorized representative of the vendor sells or offers coverage under a policy of portable electronics insurance only on behalf of, and under the supervision of, the vendor; and

(b) Before the employee or authorized representative of the vendor sells or offers coverage under a policy of portable electronics insurance, he or she completes a program of training provided by the vendor pursuant to NRS 691D.300.

2. An employee or authorized representative of a vendor who sells or offers coverage under a policy of portable electronics insurance pursuant to this section shall not advertise, represent or otherwise hold himself or herself out as a licensed producer of insurance unless the person is licensed as a producer of insurance.

3. *An employee or authorized representative of a vendor who ~~sells or~~ offers to a customer coverage under a policy of portable electronics insurance pursuant to this section and enrolls the customer under the policy may receive from ~~that~~ the vendor compensation ~~related~~ that is:*

(a) Incidental to the overall compensation received by the employee or authorized representative of the vendor; and

(b) Relating to the ~~selling or~~ offering of the coverage and the enrolling of the customer under ~~the~~ the policy of portable electronics insurance.

Sec. 13. NRS 685A.185 is hereby repealed.

Sec. 14. This act becomes effective on July 1, 2017.

TEXT OF REPEALED SECTION

685A.185 Multi-state agreement to collect premium tax on multi-state risks.

1. The Commissioner may, with the approval of the State Board of Examiners, on behalf of the State enter into a multi-state agreement to preserve the ability of this State to collect premium tax on multi-state risks.

2. If, within 18 months after the Commissioner enters into a multi-state agreement pursuant to subsection 1, the Commissioner conducts a hearing pursuant to the provisions of chapter 233B of NRS concerning participation in the multi-state agreement, the Commissioner shall submit to the State Board of Examiners and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the findings of the Commissioner pursuant to the hearing.

3. The State Board of Examiners shall review and may accept the findings of the Commissioner. If the Commissioner finds and the State Board of Examiners accepts that because of the effect of the multi-state agreement on the gross receipt of premiums collected in this State:

(a) It is in the best interest of the State to continue to participate in the multi-state agreement, the State Board of Examiners may approve the State's continued participation in the multi-state agreement.

(b) It is not in the best interest of the State to continue to participate in the multi-state agreement, the State Board of Examiners may approve the State's withdrawal from the multi-state agreement.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Remarks by Assemblywoman Bustamante Adams.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 226.

Bill read second time and ordered to third reading.

Senate Bill No. 227.

Bill read second time and ordered to third reading.

Senate Bill No. 239.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 791.

AN ACT relating to common-interest communities; revising provisions authorizing an employee, agent or community manager of a unit-owner's association to enter the grounds of certain units under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law assigns the responsibility for the maintenance, repair and replacement of a unit in a common-interest community to the owner of the unit and the maintenance, repair and replacement of a common element in the community to the unit-owners' association. (NRS 116.3107) Existing law further provides that the association may, without liability for trespass, enter on the grounds of a unit that is vacant or in the foreclosure process, whether vacant or not, to maintain the exterior of the unit or abate a public nuisance on the exterior of the unit if, after notice and a hearing, the unit's owner refuses or fails to do so. (NRS 116.310312) Under existing law, the association is authorized to charge the unit's owner for the costs of such maintenance or abatement services and any such costs which are not paid by the unit's owner are a lien against the unit. (NRS 116.3102, 116.310312, 116.3116)

This bill revises the definition of "exterior of the unit" for the purpose of determining the areas of a unit that may be maintained by a unit-owners' association that enters the grounds of a unit in accordance with existing law. Under the revised definition, the "exterior of the unit" would include the exterior of any property that a unit owner is obligated to maintain pursuant to the declaration under which the common-interest community was created. Thus, under this bill, an association would be authorized to enter the grounds

of a unit to maintain such areas of the unit if the conditions specified in existing law were satisfied.

In addition, this bill sets forth additional circumstances under which a unit-owners' association may, without liability for trespass, enter on the grounds **or interior** of a unit that is located in a building that contains units divided by horizontal boundaries or vertical boundaries comprised of common walls between units. Under this bill, the association may enter ~~on~~ the grounds **and interior** of such a unit that is vacant ~~for in the foreclosure process, whether vacant or not,~~ to abate a water or sewage leak in the unit that is causing damage or, if not immediately abated, may cause damage to the common elements or another unit and to ~~remediate or~~ remove any water or ~~mold damage resulting from the leak~~ **sewage from the unit that is causing damage if [, after notice but before a hearing,] the unit's owner refuses or fails to do so. After notice but before a hearing, the association may enter the grounds and interior of such a unit that is vacant to remove damaged components of the unit and to remediate or remove any water or mold damage resulting from a water or sewage leak if the unit's owner refuses or fails to do so.**

Under this bill, if the association or its employee, agent or community manager enter ~~on~~ the grounds **or interior** of a unit to **remove damaged components or to** remediate or remove any water or mold damage resulting from a water or sewage leak, **the damaged components may be removed and** the water or mold damage may be remediated or removed only to the extent reasonably necessary because the water or mold damage: (1) threatens the health or safety of the residents of the common-interest community; (2) results in blighting or deterioration of the unit or the surrounding area; ~~for~~ **and** (3) adversely affects the use and enjoyment of nearby units. ~~In addition,~~

This bill also provides that if ~~the~~ a unit is vacant and not in the foreclosure process, the association or its employees, agents or community manager are not authorized to ~~remediate or remove such damage~~ maintain the exterior of the unit or abate a public nuisance unless [-(1)-] the association notifies each holder of a recorded security interest of its intent to ~~remediate the damage; and (2) within 14 days after the mailing of that notice, each holder of a recorded security interest to whom the notice is mailed notifies the association that the holder does not intend to remediate the damage or fails to remediate the damage.~~ maintain the exterior of the unit or abate a public nuisance.

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

Section 1. NRS 116.310312 is hereby amended to read as follows:

116.310312 1. A person who holds a security interest in a unit must provide the association with the person's contact information as soon as reasonably practicable, but not later than 30 days after the person:

(a) Files an action for recovery of a debt or enforcement of any right secured by the unit pursuant to NRS 40.430; or

(b) Records or has recorded on his or her behalf a notice of a breach of obligation secured by the unit and the election to sell or have the unit sold pursuant to NRS 107.080.

2. If an action or notice described in subsection 1 has been filed or recorded regarding a unit and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association, including its employees, agents and community manager, may, but is not required to, enter the grounds of the unit, whether or not the unit is vacant, to take any of the following actions if the unit's owner refuses or fails to take any action or comply with any requirement imposed on the unit's owner within the time specified by the association as a result of the hearing:

(a) Maintain the exterior of the unit in accordance with the standards set forth in the governing documents, including, without limitation, any provisions governing maintenance, standing water or snow removal.

(b) Remove or abate a public nuisance on the exterior of the unit which:

(1) Is visible from any common area of the community or public streets;

(2) Threatens the health or safety of the residents of the common-interest community;

(3) Results in blighting or deterioration of the unit or surrounding area; and

(4) Adversely affects the use and enjoyment of nearby units.

~~[(c) If the unit is in a building that contains units divided by horizontal boundaries described in the declaration, or vertical boundaries that comprise common walls between units:~~

~~—(1) Abate any water or sewage leak in the unit that is causing damage or, if not immediately abated, may cause damage to the common elements or another unit.~~

~~—(2) Remediate or remove any water or mold damage resulting from the water or sewage leak to the extent such remediation or removal is reasonably necessary because the water or mold damage threatens the health or safety of the residents of the common interest community, results in blighting or deterioration of the unit or the surrounding area or adversely affects the use and enjoyment of nearby units. An association, including its employees, agents and community manager, may not enter the grounds of the unit or incur any expense to remediate water or mold damage pursuant to this subparagraph unless:~~

~~—(1) The association or its employee, agent or community manager mails a notice of the intent of the association, including its employees, agents and community manager, to remediate water or mold damage pursuant to this subparagraph by certified mail to each holder of a recorded security interest encumbering the interest of the unit's owner, at the address of the holder that is provided pursuant to NRS 657.110 on the~~

~~Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry; and~~

~~(II) Within 14 days after the mailing of such notice, each holder of a recorded security interest to whom a notice is sent pursuant to subparagraph (I) has notified the association or its employee, agent or community manager that the holder does not intend to remediate the water or mold damage or has failed to remediate such water or mold damage;~~

3. ~~If ~~it~~:~~

~~(a) A unit is vacant ~~and the~~;~~

~~(b) The association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031 ~~it~~; and~~

~~(c) The association or its employee, agent or community manager mails a notice of the intent of the association, including its employees, agents and community manager, to maintain the exterior of the unit or abate a public nuisance, as described in subsection 2, by certified mail to each holder of a recorded security interest encumbering the interest of the unit's owner, at the address of the holder that is provided pursuant to NRS 657.110 on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry.~~

↳ the association, including its employees, agents and community manager, may enter the grounds of the unit to maintain the exterior of the unit or abate a public nuisance, as described in ~~paragraphs (a) and (b) of~~ subsection 2, if the unit's owner refuses or fails to do so.

4. ~~If a unit is in a building that contains units divided by horizontal boundaries described in the declaration, or vertical boundaries that comprise common walls between units, and the unit is vacant, the association, including its employees, agents and community manager, may ~~after providing the unit's owner notice but before a hearing,~~ enter the grounds and interior of the unit to:~~

~~(a) Abate a water or sewage leak in the unit and remove any water or sewage from the unit that is causing damage or, if not immediately abated, may cause damage to the common elements or another unit if the unit's owner refuses or fails to abate the water or sewage leak.~~

~~(b) After providing the unit's owner with notice but before a hearing in accordance with the provisions of NRS 116.31031:~~

~~(1) Remove any furniture, fixtures, appliances and components of the unit, including, without limitation, flooring, baseboards and drywall, that were damaged as a result of water or mold damage resulting from a water or sewage leak to the extent such removal is reasonably necessary because water or mold damage threatens the health or safety of the residents of the common-interest community, results in blighting or deterioration of the unit or the surrounding area and adversely affects the use and enjoyment of nearby units, if the unit's owner refuses or fails to remediate or remove the water or mold damage.~~

(2) Remediate or remove any water or mold damage in the unit resulting from the water or sewage leak to the extent such remediation or removal is reasonably necessary because the water or mold damage threatens the health or safety of the residents of the common-interest community, results in blighting or deterioration of the unit or the surrounding area ~~[- or -]~~ and adversely affects the use and enjoyment of nearby units, if the unit's owner refuses or fails to remediate or remove the water or mold damage. ~~[An association, including its employees, agents and community manager, may not enter the ground of the unit or incur any expense to remediate water or mold damage pursuant to this subparagraph unless:~~

~~— (1) The association or its employee, agent or community manager mails a notice of the intent of the association, including its employees, agents and community manager, to remediate water or mold damage pursuant to this subparagraph by certified mail to each holder of a recorded security interest encumbering the interest of the unit's owner, at the address of the holder that is provided pursuant to NRS 657.110 on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry; and~~

~~— (2) Within 14 days after the mailing of such notice, each holder of a recorded security interest to whom a notice is sent pursuant to subparagraph (1) has notified the association or its employee, agent or community manager that the holder does not intend to remediate the water or mold damage or has failed to remediate such water or mold damage.]~~

5. ~~[The]~~ After the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association may order that the costs of any maintenance ~~[-]~~ or abatement ~~[-]~~ or the reasonable costs of remediation or removal conducted pursuant to subsection 2 , ~~[-]~~ 3 ~~[-]~~ or 4, including, without limitation, reasonable inspection fees, notification and collection costs and interest, be charged against the unit. The association shall keep a record of such costs and interest charged against the unit and has a lien on the unit for any unpaid amount of the charges. The lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

~~[5-]~~ 6. A lien described in subsection ~~[4]~~ 5 bears interest from the date that the charges become due at a rate determined pursuant to NRS 17.130 until the charges, including all interest due, are paid.

~~[6-]~~ 7. Except as otherwise provided in this subsection, a lien described in subsection ~~[4]~~ 5 is prior and superior to all liens, claims, encumbrances and titles other than the liens described in paragraphs (a) and (c) of subsection 2 of NRS 116.3116. If the federal regulations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior and superior to other security interests shall be determined in accordance with those federal regulations. Notwithstanding the federal

regulations, the period of priority of the lien must not be less than the 6 months immediately preceding the institution of an action to enforce the lien.

~~{7-}~~ 8. A person who purchases or acquires a unit at a foreclosure sale pursuant to NRS 40.430 or a trustee's sale pursuant to NRS 107.080 is bound by the governing documents of the association and shall maintain the exterior of the unit in accordance with the governing documents of the association. Such a unit may only be removed from a common-interest community in accordance with the governing documents pursuant to this chapter.

~~{8-}~~ 9. Notwithstanding any other provision of law, an association, its directors or members of the executive board, employees, agents or community manager who enter the grounds or interior of a unit pursuant to this section are not liable for trespass.

~~{9-}~~ 10. As used in this section:

(a) "Exterior of the unit" includes, without limitation, all landscaping outside of a unit, ~~and~~ the exterior of all property exclusively owned by the unit owner ~~{-}~~ *and the exterior of all property that the unit owner is obligated to maintain pursuant to the declaration.*

(b) "Remediation" does not include restoration.

(c) "Vacant" means a unit:

- (1) Which reasonably appears to be unoccupied;
- (2) On which the owner has failed to maintain the exterior to the standards set forth in the governing documents of the association; and
- (3) On which the owner has failed to pay assessments for more than 60 days.

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 251.

Bill read second time.

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

Amendment No. 834.

AN ACT relating to storage tanks; requiring the Board to Review Claims to adopt regulations for the administration of a program to award grants of money from the Fund for Cleaning Up Discharges of Petroleum to certain operators of storage tanks; authorizing the Division of Environmental Protection of the State Department of Conservation and Natural Resources to award grants of money to those operators under certain circumstances; requiring the Board to adopt regulations for the administration of a program to provide assistance in complying with certain laws or regulations to any operator; requiring the Division to administer the program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law: (1) the State Department of Conservation and Natural Resources is required to impose fees on the importation of certain fuels into this State; and (2) the Division of Environmental Protection of the Department is required to impose an annual fee for the registration of certain storage tanks used to store petroleum in this State. (NRS 445C.330, 445C.340) The money collected by the Division from such fees is deposited into the Fund for Cleaning Up Discharges of Petroleum, and used to reimburse the Division for the costs of cleaning up discharges involving petroleum, heating oil and certain petrochemicals from storage tanks and mobile tanks. (NRS 445C.320, 445C.360-445C.380) The Board to Review Claims is required to adopt regulations for the investigation and payment of claims against the Fund and to review each claim and authorize payment if warranted. (NRS 445C.310)

This bill requires the Board to adopt regulations for the administration by the Division of a grant program to award grants of money from the Fund to assist operators of petroleum storage tanks who have a demonstrated financial need for assistance in defraying the costs of any infrastructure required by the operator to comply with any law or regulation relating to preventing discharge of petroleum from a storage tank. The Division is required to report annually to the Board concerning the grants, if any, awarded by the Division.

This bill also requires the Board to adopt regulations for the administration by the Division of a program to provide assistance to operators in complying with any law or regulation relating to the prevention of discharges which are applicable to storage tanks.

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

Section 1. NRS 445C.310 is hereby amended to read as follows:

445C.310 1. The Fund for Cleaning Up Discharges of Petroleum is hereby created as a special revenue fund in the State Treasury. The Division shall administer the Fund for the purposes prescribed in NRS 445C.150 to 445C.410, inclusive, and the Board shall adopt appropriate regulations for the ~~investigation~~:

(a) *Investigation* and payment of claims against the Fund. The Board shall review each claim presented and authorize payment to the extent warranted by the facts of the case.

(b) *Administration by the Division of a grant program described in subsection 2, which must include, without limitation:*

(1) *The manner in which an operator may apply for a grant of money from the program;*

(2) *The criteria that the Division must consider in determining whether to award a grant of money from the program;*

(3) *The methods by which the Division must, in the following order, prioritize the award of available money for grants from the program, including, without limitation, consideration of:*

(I) *The financial need of an operator who applies for a grant of money from the program;*

(II) ~~*The availability and proximity of other petroleum dispensing locations, if any, in the same geographical area as an operator who applies for a grant of money from the program; and*~~

~~*(III) The total volume of petroleum dispensed on an annual basis from each storage tank of an operator who applies for a grant of money from the program; and*~~

(III) The availability and proximity of other petroleum dispensing locations, if any, in the same geographical area as an operator who applies for a grant of money from the program; and

(4) *The manner in which the Division:*

(I) *Must distribute and administer the grant program;*

(II) *May audit and inspect relevant records of an operator who receives a grant of money from the program;*

(III) *May, upon good cause shown, seek repayment of any unauthorized expenditures by an operator who receives a grant of money from the program; and*

(IV) *May seek to recover from an operator who receives a grant of money from the program the costs incurred by the Division in seeking repayment of any unauthorized expenditures by the operator.*

(c) *Administration by the Division of the program of assistance described in subsection 3.*

2. *The Division may award a grant of money from the Fund to an operator who has a demonstrated financial need for assistance in defraying the costs of any infrastructure required by the operator to comply with any law or regulation relating to the prevention of discharges. The Division shall:*

(a) *Administer the grant program in accordance with the regulations adopted by the Board pursuant to paragraph (b) of subsection 1; and*

(b) *Submit to the Board an annual report concerning the grants, if any, awarded pursuant to this subsection.*

3. *The Division shall, in accordance with the regulations adopted pursuant to paragraph (c) of subsection 1, administer a program to provide assistance to an operator in complying with any law or regulation relating to the prevention of discharges which are applicable to storage tanks.*

4. *The expenses incurred by the Division in performing its duties pursuant to NRS 445C.150 to 445C.410, inclusive, are a charge against the Fund. The interest earned on money in the Fund must be credited to the Fund.*

~~{3-}~~ 5. *The Board shall transmit a copy of any resolution that the Board has adopted in carrying out its duties pursuant to this section to the*

Legislative Counsel within 5 working days after the adoption of the resolution for inclusion in the register of administrative regulations published pursuant to NRS 233B.0653.

6. As used in this section, “petroleum dispensing location” means a facility where a member of the public can obtain petroleum products of the same type as those offered by an operator who has applied for a grant pursuant to subsection 2.

Sec. 2. As soon as practicable after the effective date of this act, the Board to Review Claims shall adopt the regulations required pursuant to paragraphs (b) and (c) of subsection 1 of NRS 445C.310, as amended by section 1 of this act.

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

Assemblywoman Swank moved the adoption of the amendment.

Remarks by Assemblywoman Swank.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 270.

Bill read second time.

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

Amendment No. 835.

AN ACT relating to water; requiring a claimant of pre-statutory water rights to submit proof of the claim to the State Engineer on or before a certain date; requiring the State Engineer to provide certain notice of this requirement; eliminating the procedure for taking proofs of claims on and after a certain date; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, water rights for surface water, artesian groundwater and percolating groundwater that were initiated by applying water to beneficial use before the statutes regulating those water sources were enacted by the Nevada Legislature in 1905, 1913 and 1939, respectively, are known as vested water rights. Existing law provides a procedure for determining the extent of all vested water rights on a water source, which is called an adjudication. As part of that procedure, claimants of vested rights are required to file proofs of appropriation with the State Engineer, which is known in existing law as the procedure of taking proofs. (NRS 533.090-533.320)

Section 1 of this bill requires any claimant of a pre-statutory water right to submit proof of the claim to the State Engineer on or before December 31, 2027, regardless of whether an adjudication has been ordered for a water source. If a claimant fails to submit such proof, the claim is deemed to be abandoned. **Section 1** requires the State Engineer to provide notice of this requirement in various manners during the 10-year period before the deadline. **Sections 2 and 5-8** of this bill conform provisions in existing law

governing the procedures of the State Engineer taking proofs to reflect the submission of any proofs pursuant to **section 1** to the State Engineer before an adjudication has been ordered. **Sections 3, 4, 9 and 11** of this bill eliminate the procedure of the State Engineer taking proofs in an adjudication on and after January 1, 2028, **except for proofs of federal agencies claiming reserved rights,** because **section 1** requires proofs of all pre-statutory water rights to be on file with the State Engineer by December 31, 2027, or such claims are deemed to be abandoned.

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

Section 1. Chapter 533 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A claimant of any vested water right must submit, on a form prescribed by the State Engineer, proof of the claim to the State Engineer on or before December 31, 2027. If a claimant fails to file such proof on or before December 31, 2027, the claim shall be deemed to be abandoned.

2. Until December 31, 2027, the State Engineer shall cause notice of the provisions of subsection 1 to be:

(a) Published annually for 4 consecutive weeks in at least one newspaper of general circulation within the boundaries of each groundwater basin throughout the State.

(b) Posted on the Internet website maintained by the State Engineer.

Sec. 2. NRS 533.095 is hereby amended to read as follows:

533.095 1. As soon as practicable after the State Engineer shall make and enter the order granting the petition or selecting the streams upon which the determination of rights is to begin, the State Engineer shall prepare a notice setting forth the fact of the entry of the order and of the pendency of the proceedings.

2. The notice shall:

(a) Name a date when the State Engineer or the State Engineer's assistants shall begin the examination.

(b) Set forth that all claimants to rights in the waters of the stream system are required, as provided in this chapter, to make proof of their claims ~~{ }~~, ***except claimants who submitted proof of their claims pursuant to section 1 of this act.***

3. The notice shall be published for a period of 4 consecutive weeks in one or more newspapers of general circulation within the boundaries of the stream system.

Sec. 3. NRS 533.095 is hereby amended to read as follows:

533.095 1. As soon as practicable after the State Engineer shall make and enter the order granting the petition or selecting the streams upon which the determination of rights is to begin, the State Engineer shall prepare a notice setting forth the fact of the entry of the order and of the pendency of the proceedings.

2. The notice shall :

(a) Name ~~from~~ a date when the State Engineer or the State Engineer's assistants shall begin the examination.

(b) ~~Set forth that [all claimants to]~~ **any federal agencies claiming reserved rights in the waters of the stream system are required, as [provided in this chapter,] prescribed by the State Engineer, to make proof of their claims . [except claimants who submitted proof of their claims pursuant to section 1 of this act.]**

3. The notice shall be published for a period of 4 consecutive weeks in one or more newspapers of general circulation within the boundaries of the stream system.

Sec. 4. NRS 533.105 is hereby amended to read as follows:

533.105 1. If satisfactory data are available from the measurements and areas compiled by the United States Geological Survey or other persons, the State Engineer may dispense with the execution of such surveys and the preparation of such maps and stream measurements, except insofar as is necessary to prepare them to conform with the rules and regulations, as provided in NRS 533.100.

2. If the surveys are executed and maps are prepared and filed with the State Engineer at the instance of the person claiming a right to the use of water, the proportionate cost thereof, as determined by the State Engineer, to be assessed and collected for the adjudication of the relative rights, as provided in this chapter, shall be remitted to the claimant after the completion of the determination; but the map must conform with the rules and regulations of the State Engineer and shall be accepted only after the State Engineer is satisfied that the data shown thereon are substantially correct. Such measurements, maps and determinations shall be exhibited for inspection ~~[at the time of taking proofs and]~~ during the period during which ~~[such]~~ ***proofs of claims*** and evidence are kept open for inspection in accordance with the provisions of this chapter.

Sec. 5. NRS 533.110 is hereby amended to read as follows:

533.110 1. Upon the filing of such measurements, maps and determinations, the State Engineer shall prepare a notice setting forth the date when the State Engineer is to commence the taking of proofs , ***except proofs submitted pursuant to section 1 of this act***, as to the rights in and to the waters of the stream system, and the date prior to which the same must be filed. The date set prior to which the proofs must be filed shall not be less than 60 days from the date set for the commencement of the taking of proofs. The notice shall be deemed to be an order of the State Engineer as to its contents. The State Engineer shall cause the notice to be published for a period of 4 consecutive weeks in one or more newspapers of general circulation within the boundaries of the stream system, the date of the last publication of the notice to be not less than 15 days prior to the date fixed for the commencement of the taking of proofs by the State Engineer.

2. At or near the time of the first publication of the notice, the State Engineer shall send by registered or certified mail to each person, or deliver to each person, in person, hereinafter designated as claimant, claiming rights in or to the waters of the stream system, insofar as such claimants can be reasonably ascertained, ***who has not submitted proof pursuant to section 1 of this act***, a notice equivalent in terms to the published notice setting forth the date when the State Engineer will commence the taking of proofs, and the date prior to which proofs must be filed with the State Engineer. The notice must be mailed at least 30 days prior to the date fixed for the commencement of the taking of proofs.

Sec. 6. NRS 533.115 is hereby amended to read as follows:

533.115 The State Engineer shall, in addition, enclose with the notice to be mailed as provided in NRS 533.110, blank forms upon which ~~the~~ ***a claimant who has not submitted proof pursuant to section 1 of this act*** shall present in writing all particulars necessary for the determination of the claimant's right in or to the waters of the stream system, the statement to include the following:

1. The name and post office address of the claimant.
2. The nature of the right or use on which the claim for appropriation is based.
3. The time of the initiation of such right and a description of works of diversion and distribution.
4. The date of beginning of construction.
5. The date when completed.
6. The dates of beginning and completion of enlargements.
7. The dimensions of the ditch as originally constructed and as enlarged.
8. The date when water was first used for irrigation or other beneficial purposes and, if used for irrigation, the amount of land reclaimed the first year, the amount in subsequent years, with the dates of reclamation, and the area and location of the lands which are intended to be irrigated.
9. The character of the soil and the kind of crops cultivated, the number of acre-feet of water per annum required to irrigate the land, and such other facts as will show the extent and nature of the right and compliance with the law in acquiring the same, as may be required by the State Engineer.

Sec. 7. NRS 533.120 is hereby amended to read as follows:

533.120 1. Each claimant shall be required to certify to his or her statement ***presented pursuant to NRS 533.115*** under oath. The State Engineer and the State Engineer's assistants authorized to take proofs are hereby authorized to administer such oaths.

2. Oaths shall be administered and blank forms furnished by the State Engineer and the State Engineer's assistants without charge.

Sec. 8. NRS 533.125 is hereby amended to read as follows:

533.125 1. The State Engineer shall commence the taking of ***any*** proofs ***not submitted pursuant to section 1 of this act*** on the date fixed and named in the notice provided for in NRS 533.110 for the commencement of

the taking of proofs. The State Engineer shall proceed therewith during the period fixed by the State Engineer and named in the notice, after which no proofs shall be received by or filed by the State Engineer. The State Engineer may, in his or her discretion, for cause shown, extend the time in which proofs may be filed.

2. Upon neglect or refusal of any person to make proof of his or her claim or rights in or to the waters of such stream system, as required by this chapter, prior to the expiration of the period fixed by the State Engineer during which proofs may be filed, the State Engineer shall determine the right of such person from such evidence as the State Engineer may obtain or may have on file in the Office of the State Engineer in the way of maps, plats, surveys and transcripts, and exceptions to such determination may be filed in court, as provided in this chapter.

Sec. 9. NRS 533.140 is hereby amended to read as follows:

533.140 1. As soon as practicable, ~~[after the expiration of the period fixed in which proofs may be filed.]~~ the State Engineer shall assemble all proofs *related to the stream or stream system* which have been filed with the State Engineer ~~[.]~~ and prepare, certify and have printed an abstract of all such proofs. The State Engineer shall also prepare from the proofs and evidence taken or given before the State Engineer, or obtained by the State Engineer, a preliminary order of determination establishing the several rights of claimants to the waters of the stream.

2. When the abstract of proofs and the preliminary order of determination is completed, the State Engineer shall then prepare a notice fixing and setting a time and place when and where the evidence taken by or filed with the State Engineer and the proofs of claims must be open to the inspection of all interested persons, the period of inspection to be not less than 20 days. The notice shall be deemed an order of the State Engineer as to the matters contained therein.

3. A copy of the notice, together with a printed copy of the preliminary order of determination and a printed copy of the abstract of proofs, must be delivered by the State Engineer, or sent by registered or certified mail, at least 30 days before the first day of such period of inspection, to each person who has ~~[appeared and]~~ filed proof ~~[, as provided in this section.]~~ *related to the stream or stream system.*

4. The State Engineer shall be present at the time and place designated in the notice and allow, during that period, any persons interested to inspect such evidence and proof as have been filed with ~~[or taken by]~~ the State Engineer in accordance with this chapter.

Sec. 10. NRS 533.250 is hereby amended to read as follows:

533.250 1. Any and all maps, plats, surveys and evidence on file in the Office of the State Engineer relating to any proof of appropriation involved in the proceeding for the determination of the relative rights in and to the waters of any stream system, obtained or filed under the provisions of this chapter or any preceding act relating to the Office of State Engineer, shall be

admissible in court and shall have the same force and effect as though obtained and submitted under the provisions of this chapter.

2. At least 90 days prior to the rendering of his or her order of determination of the relative rights in and to the waters of any stream system, the State Engineer shall notify all parties in interest of his or her intention to consider such maps, plats and evidence, and of his or her intention to submit the findings of the State Engineer to the court under the provisions of this chapter. ~~[The notice shall be given in the manner prescribed in NRS 533.110.]~~

3. Within 60 days after such notice, any party in interest may file with the State Engineer any additional or supplementary maps, plats, surveys or evidence, or objections to the admissibility of any evidence hitherto presented and on file in the office of the State Engineer, in relation to his or her claim of water right or adverse to the claim or claims of the water right of any other party or parties in interest, in order so to perfect his or her claim in accordance with the provisions of this chapter, and the State Engineer shall consider the whole thereof in rendering such order of determination, and the same shall become a part of the record which shall be submitted to the court as provided by NRS 533.165 to 533.235, inclusive.

Sec. 11. NRS 533.364 is hereby amended to read as follows:

533.364 1. In addition to the requirements of NRS 533.370, before approving an application for an interbasin transfer of more than 250 acre-feet of groundwater from a basin which the State Engineer has not previously inventoried or for which the State Engineer has not conducted, or caused to be conducted, a study pursuant to NRS 532.165 or 533.368, the State Engineer or a person designated by the State Engineer shall conduct an inventory of the basin from which the water is to be exported. The inventory must include:

(a) The total amount of surface water and groundwater appropriated in accordance with a decreed, certified or permitted right;

(b) An estimate of the amount and location of all surface water and groundwater that is available for appropriation in the basin; and

(c) The name of each owner of record set forth in the records of the Office of the State Engineer for each decreed, certified or permitted right in the basin.

2. The provisions of this section do not:

(a) Require the State Engineer to initiate or complete a determination of the surface water or groundwater rights pursuant to NRS 533.090 to 533.320, inclusive, **and section 1 of this act**, or to otherwise quantify any vested claims of water rights in the basin before approving an application for an interbasin transfer of groundwater from the basin; or

(b) Prohibit the State Engineer from considering information received from or work completed by another person to include in the inventory, if the inventory is otherwise conducted in accordance with the provisions of subsection 1.

3. The State Engineer shall charge the applicant a fee to cover the cost of the inventory. The amount of the fee must not exceed the cost to the State Engineer of conducting the inventory.

4. The State Engineer shall complete any inventory conducted pursuant to subsection 1 within 1 year after commencing the inventory.

Sec. 12. NRS 533.110, 533.115, 533.120 and 533.125 are hereby repealed.

Sec. 13. 1. This section and sections 1, 2, 5 to 8, inclusive, and 11 of this act become effective on July 1, 2017.

2. Sections 3, 4, 9, 10 and 12 of this act become effective on January 1, 2028.

LEADLINES OF REPEALED SECTIONS

533.110 Notice of commencement of taking of proofs as to rights; time for filing; publication and mailing of notice.

533.115 Blank forms enclosed with notice; contents of statement.

533.120 Statements to be certified under oath; no fee for administering or furnishing blank form.

533.125 Commencement of taking of proofs; extension of time; determination of rights if claimant neglects or refuses to make proof.

Assemblywoman Swank moved the adoption of the amendment.

Remarks by Assemblywoman Swank.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 364.

Bill read second time.

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

Amendment No. 836.

SUMMARY—Revises provisions governing the trapping ~~for taking~~ of certain animals. (BDR 45-107)

AN ACT relating to wildlife; amending the definition of “trap” to exclude certain devices; requiring the Department of Wildlife to develop standard language for certain signs required to be posted in areas in which trapping may occur; requiring, with limited exception, each trap, snare or similar device used by a person in the taking of wild animals which is not registered with the Department, to bear the name and address of the owner; revising the fee to register a trap, snare or similar device; ~~deleting provisions which declare that any information in the possession of the Department concerning the registration of a trap, snare or similar device is confidential;~~ authorizing a person to remove or disturb a trap, snare or similar device under certain circumstances; ~~requiring a person who takes or causes to be taken any wild mammals by means of a trap, snare or similar device to visit or cause to be~~

~~visited the trap, snare or similar device at least once every 96 hours; revoking the authority of the Board of Wildlife Commissioners to establish regulations setting forth the frequency a trap, snare or similar device must be visited;~~
revising the circumstances under which a person is prohibited from placing or setting a trap, snare or similar device within 200 feet of any public road or highway; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines the term "trap" for purposes of title 45 of NRS governing wildlife to mean a device that is designed, built or made to close upon or hold fast any portion of an animal. (NRS 501.089) **Section 1** of this bill specifies that the term does not include: (1) any cage or box trap, net or suitcase-type live beaver trap; or (2) any device that is designed, built or made to close upon or hold fast certain vertebrate pests, such as mice and rats.

Existing law defines the terms "to trap," "trapping" and "trapped" for purposes of title 45 of NRS governing wildlife to mean to set or operate any device, mechanism or contraption that is designed, built or made to close upon or hold fast any wildlife and every act of assistance to any person in so doing. (NRS 501.090) Existing law defines the term "wildlife" to mean any wild mammal, wild bird, fish, reptile, amphibian, mollusk or crustacean found naturally in a wild state, whether indigenous to Nevada or not and whether raised in captivity or not. (NRS 501.097) **Section 2** of this bill amends the definition of the words "to trap," "trapping" and "trapped" to delete the term "wildlife" and substitute the term "animal."

Section 3 of this bill requires the Department of Wildlife to develop standard language for inclusion in any sign that is used to warn a person that trapping may occur in any area of this State. **Section 3** also requires each state agency which manages any public land in this State in which trapping may occur to ensure that each sign: (1) includes any standard language developed by the Department; and (2) is posted in certain locations specified by the Department.

Existing law authorizes each trap, snare or similar device used by a person in the taking of wild mammals to be registered with the Department of Wildlife before it is used. Existing law also requires each registered trap, snare or similar device to bear a number which is assigned by the Department. A registration fee of \$10 for each registrant is payable only once by each person who registers a trap, snare or similar device. ~~[Any information in the possession of the Department concerning the registration of a trap, snare or similar device is confidential.]~~ (NRS 503.452) **Section 5** of this bill requires, with limited exception, that a trap, snare or similar device used by a person in the taking of wild mammals that is not registered with the Department must bear the name and address of the person who owns the trap, snare or similar device. **Section 5** also ~~[(1)]~~ requires the number assigned by the Department for a registered trap, snare or similar device or the name and

address of the person who owns an unregistered trap, snare or similar device to be clearly stamped on the trap, snare or similar device or on a metal tag which is attached to the trap, snare or similar device. ~~and (2) deletes the provisions of existing law which declare that any information in the possession of the Department concerning the registration of a trap, snare or similar device is confidential.~~ **Section 5** further revises the fee to register a trap, snare or similar device from \$10 per person who registers a trap to \$5 per trap, snare or similar device. ~~Section 8 of this bill makes a conforming change.~~

Existing law makes it unlawful to remove or disturb the trap, snare or similar device of a holder of a trapping license while the trap, snare or similar device is being legally used by the holder. (NRS 503.454) **Section 6** of this bill authorizes a person to: (1) remove or disturb the trap, snare or similar device if it creates an immediate risk of physical injury or death to a person or animal; and (2) release any person or animal accompanying the person from a trap, snare or similar device in which the person or animal is caught. **Section 4** of this bill makes a conforming change.

Existing law ~~requires~~ **prohibits** a person ~~who takes or causes to be taken any wild mammals by means of a~~ **company or corporation from placing or setting a certain type of large steel trap** ~~trap~~ **within 200 feet of any public road or highway, unless the trap is placed or set inside, along or near a fence upon privately owned land. (NRS 503.580)** **Section 7.5 of this bill expands this prohibition to include any trap,** snare or similar device ~~which does not, or is not designed to, cause immediate death to the mammals to visit the trap, snare or similar device at a frequency specified in regulations adopted by the Board of Wildlife Commissioners. (NRS 503.570)~~ **Section 7 of this bill requires a person who takes or causes to be taken any wild mammals by means of any trap, snare or similar device, regardless of whether the trap, snare or similar device causes immediate death to the mammals, to visit the trap, snare or similar device at least once every 96 hours. Section 7 also eliminates the authority of the Board of Wildlife Commissioners to establish regulations setting forth the frequency at which a person must visit a trap, snare or similar device. Section 8.5 of this bill provides that until the Legislature acts to change the frequency by which a person must visit a trap, snare or similar device, the regulation established by the Board of Wildlife Commissioners as it exists on July 1, 2017, shall remain in effect. (NAC 503.152)** **used for the purpose of trapping mammals.**

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

Section 1. NRS 501.089 is hereby amended to read as follows:

501.089 “Trap” means a device that is designed, built or made to close upon or hold fast any portion of an animal. *The term does not include:*

1. *Any cage or box trap, net or suitcase-type live beaver trap; or*
2. *Any device that is designed, built or made to close upon or hold fast any vertebrate pest as defined in NRS 555.005.*

Sec. 2. NRS 501.090 is hereby amended to read as follows:

501.090 The words “to trap” and their derivatives, “trapping” and “trapped,” mean to set or operate any device, mechanism or contraption that is designed, built or made to close upon or hold fast any ~~[wildlife]~~ **animal** and every act of assistance to any person in so doing.

Sec. 3. Chapter 503 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Each state agency which manages any public land in this State in which trapping may occur shall ensure that each sign for which the Department develops standard language pursuant to subsection 2 includes that language and is posted:*

(a) *At each visitor center, kiosk, trailhead or other location specified by the Department; and*

(b) *In a place in which the sign is readily observable by members of the public at the visitor center, kiosk, trailhead or other location.*

2. *The Department shall:*

(a) *Develop standard language for inclusion in any sign that is used to warn a person that trapping may occur in any area in this State; and*

(b) *Develop the standard language specified in paragraph (a) in cooperation with each federal or state agency which manages any public land in this State in which trapping may occur.*

Sec. 4. NRS 503.015 is hereby amended to read as follows:

503.015 1. ~~[H]~~ *Except as otherwise provided in NRS 503.454, it is unlawful for a person, or a group of people acting together, to intentionally interfere with another person who is lawfully hunting or trapping. For the purpose of this subsection, hunting or trapping is “lawful” only if permitted by the owner or person in possession of the land, other than the government, in addition to any requirement of license or permit from a public authority.*

2. The provisions of subsection 1 do not apply to any incidental interference arising from lawful activity by users of the public land, including without limitation ranchers, miners or persons seeking lawful recreation.

Sec. 5. NRS 503.452 is hereby amended to read as follows:

503.452 1. Except as otherwise provided in ~~[subsection 2,]~~ **subsections 2 and 3**, each trap, snare or similar device used by a person in the taking of wild mammals ~~[may]~~ **must** be registered with the Department before it is used. Each registered trap, snare or similar device must bear a number which is assigned by the Department and is ~~[affixed to or marked]~~ **clearly stamped** on the trap, snare or similar device ~~[in the manner specified by regulations adopted by the Commission.]~~ **or on a metal tag that is attached to the trap, snare or similar device.** The registration of a trap, snare or similar device is valid until the trap, snare or similar device is sold or ownership of the trap, snare or similar device is otherwise transferred. ***For each trap, snare or***

similar device registered with the Department, the person registering the trap, snare or similar device must pay a registration fee of \$5.

2. Except as otherwise provided in subsection 3, if a trap, snare or similar device is not registered with the Department pursuant to subsection 1, before it can be used in the taking of wild animals, it must have the name and address of the person who owns the trap, snare or similar device:

- (a) Clearly stamped upon the trap, snare or similar device; or*
- (b) On a metal tag that is attached to the trap, snare or similar device.*

3. The provisions of ~~subsection~~ subsections 1 and 2 do not apply to a trap, snare or similar device used:

- (a) Exclusively on private property which is posted or fenced in accordance with the provisions of NRS 207.200 by the owner or occupant of the property or with the permission of the owner or occupant;*
- (b) For the control of rodents by an institution of the Nevada System of Higher Education;*
- (c) By any federal, state or local governmental agency; or*
- (d) For the taking of wild mammals for scientific or educational purposes under a permit issued by the Department pursuant to NRS 503.650.*

~~{3. A registration fee of \$10 for each registrant is payable only once by each person who registers a trap, snare or similar device. The fee must be paid at the time the first trap, snare or similar device is registered.}~~

4. It is unlawful:

(a) For a person to whom a trap, snare or similar device is registered to allow another person to possess or use the trap, snare or similar device without providing to that person written authorization to possess or use the trap, snare or similar device.

(b) For a person to possess or use a trap, snare or similar device registered to another person without obtaining the written authorization required pursuant to paragraph (a). If a person obtains written authorization to possess or use a trap, snare or similar device pursuant to paragraph (a), the person shall ensure that the written authorization, together with his or her trapping license, is in his or her possession during any period in which he or she uses the trap, snare or similar device to take fur-bearing mammals.

5. ~~{4.}~~ A person to whom a trap, snare or similar device is registered pursuant to this section shall report any theft of the trap, snare or similar device to the Department as soon as it is practical to do so after the person discovers the theft.

6. Any information in the possession of the Department concerning the registration of a

~~{5. If a}~~ trap, snare or similar device is confidential and the Department shall not disclose that information unless required to do so by law or court order.

7. If a trap, snare or similar device has been used exclusively on private property pursuant to paragraph (a) of subsection 3, before the trap, snare

or similar device is used on any public land in this State, the owner of the trap, snare or similar device must:

- (a) Register the trap, snare or similar device pursuant to subsection 1; or*
- (b) Pursuant to subsection 2, have his or her name and address:*

- (1) Clearly stamped on the trap, snare or similar device; or*
- (2) On a metal tag that is attached to the trap, snare or similar device.*

Sec. 6. NRS 503.454 is hereby amended to read as follows:

503.454 1. Every person who takes fur-bearing mammals by trap, snare or similar device or unprotected mammals by trapping or sells raw furs for profit shall procure a trapping license.

2. ~~¶¶~~ *Except as otherwise provided in subsection 3, it* is unlawful to remove or disturb the trap, snare or similar device of any holder of a trapping license while the trap, snare or similar device is being legally used by the holder on public land or on land where the holder has permission to trap.

3. *A person may:*

(a) Remove or disturb a trap, snare or similar device if the trap, snare or similar device creates an immediate risk of physical injury or death to any person or animal accompanying a person.

(b) Release any person or animal accompanying a person from a trap, snare or similar device in which the person or animal is caught.

Sec. 7. ~~NRS 503.570 is hereby amended to read as follows:~~

~~503.570 1. A person taking or causing to be taken wild mammals by means of traps, snares or similar devices [which do not, or are not designed to, cause immediate death to the mammals, shall, if the traps, snares or similar devices are placed or set to take mammals,] shall visit or cause to be visited each trap, snare or similar device [at a frequency specified in regulations adopted by the Commission pursuant to subsection 3] **at least once every 96 hours beginning at and** during all of the time the trap, snare or similar device is placed, set or used to take wild mammals, and remove therefrom any [mammals] **animal** caught therein.~~

~~2. The provisions of subsection 1 do not apply to employees of the State Department of Agriculture or the United States Department of Agriculture when acting in their official capacities.~~

~~3. The Commission [shall] **may not** adopt regulations setting forth the frequency at which a person who takes or causes to be taken wild mammals by means of traps, snares or similar devices [which do not, or are not designed to, cause immediate death to the mammals] must visit a trap, snare or similar device. [The regulations must require the person to visit a trap, snare or similar device at least once each 96 hours. In adopting the regulations, the Commission shall consider requiring a trap, snare or similar device placed in close proximity to a populated or heavily used area by persons to be visited more frequently than a trap, snare or similar device which is not placed in close proximity to such an area.]] **(Deleted by amendment.)**~~

Sec. 7.5. NRS 503.580 is hereby amended to read as follows:

503.580 1. For the purposes of this section, “public road or highway” means:

- (a) A highway designated as a United States highway.
- (b) A highway designated as a state highway pursuant to the provisions of NRS 408.285.
- (c) A main or general county road as defined by NRS 403.170.

2. It is unlawful for any person, company or corporation to place or set any ~~steel~~ trap, snare or similar device used for the purpose of trapping mammals ~~[, larger than a No. 1 Newhouse trap,]~~ within 200 feet of any public road or highway within this State.

3. This section does not prevent the placing or setting of any ~~steel~~ trap, snare or similar device inside, along or near a fence which may be situated less than 200 feet from any public road or highway upon privately owned lands.

Sec. 8. ~~[NRS 239.010 is hereby amended to read as follows:~~

~~239.010 1. Except as otherwise provided in this section and NRS 1.4683, 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, 289.287, 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, 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. 8.5. 1. Until the Legislature amends NRS 503.570 to change the frequency a person who takes or causes to be taken wild mammals by means of traps, snares or similar devices is required visit a trap, snare or similar device, the regulation adopted by the Board of Wildlife Commissioners pursuant to NRS 503.570 as it exists on July 1, 2017, setting forth the frequency a person must visit a trap, snare or similar device shall remain in effect.~~

~~2. The text of the regulation which shall remain in effect pursuant to subsection 1 is codified as NAC 503.152 and is as follows:~~

~~A person who is required pursuant to NRS 503.570 to visit or cause to be visited a trap, snare or similar device shall ensure that the trap, snare or similar device is visited:~~

~~1. At least once every other calendar day in the following units for wildlife, as designated in NAC 504.210, or portions of those units specified in this subsection other than any private property located within those units or if a box or cage trap is used:~~

~~(a) All of Unit 194;~~

~~(b) The following portions of Unit 195:~~

~~(1) West of Lagomarsino Canyon Lousetown Road from its intersection with Interstate Highway No. 80 to its intersection with State Route No. 341; and~~

~~(2) West of State Route No. 341 from its intersection with Lousetown Road to its intersection with U.S. Highway No. 50;~~

~~(c) All of Unit 196; and~~

~~(d) The portion within the Clark County Illegal Firearms Discharge Area created by the Clark County Geographic Information Systems Management Office on September 11, 2013;~~

- ~~2. At least once each 96 hours in all other units for wildlife, as designated in NAC 504.210, or portions of those units not specified in subsection 1, including any private property located within those units;~~
~~3. At least once each 96 hours if a box or cage trap is used;~~
~~4. By a person who is a holder of a trapping license issued by the Department; and~~
~~5. In a manner which ensures that any mammal caught in the trap, snare or similar device is removed from the trap, snare or similar device.] (Deleted by amendment.)~~

Sec. 9. This act becomes effective on July 1, 2017.

Assemblywoman Swank moved the adoption of the amendment.

Remarks by Assemblywoman Swank.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 370.

Bill read second time.

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

Amendment No. 837.

AN ACT relating to hunting; ~~[making it unlawful to use an aircraft to transport game, hunters or hunting equipment under certain circumstances;]~~ requiring certain airports, airplane landing fields or heliports used in the transportation of game, hunters or hunting equipment to be accessible by a public road; ~~[providing a penalty;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it unlawful to use a helicopter to transport game, hunters or hunting equipment except when: (1) the cargo or passengers are loaded and unloaded at an airport, airplane landing field or heliport which has been established by a department or agency of the Federal or State Government or by a county or municipal government; or (2) the loading or unloading is done in the course of an emergency or search and rescue operation. (NRS 503.010) A person who violates those provisions is guilty of a misdemeanor. (NRS 501.385) This bill ~~[expands existing law by making it unlawful to use any aircraft to transport game, hunters or hunting equipment except under those circumstances. This bill also]~~ requires any airport, airplane landing field or heliport used to transport game, hunters or hunting equipment to be accessible by a public road.

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

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

503.010 1. Except as otherwise provided in this section or subsection 2 of NRS 503.005, it is unlawful to harass any game mammals or game birds with an aircraft, helicopter or motor-driven vehicle, including a motorboat or sailboat.

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

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

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

5. It is unlawful to use a helicopter ~~for any other aircraft~~ to transport game, hunters or hunting equipment, except when ~~the~~:

(a) **The** cargo or passengers, or both, are loaded and unloaded at airports, airplane landing fields or heliports, which have been established by a department or agency of the Federal or State Government or by a county or municipal government **and which are accessible by a public road;** or ~~when the~~

(b) **The** loading or unloading is done in the course of an emergency or search and rescue operation.

6. It is unlawful to:

(a) Use any information obtained from a radio signal or other transmission received from any transmitting device;

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

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

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

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

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

9. As used in this section:

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

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

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

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

Sec. 2. This act becomes effective on July 1, 2017.

Assemblywoman Swank moved the adoption of the amendment.

Remarks by Assemblywoman Swank.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 371.

Bill read second time.

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

Amendment No. 838.

AN ACT relating to animals; authorizing a county to recover the reasonable cost of care and shelter furnished to an animal impounded by the county under certain circumstances; authorizing a county to take certain other actions relating to an impounded animal; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the board of county commissioners of a county to enact ordinances: (1) governing the control and protection of animals; (2) regulating or prohibiting the running at large and disposal of animals; and (3) prohibiting cruelty to animals. (NRS 244.189, 244.359) **Section 2** of this bill expands existing law by providing that, if a person is lawfully arrested and detained in a county for more than 7 days, and if the county impounds any animal owned or possessed by the person, the county must: (1) notify the person of the impoundment and request that the person provide to the county the name of any person who is authorized to care for the animal; (2) transfer, under certain circumstances, the animal to any such person; and (3) if the county is unable to transfer the animal to such a person, allow ~~for~~ another person to care for the animal temporarily and, with the consent of the

person who is arrested and detained, adopt the animal. **Section 2** also authorizes, under certain circumstances, the county to bring an appropriate legal action to recover the reasonable cost of care and shelter of the animal.

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

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 171 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a person is lawfully arrested and detained in a county for more than 7 days, and if any animal owned or possessed by the person is impounded by the county after the arrest, the county must notify the person of the impoundment of the animal and request that the person provide to the county the name of any person who is authorized to care for the animal. The county must transfer the animal to such a person if the county determines that the person is able to provide adequate care and shelter to the animal. If there is no authorized person who is able to provide adequate care and shelter to the animal, the county may allow another person who is able to provide adequate care and shelter to care for the animal temporarily and, with the consent of the person who is arrested and detained, allow the other person to adopt the animal.

2. If a person is convicted of the crime for which he or she was lawfully arrested, the county may by appropriate legal action recover the reasonable cost of any care and shelter furnished to the animal by the county, including, without limitation, imposing a lien on the animal for the cost of such care and shelter.

3. As used in this section, “animal” means any dog, cat, horse or other domesticated animal. The term :

(a) Includes any chicken, pig, rabbit or other domesticated animal which is maintained as a pet.

(b) Except as otherwise provided in paragraph (a), does not include any cattle, sheep, goats, swine or poultry.

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

Assemblywoman Swank moved the adoption of the amendment.

Remarks by Assemblywoman Swank.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 383.

Bill read second time.

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

Amendment No. 813.

AN ACT relating to financial planners; ~~revising the definition of “financial planner” for certain purposes;~~ **imposing a fiduciary duty on broker-dealers, sales representatives and investment advisers who for compensation advise other persons concerning the investment of money; authorizing the Administrator of the Securities Division of the Office of the Secretary of State to adopt regulations concerning such fiduciary duty; providing penalties;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law: (1) defines a “financial planner” as a person who for compensation, among other activities, advises others as to the investment of money, but excludes certain persons from the definition; (2) provides that a financial planner has the duty of a fiduciary toward a client; and (3) provides for civil liability of a financial planner under certain circumstances. (Chapter 628A of NRS) **Section 1** of this bill revises the definition of financial planner to remove the exclusions for a broker-dealer ~~and~~, **a sales representative and** an investment adviser, thereby making such persons subject to the provisions of existing law governing financial planners. **Section 1.3 of this bill provides that the requirement for a financial planner to maintain certain insurance or a surety bond does not apply to broker-dealers, sales representatives and investment advisers included in the definition of “financial planner” pursuant to section 1.**

Existing law provides that certain persons defined as a financial planner must be licensed as insurance consultants for certain purposes related to viatical settlements. (NRS 688C.212) **Section 2** of this bill maintains the existing definition of financial planner for such purposes.

Existing law generally provides that the Administrator of the Securities Division of the Office of the Secretary of State licenses and regulates broker-dealers, sales representatives, investment advisers and representatives of investment advisers. (Chapter 90 of NRS) If a person violates a provision of law administered by the Administrator, the Administrator may impose certain sanctions on that person, including, without limitation, the imposition of a civil penalty of not more than \$25,000 for a willful violation of such a provision of law. (NRS 90.630, 90.640) Section 1.7 of this bill: (1) enacts a provision to enable the Administrator to enforce the fiduciary duty imposed on broker-dealers, sales representatives, investment advisers and representatives of investment advisers pursuant to section 1; and (2) authorizes the Administrator to adopt regulations defining or excluding acts, practices or courses of business as violations of that fiduciary duty and prescribing means to prevent violations of that fiduciary duty.

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

Section 1. 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 or a public accountant licensed pursuant to NRS 628.190 to 628.310, inclusive, or 628.350; *or*
 - (c) ~~A broker-dealer or sales representative licensed pursuant to NRS 90.310 or exempt under NRS 90.320; or~~
 - ~~—(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. 1.3. NRS 628A.040 is hereby amended to read as follows:

628A.040 ~~[A]~~

1. Except as otherwise provided in subsection 2, a financial planner shall maintain insurance covering liability for errors or omissions, or a surety bond to compensate clients for losses actionable pursuant to this chapter, in an amount of \$1,000,000 or more.

2. The provisions of subsection 1 do not apply to:

(a) A broker-dealer or sales representative licensed pursuant to NRS 90.310 or exempt under NRS 90.320; or

(b) An investment adviser licensed pursuant to NRS 90.330 or exempt under NRS 90.340.

Sec. 1.7. Chapter 90 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A broker-dealer, sales representative, investment adviser or representative of an investment adviser shall not violate the fiduciary duty toward a client imposed by NRS 628A.020.

2. The Administrator may by regulation:

(a) Define or exclude an act, practice or course of business of a broker-dealer, sales representative, investment adviser or representative of an

investment adviser as a violation of the fiduciary duty toward a client imposed by NRS 628A.020; and

(b) Prescribe means reasonably designed to prevent broker-dealers, sales representatives, investment advisers and representatives of investment advisers from engaging in acts, practices and courses of business defined as a violation of such fiduciary duty.

Sec. 2. NRS 688C.212 is hereby amended to read as follows:

688C.212 1. A financial planner ~~[, as defined in subsection 3 of NRS 628A.010,]~~ who, on behalf of a viator and for a fee, commission or other valuable consideration not paid by a provider or purchaser of viatical settlements, offers or attempts to negotiate a viatical settlement between the viator and one or more providers or brokers of viatical settlements must be licensed as an insurance consultant pursuant to NRS 683C.020.

2. *As used in this section, "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 or a public accountant licensed pursuant to NRS 628.190 to 628.310, inclusive, or 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. 3. This act becomes effective on July 1, 2017.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Remarks by Assemblywoman Bustamante Adams.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 388.

Bill read second time and ordered to third reading.

Senate Bill No. 413.

Bill read second time.

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

Amendment No. 839.

AN ACT relating to public lands; establishing the last Saturday in 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; 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 last Saturday in 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.

WHEREAS, In 1994, National Public Lands Day was established, with 700 volunteers working at three sites and, since then, the activities relating to National Public Lands Day have expanded to include new places, projects and persons; and

WHEREAS, More than 80 percent of the public lands in this State are owned by the people of the United States and are managed by various federal agencies for the benefit of all persons living in the United States; and

WHEREAS, The public lands in this State include national parks, national monuments, national conservation areas, national forests, national wildlife refuges, wilderness areas and public lands managed by the Bureau of Land Management, the United States Forest Service, the United States Fish and Wildlife Service, the National Park Service and other federal agencies; and

WHEREAS, All public lands located in this State feature a diverse array of landscapes, from sculpted desert sandstone to dramatic limestone cliffs with caves and fossils, from colorful volcanic ranges to the high peaks with ancient bristlecone pine and lush oases that stand in sharp contrast to open sagebrush valleys; and

WHEREAS, The public lands in this State protect vital pieces of our region’s past and important cultural heritages, including the remnants of ancient civilizations that once thrived in the region and whose ancestors still protect their legacy, deserted mining settlements where riches were made and lost and contemporary works of art, all waiting to be discovered by current and future generations of Nevadans; and

WHEREAS, The public lands in this State reflect many noble democratic ideals because they are open and accessible to all persons, regardless of whether those persons are rich or poor; and

WHEREAS, The public lands in this State provide many benefits to the residents of this State and support a wide variety of activities, including recreational pursuits and the development of natural resources; and

WHEREAS, Outdoor recreation is dependent on access to public lands and is an essential part of the economy of this State, generating \$14.9 billion in

consumer spending, \$1 billion in state and local tax revenue and 148,000 direct Nevada jobs in this State; and

WHEREAS, Large-scale transfers of the federal public lands in this State from the people of the United States into state or private control are contrary to the democratic values of the United States and jeopardize activities such as hiking, camping, hunting, fishing and off-road pursuits; and

WHEREAS, In 1864, Congress enacted a law (13 United States Statutes at Large (1864), pp. 30-32), commonly referred to as the Enabling Act, which authorized the people of the Territory of Nevada to form a constitution and state government, and provided for the admission of the State of Nevada into the Union; and

WHEREAS, As required by the Enabling Act, the Nevada Constitution includes an ordinance, immediately preceding the preamble to the Nevada Constitution, which states, in part, that the “people inhabiting [this State] do agree and declare, that they forever disclaim all right and title to the unappropriated public lands lying within [this State], and that the same shall be and remain at the sole and entire disposition of the United States”; and

WHEREAS, At the general election held in 1996, those provisions of the Nevada Constitution were repealed, effective on the date Congress consents to the amendment or on a legal determination that the consent of Congress is not necessary; and

WHEREAS, The residents of this State support national efforts to promote the stewardship and celebration of all public lands in this State: now therefore,

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 last Saturday in 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 shall, 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 the public lands in the State of Nevada;

(b) Recognize the economic, scenic, historical, scientific, aesthetic and other values of the public lands in the State of Nevada; and

(c) Encourage the residents of the State of Nevada to engage in volunteer stewardship activities which contribute to the conservation of the unique public lands which are only found in the State of Nevada.

Sec. 2. This act becomes effective on July 1, 2017.

Assemblywoman Swank moved the adoption of the amendment.

Remarks by Assemblywoman Swank.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 420.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 747.

AN ACT relating to education; requiring the board of trustees of each school district, the governing body of each charter school and the governing body of each university school for profoundly gifted pupils to adopt a written policy relating to the distribution of and right of expression for pupils working as journalists on pupil publications; requiring the Board of Regents of the University of Nevada to adopt a similar policy for student publications; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that each pupil of a public school, including a pupil enrolled in a charter school or a university school for profoundly gifted pupils, is entitled to express himself or herself in a manner consistent with the rights guaranteed by the First and Fourteenth Amendments to the United States Constitution. (NRS 388.077) **Section 1** of this bill requires the board of trustees of each school district, the governing body of each charter school and the governing body of each university school for profoundly gifted pupils to adopt a written policy for pupil publications which: (1) establishes reasonable provisions governing the time, place and manner for the distribution of those publications; (2) protects the right of expression for pupils working on those publications as journalists; (3) prohibits restrictions on the publication of any content in a pupil publication unless the content would substantially disrupt the performance of the school's educational mission ~~for taking certain adverse actions against a pupil or adviser relating to pupil publications; (4) includes procedures for disciplining pupils, and persons acting as advisers on pupil publications who violate the policy; and (5) ; and (4)~~ includes a disclaimer indicating that any content published in a pupil publication is not endorsed by the public school. **Section 2** of this bill requires the Board of Regents of the University of Nevada to adopt a similar written policy for student publications. ~~[In addition, section 1 requires the written policy for pupil publications adopted by the board of trustees of a school district, the governing body of a charter school or the governing body of a university school for profoundly gifted pupils to include procedures for determining before publication whether any content would substantially disrupt the performance of the school's educational mission.]~~

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

Section 1. NRS 388.077 is hereby amended to read as follows:

388.077 1. Each pupil of a public school, including, without limitation, each pupil of a university school for profoundly gifted pupils, is entitled to express himself or herself in a manner consistent with the rights guaranteed by the First and Fourteenth Amendments to the United States Constitution.

2. Any expression described in subsection 1 must not be disruptive of instruction at a public school, including, without limitation, a university school for profoundly gifted pupils, must not be used to ~~bully~~ engage in bullying or cyber-bullying or intimidate any person and must not be organized, broadcast or endorsed by a public school, including, without limitation, a university school for profoundly gifted pupils.

3. *The board of trustees of each school district, the governing body of each charter school and the governing body of each university school for profoundly gifted pupils shall adopt a written policy for pupil publications which:*

(a) Establishes reasonable provisions governing the time, place and manner for the distribution of pupil publications;

(b) Protects the right of expression described in subsection 1 for pupils working on pupil publications as journalists in their determination of the news, opinions, feature content, advertising content and other content of the pupil publications;

~~*(c) Includes procedures for determining before publication whether the content would substantially disrupt the ability of the public school to perform its educational mission if published in a pupil publication;*~~

~~*(d) Includes procedures for disciplining a pupil, employee or other person acting as an adviser for a pupil publication or as an adviser of pupils working as journalists on a pupil publication who violates the policy;*~~

~~*(e)*~~ *Prohibits, without limitation, the following:*

(1) Restricting the publication of any content in pupil publications unless the content would substantially disrupt the ability of the public school to perform its educational mission;

(2) Dismissing, suspending, disciplining or retaliating against an employee or other person acting as an adviser for a pupil publication or as an adviser for pupils working as journalists on a pupil publication for acting within the scope of that position, including, without limitation, taking responsible and appropriate action to protect a pupil engaged in conduct protected pursuant to the written policy or refusing to perform an action which violates the written policy; and

(3) Expelling, suspending or otherwise disciplining a pupil for engaging in conduct in accordance with the policy, ~~even if~~ unless such

conduct substantially disrupts the ability of the public school to perform its educational mission ~~and~~ and the disruption was intentional; and

~~[(f)]~~ *(d) Includes a disclaimer indicating that any content published in a pupil publication is not endorsed by the public school.*

4. The board of trustees of each school district, the governing body of each charter school and the governing body of each university school for profoundly gifted pupils ~~must~~ *shall* adopt a policy prescribing procedures for the resolution of a complaint by a pupil of the school district, charter school or university school for profoundly gifted pupils that the rights of the pupil described in subsection 1 *or* 3 have been violated. The policy required by this subsection may be part of a comprehensive discrimination grievance policy of the school district, charter school or university school for profoundly gifted pupils or may be a separate policy.

5. As used in this section:

(a) “Bullying” has the meaning ascribed to it in NRS 388.122.

(b) “Cyber-bullying” has the meaning ascribed to it in NRS 388.123.

Sec. 2. Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board of Regents shall adopt a written policy for the Universities, state colleges and community colleges within the System for student publications which:

1. Establishes reasonable provisions governing the time, place and manner for the distribution of student publications;

2. Protects the right of expression in a manner consistent with the rights guaranteed by the First and Fourteenth Amendments to the United States Constitution for students working on student publications as journalists in their determination of the news, opinions, feature content, advertising content and other content of the student publications;

~~*3. Includes procedures for disciplining a student, faculty member, employee or other person acting as an adviser for a student publication or as an adviser for students working as journalists on a student publication who violates the policy;*~~

~~*4.*~~ *Prohibits, without limitation, the following:*

(a) Restricting the publication of any content in student publications unless the content would substantially disrupt the ability of the institution to perform its educational mission;

(b) Dismissing, suspending, disciplining or retaliating against a faculty member, employee or other person acting as an adviser for a student publication or as an adviser to students working as journalists on a student publication for acting within the scope of that position, including, without limitation, taking responsible and appropriate action to protect a student engaged in conduct protected pursuant to the written policy or refusing to perform an action which violates the written policy; and

(c) Expelling, suspending or otherwise disciplining a student for engaging in conduct in accordance with the policy, ~~even if~~ unless such

conduct substantially disrupts the ability of the institution to perform its educational mission ~~and the disruption was intentional~~; and

~~{5.}~~ 4. *Includes a disclaimer indicating that any content published in a student publication is not endorsed by the Board of Regents, the System or a university, state college or community college within the System.*

Sec. 3. ~~{This act becomes effective on July 1, 2017.}~~ (Deleted by amendment.)

Assemblyman Thompson moved the adoption of the amendment.

Remarks by Assemblyman Thompson.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 448.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 769.

AN ACT relating to public works, revising provisions concerning the authorization of a private entity to undertake certain public works; authorizing a public body to enter into a public-private partnership in connection with certain eligible facilities; providing for the financing of certain eligible facilities; providing for the disposition of money which is received and is to be retained by a public body pursuant to a public-private partnership; providing for the confidentiality of certain information submitted to a public body; revising provisions concerning agreements between a public body and a person concerning certain eligible facilities; exempting property used for certain eligible facilities from all real property and ad valorem taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a public body is authorized to accept a request from a person who wishes to develop, construct, improve, maintain or operate a transportation facility. If the public body determines that the facility serves a public purpose, the public body may authorize the requestor to carry out the facility or may request other persons to submit proposals to develop, construct, improve, maintain or operate the facility. (NRS 338.162, 338.163, 338.164) This bill extends those provisions to also apply to certain other facilities, including certain tourism improvement projects.

This bill also provides for the use of a public-private partnership to plan, finance, design, construct, improve, maintain, operate or acquire the rights-of-way for an eligible facility. **Section 9** of this bill authorizes a public body to enter into such a partnership. **Section 10** of this bill establishes various alternatives in which a public body may procure a public-private partnership, including the use of solicitations, requests for proposals and negotiations. **Section 11** of this bill provides that an eligible facility may be financed in whole or in part with money from any lawful source. **Section 12** of this bill

authorizes a public body to accept all such money and, with certain exceptions, to combine money from federal, state, local and private sources for the purposes of such a facility. **Section 13** of this bill requires that all money which is received and retained by a public body pursuant to a public-private partnership be: (1) deposited in the State Highway Fund; (2) accounted for separately; (3) used first to defray the obligations of the public body under the public-private partnership; and (4) except for costs of administration, used exclusively for the design, construction, operation, maintenance, financing and repair of the public highways in the county from which the money was received. **Section 13.5 of this bill prohibits the imposition of a fee for the use of certain roadways.** **Section 14** of this bill provides that all information submitted to a public body in connection with a request, proposal or other submission concerning an eligible facility is confidential until a notice of intent to award the contract or agreement is issued. **Section 14** also establishes the procedures that a person who has submitted such information must follow to maintain the confidentiality of any trade secrets or confidential commercial, financial or proprietary information included in the submission. **Section 15** of this bill provides that the power of eminent domain may be exercised with respect to any property necessary for an eligible facility.

Existing law establishes the provisions that must be included in an agreement between a public body and a person with respect to the development, construction, improvement, maintenance or operation of a transportation facility. (NRS 338.166) **Section 21** of this bill imposes additional requirements applicable to such an agreement for an eligible facility and authorizes various other provisions that may be included in such an agreement. **Section 21** also provides that an eligible facility that is developed, operated or held by a person pursuant to such an agreement is exempt from all state and local ad valorem and property taxes. **Sections 17-20 and 22-25** of this bill make various conforming changes.

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 the provisions set forth as sections 2 to 16, inclusive, of this act.

Sec. 2. *As used in NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 338.161 and sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Concession” means any lease, ground lease, franchise, easement, permit, right of entry, operating agreement or other binding agreement transferring rights for the use or control, in whole or in part, of an eligible facility by a public body to a private partner.*

Sec. 4. *“Eligible facility” means:*

1. *A transportation facility; and*
2. *A project as defined in NRS 271A.050.*

Sec. 5. (Deleted by amendment.)

Sec. 6. *“Private partner” means a person with whom a public body enters into a public-private partnership.*

Sec. 7. *“Public-private partnership” means a contract entered into by a public body and a private partner.*

Sec. 8. *“User fee” means a fee, toll, fare or other similar charge, including, without limitation, any incidental, account maintenance, administrative, credit card or video tolling fee or charge, imposed on a person for his or her use of an eligible facility by a public body or by a private partner pursuant to a public-private partnership.*

Sec. 9. 1. *A public body may enter into a public-private partnership to plan, finance, design, construct, improve, maintain, operate or acquire the rights-of-way for, or any combination thereof, an eligible facility.*

2. *A public-private partnership may include, without limitation:*

(a) *A predevelopment agreement leading to another implementing agreement for an eligible facility as described in this subsection;*

(b) *A design-build contract;*

(c) *A design-build contract that includes the financing, maintenance or operation, or any combination thereof, of the eligible facility;*

(d) *A contract involving a construction manager at risk;*

(e) *A concession, including, without limitation, a toll concession and an availability payment concession;*

(f) *A construction agreement that includes the financing, maintenance or operation, or any combination thereof, of the eligible facility;*

(g) *An operation and maintenance agreement for an eligible facility;*

(h) *Any other method or agreement for completion of the eligible facility that the public body determines will serve the public interest; or*

(i) *Any combination of paragraphs (a) to (h), inclusive.*

Sec. 10. 1. *A public body may procure a public-private partnership by means of:*

(a) *Requests for project proposals in which the public body describes a class of eligible facilities or a geographic area in which private entities are invited to submit proposals to develop eligible facilities.*

(b) *Solicitations using requests for qualifications, short-listings of qualified proposers, requests for proposals, negotiations, best and final offers or other procurement procedures.*

(c) *Procurements seeking from the private sector development and finance plans most suitable for the project.*

(d) *Best value selection procurements based on price or financial proposals, or both, or other factors.*

(e) *Other procedures that the public body determines may further the implementation of a public-private partnership.*

2. *For any procurement in which the public body issues a request for qualifications, request for proposals or similar solicitation document, the request must generally set forth the factors that will be evaluated and the manner in which responses will be evaluated. Such factors may include, without limitation:*

(a) The ability of the eligible facility to promote economic growth and, in the case of a transportation facility, to improve safety, reduce congestion or increase capacity.

(b) The proposed cost and a proposed financial plan for the eligible facility.

(c) The general reputation, qualifications, industry experience and financial capacity of the proposer.

(d) The proposed design, operation and feasibility of the eligible facility.

(e) Comments from users, local citizens and affected jurisdictions.

(f) Benefits to the public.

(g) The safety record of the proposer.

(h) Other criteria that the public body deems appropriate.

3. *In evaluating proposals, the public body may give such relative weight to factors such as cost, financial commitment, innovative financing, technical, scientific, technological or socioeconomic merit and other factors as the public body deems appropriate.*

4. *The public body may procure services, award agreements and administer revenues as authorized in this section notwithstanding any requirements of any other state or local statute, regulation or ordinance relating to public bidding or other procurement procedures or other provisions otherwise applicable to public works, services or utilities.*

5. *The public body may expend money from any lawful source reasonably necessary for the development of procurements, evaluation of concepts or proposals, negotiation of agreements and implementation of agreements for the development or operation of transportation facilities pursuant to this chapter.*

6. *Any state agency or any county, municipality or other public agency may sell, lease, grant, transfer or convey to the public body, with or without consideration, any facility or any part or parts thereof or any real or personal property or interest therein which may be useful to the public body for any authorized purpose. In any case where the construction of a facility has not been completed, the public agency concerned may also transfer, sell, assign, and set over to the public body, with or without consideration, any existing contract for the construction of the facility.*

Sec. 11. 1. *An eligible facility may be financed, in whole or in part, with money from any lawful source, including, without limitation:*

(a) Any public or private funding, loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, grant anticipation revenue bond, credit assistance from the government of this

State or the Federal Government or other type of assistance that is available for the purposes of the eligible facility.

(b) Any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other thing of value made to the public body for the purposes of the eligible facility.

(c) A contribution of money or property made by any private entity or public sector partner that is a party to any agreement entered into pursuant to NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.

(d) Money appropriated for the eligible facility by the State or by the public body.

(e) User fees, lease proceeds, rents, availability payments, gross or net receipts from sales, proceeds from the sale of development rights, franchise charges, permit charges, rents, advertising and sponsorship charges, service charges or any other lawful form of consideration.

(f) Private activity bonds as described in 26 U.S.C. § 141.

(g) Any other form of public or private capital that is available for the purposes of the eligible facility.

(h) Any combination of paragraphs (a) to (g), inclusive.

2. If a public body, in accordance with applicable law, issues a note, bond or other debt obligation to finance an eligible facility that is expected to generate revenue of any kind, the revenue from the eligible facility may be pledged as security for the payment of the obligation, but the bonds or notes are special, limited obligations of the public body payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of the bonds or notes, and do not create a debt of the State for the purposes of Section 3 of Article 9 of the Nevada Constitution.

3. Any financing issued by a public body pursuant to this section may be structured on a senior, parity or subordinate basis to any other financing.

4. A public body may issue revenue bonds or notes to provide money for any transportation facility.

Sec. 12. 1. A public body, either directly or through a designated party, may:

(a) Accept from the United States or any of its agencies money that is available to the public body for carrying out the purposes of NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, whether the money is made available by grant, loan or other financing arrangement.

(b) Enter into agreements and other arrangements with the United States or any of its agencies as may be necessary, proper and convenient for carrying out the provisions of NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.

(c) *Accept from any source any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other valuable thing made to the public body for carrying out the provisions of NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.*

2. *Except as otherwise provided in section 13 of this act or applicable federal law, and notwithstanding any other provision of law, money from federal, state and local sources may be combined with money from any private source for carrying out the purposes of NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.*

Sec. 13. *All money which is received and is to be retained by a public body pursuant to a public-private partnership and which is derived from the imposition of any charge with respect to the operation of any motor vehicle upon any public highway in this State must be deposited in the State Highway Fund, accounted for separately and, except for costs of administration, be used exclusively for the design, construction, operation, maintenance, financing and repair of the public highways of the county from which the money is received. The money must first be used to defray the obligations for which the public body is responsible under the public-private partnership, including, without limitation, the costs of administration, design, construction, operation, maintenance, financing and repair of the eligible transportation facility from which the money is derived.*

Sec. 13.5. *No user fee may be charged, because of any project undertaken as part of a public-private partnership authorized by NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, for the use of any portion of any roadway in existence on July 1, 2017.*

Sec. 14. 1. *Notwithstanding any other provision of law, any information obtained by or disclosed to a public body in connection with a request or proposal pursuant to NRS 338.163 or 338.164 or during the procurement or negotiation of a public-private partnership pursuant to section 10 of this act must be kept confidential until a notice of intent to award the contract, agreement or public-private partnership is issued, absent an administrative or judicial order requiring release or disclosure.*

2. *Except as otherwise provided in NRS 239.0115, a public body may exempt from release to the public any trade secrets or confidential commercial, financial or proprietary information included in a request or proposal submitted to the public body pursuant to subsection 1 if the submitter:*

(a) *Specifies the portions of the proposal or other submission that the submitter considers to be trade secrets or confidential commercial, financial or proprietary information;*

(b) *Invokes exclusion upon submission of the information or other materials for which protection is sought;*

(c) *Identifies the data or other materials for which protection is sought with conspicuous labeling;*

(d) *States the reasons why protection is necessary; and*

(e) *Fully complies with all applicable state law with respect to information that the submitter contends should be exempt from disclosure.*

Sec. 15. *This State, or any public agency so authorized under chapter 37 of NRS, may exercise the power of eminent domain to acquire property, rights-of-way or other rights in property for projects that are necessary to develop, operate or hold an eligible facility regardless of whether the property will be owned in fee simple by this State or applicable public body or whether the property will be leased according to the terms of an agreement executed pursuant to NRS 338.166.*

Sec. 16. *If no federal money is used on an eligible facility, the laws of this State govern. Notwithstanding any other provision of NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, if federal money is used on an eligible facility and applicable federal laws conflict with NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, or require provisions or procedures inconsistent with those statutes, the applicable federal laws govern.*

Sec. 17. NRS 338.161 is hereby amended to read as follows:

338.161 ~~[As used in NRS 338.161 to 338.168, inclusive, unless the context otherwise requires, “transportation]~~ **“Transportation facility” means** ~~[a] any existing, enhanced, upgraded or new facility used or useful for the safe transport of persons, information or goods by one or more modes of transport, including, without limitation, a road, railroad, bridge, tunnel, overpass, [airport,] mass transit [facility,] , light rail, commuter rail, conduit, ferry, boat, vessel, intermodal or multimodal system, a system using autonomous technology, as defined in NRS 482A.025, and any rights-of-way necessary for the facility. The term includes:~~

1. *Related or ancillary facilities used or useful for providing, operating, maintaining or generating revenue for a transportation facility, including, without limitation, administrative buildings, structures, rest areas, maintenance yards and buildings, rail yards, rolling stock, storage facilities, ports of entry, vehicles, control systems, communication systems, information systems, energy systems, parking [facility for vehicles or similar commercial facility used for the support of or the transportation of persons or goods, including, without limitation, any] facilities and other related equipment or property [- that is] needed or used to [operate] support the transportation facility [- The term does not include a toll bridge or toll road.] or the transportation of persons, information or goods; and*

2. *All improvements, including equipment, necessary to the full utilization 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 and transportation facilities incidental to the project.

Sec. 18. NRS 338.162 is hereby amended to read as follows:

338.162 A public body may authorize a person to ***design, finance, lease, repair, acquire, extend, expand, plan, equip, replace,*** develop, construct, improve, maintain or operate, or any combination thereof, ~~the~~ ***an eligible*** facility pursuant to NRS 338.163 or 338.164.

Sec. 19. NRS 338.163 is hereby amended to read as follows:

338.163 1. A person may submit a request to a public body to ***design, finance, lease, repair, acquire, extend, expand, plan, equip, replace,*** develop, construct, improve, maintain or operate, or any combination thereof, ~~the~~ ***an eligible*** facility.

2. The request must be accompanied by the following information:

(a) A topographic map indicating the location of the ~~the~~ ***eligible*** facility.

(b) A description of the ~~the~~ ***eligible*** facility, including, without limitation, the conceptual design of the ~~the~~ ***eligible*** facility . ~~and all proposed interconnections with other transportation facilities.~~

(c) The projected total cost of the ~~the~~ ***eligible*** facility over its life and the proposed date for the development of or the commencement of the construction of, or improvements to, the ~~the~~ ***eligible*** facility.

(d) A statement setting forth the method by which the person submitting the request proposes to secure all property interests required for the ~~the~~ ***eligible*** facility. The statement must include, without limitation:

(1) The names and addresses, if known, of the current owners of any property needed for the ~~the~~ ***eligible*** facility;

(2) The nature of the property interests to be acquired; and

(3) Any property that the person submitting the request proposes that the public body condemn.

~~(e) Information relating to the current transportation plans, if any, of any governmental entity in the jurisdiction of which any portion of the transportation facility is located.~~

~~—(f)—~~ A list of all permits and approvals required for the development or construction of or improvement to the ~~the~~ ***eligible*** facility from local, state or federal agencies and a projected schedule for obtaining those permits and approvals.

~~[(g) A list of the facilities of any utility or existing transportation facility that will be crossed by the transportation facility and a statement of the plans of the person submitting the request to accommodate such crossings.~~

~~—(h)—~~ (f) A statement setting forth the general plans of the person submitting the request for financing and operating the ~~the~~ ***eligible*** facility, which must include, without limitation:

(1) A plan for the development, financing and operation of the ~~transportation~~ **eligible** facility, including, without limitation, an indication of the proposed sources of money for the development and operation of the ~~transportation~~ **eligible** facility, the anticipated use of such money and the anticipated schedule for the receipt of such money;

(2) A list of any assumptions made by the person about the anticipated use of the ~~transportation~~ **eligible** facility, including, without limitation, the fees that will be charged for the use of the ~~transportation~~ **eligible** facility, and a discussion of those assumptions;

(3) The identification of any risk factors identified by the person that are associated with developing, constructing or improving the ~~transportation~~ **eligible** facility and the plan for addressing those risk factors;

(4) The identification of any local, state or federal resources that the person anticipates requesting for development and operation of the ~~transportation~~ **eligible** facility, including, without limitation, an anticipated schedule for the receipt of those resources and the effect of those resources on any statewide or regional program for the improvement of transportation; and

(5) The identification and analysis of any costs or benefits associated with the proposed facility, performed by a professional engineer who is licensed pursuant to chapter 625 of NRS.

~~(f)~~ (g) The names and addresses of the persons who may be contacted for further information concerning the request.

~~(g)~~ (h) Any additional material and information that the public body may request.

3. If the eligible facility is a transportation facility, the request must also include:

(a) Information relating to the current transportation plans, if any, of any governmental entity in the jurisdiction of which any portion of the transportation facility is located.

(b) A list of the facilities of any utility or existing transportation facility that will be impacted by the transportation facility and a statement of the plans of the person submitting the request to accommodate such crossings.

Sec. 20. NRS 338.164 is hereby amended to read as follows:

338.164 If a public body receives a request regarding ~~a transportation~~ **an eligible** facility pursuant to NRS 338.163 and the public body determines that the ~~transportation~~ **eligible** facility serves a public purpose, the public body may request other persons to submit proposals to **design, finance, lease, repair, acquire, extend, expand, plan, equip, replace,** develop, construct, improve, maintain or operate, or any combination thereof, the ~~transportation~~ **eligible** facility.

Sec. 21. NRS 338.166 is hereby amended to read as follows:

338.166 1. A public body may approve a request , ~~or~~ proposal **or other submission** submitted pursuant to NRS 338.163 or 338.164 **or section 10 of this act** if the public body determines that the ~~transportation~~ **eligible**

facility serves a public purpose. In determining whether the ~~transportation~~ **eligible** facility serves a public purpose, the public body shall consider whether:

(a) There is a public need for the type of ~~transportation~~ **eligible** facility that is proposed;

(b) ~~The~~ **If the eligible facility is a transportation facility, the** proposed interconnections between the transportation facility and existing transportation facilities and the plans of the person submitting the request for the operation of the transportation facility are reasonable and compatible with any statewide or regional program for the improvement of transportation and with the transportation plans of any other governmental entity in the jurisdiction of which any portion of the transportation facility will be located;

(c) The estimated cost of the ~~transportation~~ **eligible** facility is reasonable in relation to similar ~~transportation~~ facilities, as determined by an analysis of the cost performed by a professional engineer who is licensed pursuant to chapter 625 of NRS;

(d) The plans of the person submitting the request will result in the timely development or construction of, or improvement to, the ~~transportation~~ **eligible** facility or its more efficient operation;

(e) The plans of the person submitting the request contain any penalties for the failure of the person submitting the request to meet any deadline which results in the untimely development or construction of, or improvement to, the ~~transportation~~ **eligible** facility or failure to meet any deadline for its more efficient operation; and

(f) The long-term quality of the ~~transportation~~ **eligible** facility will meet a level of performance established by the public body over a sufficient duration of time to provide value to the public.

2. In evaluating a request, ~~for~~ proposal **or other submission** submitted pursuant to NRS 338.163 or 338.164, **or section 10 of this act**, the public body may consider internal staff reports prepared by personnel of the public body who are familiar with the operation of similar ~~transportation~~ **eligible** facilities or the advice of outside advisors or consultants with relevant experience.

3. The public body shall ~~request that a person who submitted a request or proposal pursuant to NRS 338.163 or 338.164~~ furnish a copy of ~~the~~ **a** request, ~~for~~ proposal **or other submission submitted pursuant to NRS 338.163, 338.164 or section 10 of this act** to each governmental entity that has jurisdiction over an area in which any part of the ~~transportation~~ **eligible** facility is located. Within 30 days after receipt of such a request or proposal, the governmental entity shall submit in writing to the public body, for consideration by the public body, any comments that the governmental entity has concerning the ~~transportation~~ **eligible** facility and shall indicate whether the ~~transportation~~ **eligible** facility is compatible with any local, regional or statewide ~~transportation~~ plan or program that is applicable to the governmental entity.

4. A public body shall charge a reasonable fee to cover the costs of processing, reviewing and evaluating a request , ~~{or}~~ proposal *or other submission* submitted pursuant to NRS 338.163 or 338.164, *or section 10 of this act*, including, without limitation, reasonable fees for the services of an attorney or a financial or other consultant or advisor, to be collected before the public body accepts the request , ~~{or}~~ proposal *or other submission* for processing, review and evaluation.

5. The approval of a request , ~~{or}~~ proposal *or other submission* by the public body is contingent on the person who submitted the request , ~~{or}~~ proposal *or other submission* entering into an agreement with the public body. In such an agreement, the public body shall include, without limitation:

(a) Criteria that address the long-term quality of the ~~{transportation}~~ *eligible* facility.

(b) The date , *if any*, of termination of the authority and duties pursuant to NRS 338.161 to 338.168, inclusive, *and sections 2 to 16, inclusive, of this act* of the person whose request , ~~{or}~~ proposal *or other submission* was approved by the public body with respect to the ~~{transportation}~~ *eligible* facility and for the dedication of the ~~{transportation}~~ *eligible* facility to the public body . ~~{on that date.}~~

(c) Provision ~~{for the imposition}~~ by *which* the person whose request , ~~{or}~~ proposal *or other submission* was approved by the public body ~~{of such rates, fees or other charges as may be established from time to time by agreement of the parties for use of all or a portion of a transportation facility, other than a bridge or road.}~~ *expressly agrees that the person is prohibited from seeking injunctive or other equitable relief to delay, prevent or otherwise hinder the public body or any other jurisdiction from developing, constructing or maintaining any facility that was planned and that would or might impact the revenue that the person would or might derive from the facility developed under the agreement, except that the agreement may provide for reasonable compensation to the person for the adverse effect on user fee revenues resulting from the development, construction and maintenance of an unplanned revenue impacting facility.*

(d) A provision requiring all plans and specifications for any eligible facility constructed, operated or maintained pursuant to NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act to comply with state standards and any applicable federal standards.

(e) *If the eligible facility is a transportation facility, a provision requiring all user fee revenues generated from the transportation facility to be used for right-of-way acquisition, planning, design, construction, reconstruction, operation, maintenance and enforcement of transportation facilities within the same county in which the user fee revenues are generated, except to the extent such user fee revenues are otherwise pledged or allocated pursuant to the financial terms of an agreement entered into pursuant to NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.*

6. *In any agreement between a public body and a person whose request, proposal or other submission for an eligible facility pursuant to NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, was approved by the public body, the public body may also include provisions that:*

(a) Authorize the public body or the person to establish and collect user fees, rents, advertising and sponsorship charges, service charges or similar charges, including provisions related to traffic management strategies, if applicable.

(b) Specify technology to be used in the eligible facility.

(c) Establish circumstances under which the public body may receive all or a share of revenues from such charges.

(d) Govern enforcement of tolls, if applicable, including provisions for use of cameras or other mechanisms to ensure that users have paid tolls that are due and provisions that allow the person access to relevant databases for enforcement purposes.

(e) Authorize the public body to continue or cease collection of user charges, tolls, fares or similar charges after the end of the term of the agreement.

(f) Allow for payments to be made to the person, including, without limitation, availability payments or performance based payments.

(g) Allow the public body to accept payments of monies and share revenues with the person.

(h) Address how the person and public body will share management of the risks of the project.

(i) Specify how the person and public body will share development costs.

(j) Allocate financial responsibility for cost overruns.

(k) Establish the damages to be assessed for nonperformance.

(l) Establish performance criteria or incentives, or both.

(m) Address the acquisition of rights-of-way and other property interests that may be required, including provisions that address the exercise of eminent domain as provided in section 15 of this act.

(n) Establish recordkeeping, accounting and auditing standards to be used.

(o) For an eligible facility that reverts to public ownership, address responsibility for reconstruction or renovations that are required in order for the eligible facility to meet all applicable government standards upon reversion of the facility.

(p) Provide for patrolling and law enforcement on public facilities.

(q) Identify any specifications that must be satisfied.

(r) Require the person to provide performance and payment bonds ~~for~~ for design and construction pursuant to chapter 339 of NRS, surety bonds, if required by the public body, parent company guarantees, letters of credit or other acceptable forms of security or a combination of those.

(s) *Allow the public body to acquire real property that is needed for and related to the eligible facility, including acquisition by exchange for other real property that is owned by the public body.*

(t) *Allow the public body to sell or lease naming rights with regard to any eligible facility.*

7. *Notwithstanding any other provision of law, an eligible facility that is developed, operated or held by a person pursuant to an agreement pursuant to this section is exempt from all state and local ad valorem and property taxes that might otherwise apply.*

8. In connection with the approval of ~~the transportation~~ *an eligible* facility, the public body shall establish a date for the development of or the commencement of the construction of, or improvements to, the ~~transportation~~ *eligible* facility. The public body may extend the date from time to time.

Sec. 22. NRS 338.167 is hereby amended to read as follows:

338.167 A public body may contract with a person whose request or proposal *submitted pursuant to NRS 338.163 or 338.164* is approved pursuant to NRS 338.166 for ~~transportation~~ services to be provided by the ~~transportation~~ *eligible* facility in exchange for such payments for service and other consideration as the public body may deem appropriate.

Sec. 23. NRS 338.168 is hereby amended to read as follows:

338.168 The public body may take any action necessary to obtain federal, state or local assistance for ~~the transportation~~ *an eligible* facility that it approves and may enter into any contracts required to receive such assistance. The public body shall, by resolution, determine if it serves the public purpose for all or a portion of the costs of the ~~transportation~~ *eligible* facility to be paid, directly or indirectly, from the proceeds of a grant or loan made by the local, state or Federal Government or any agency or instrumentality thereof.

Sec. 24. NRS 338.1711 is hereby amended to read as follows:

338.1711 1. Except as otherwise provided in this section and NRS 338.161 to ~~338.16995,~~ *338.168*, inclusive, *and sections 2 to 16, inclusive, of this act*, a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds \$100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body has approved the use of a design-build team for the design and construction of the public work and the public work has an estimated cost which exceeds \$5,000,000.

Sec. 25. 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 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. 26. This act becomes effective on July 1, 2017.

Assemblyman Carrillo moved the adoption of the amendment.

Remarks by Assemblyman Carrillo.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 470.

Bill read second time and ordered to third reading.

Senate Bill No. 472.

Bill read second time and ordered to third reading.

Senate Bill No. 492.

Bill read second time and ordered to third reading.

Senate Bill No. 509.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Benitez-Thompson moved that for the balance of the session, all rules be suspended, reading so far had considered first or second reading, as appropriate, and all measures reported out of committee without second reading be declared emergency measures under the constitution and placed on General File.

Motion carried.

Assemblywoman Benitez-Thompson moved that for the balance of the session, all bills reported out of committee with amendment be placed at the top of General File.

Motion carried.

Assemblywoman Benitez-Thompson moved to dispense with the reprinting of all measures for the balance of the session.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bill No. 206; Senate Bills Nos. 65, 468, 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 Senate Bills Nos. 232, 260, 337, 406, 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 rereferred Senate Joint Resolution No. 1, 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 Government Affairs, to which were referred Senate Bills Nos. 10, 12, 250, 282, 397, 471, 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 Senate Bill No. 56, 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 Senate Bills Nos. 79, 407, 477, 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 Senate Bill No. 136, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Human Services, to which were referred Senate Bills Nos. 71, 253, 274, 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 Senate Bills Nos. 291, 481, 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 Senate Bills Nos. 169, 287, 409, 432, 433, 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. 430, 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 Senate Bill No. 144, 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 Senate 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.

HEIDI SWANK, *Chair*

Mr. Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 492, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which were referred Senate Bills Nos. 519, 525, 526, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 106, 303, 327, 366, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

Also, your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 402, 421, 428, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 472, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

GENERAL FILE AND THIRD READING

Assembly Bill No. 175.

Bill read third time.

The following amendment was proposed by Assemblyman Frierson:

Amendment No. 903.

AN ACT relating to employment; prescribing certain 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:

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 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:

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, an employer ~~provides~~:

1. 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:*~~

~~*(a) At least one health insurance plan that provides:*~~

(1) Coverage for services in the following categories and the items and services covered within the following categories:

- (I) Ambulatory patient services;
- (II) Emergency services;
- (III) Hospitalization;
- (IV) Maternity and newborn care;
- (V) Mental health and substance use disorder services, including, without limitation, behavioral health treatment;
- (VI) Prescription drugs;
- (VII) Rehabilitative and habilitative services and devices;
- (VIII) Laboratory services;
- (IX) Preventive and wellness services and chronic disease management;
- (X) Pediatric services, including, without limitation, oral and vision care; and
- (XI) Any other health care service or coverage level required to be included in an individual or group health insurance plan pursuant to any applicable provision of chapter 689A or 689B of NRS; and

(2) Provides a level of coverage that is designed to provide benefits that are actuarially equivalent to 60 percent of the full actuarial value of the benefits provided under the plan; or

(b) 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)]~~ (1) The Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.; or

~~[(b)]~~ (2) The provisions of the Internal Revenue Code ~~f-7~~; and

2. Does not provide health benefits as described in Section 16 of Article 15 of the Nevada Constitution if the employer makes available to the employee and the employee's dependents a hospital-indemnity insurance plan or fixed-indemnity insurance plan unless the employer separately makes available to the employee and the employee's dependents at least one health insurance plan that complies with the requirements of subsection 1.

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

Assemblywoman Benitez-Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 405.

Bill read third time.

Remarks by Assemblymen Brooks and Carlton.

ASSEMBLYMAN BROOKS:

Assembly Bill 405 creates a Renewable Energy Bill of Rights that applies to each natural person who is a resident of Nevada. The bill also creates the contractual requirements for an agreement for the lease or purchase of a distributed generation system and a power purchase agreement. It establishes the minimum warranty requirements for an agreement concerning a distributed generation system. Failure to comply with these provisions constitutes a deceptive trade practice and consumer fraud.

Assembly Bill 405 also makes changes to net metering provisions in the law. The bill requires a utility to file a request with the Public Utilities Commission of Nevada to establish an optional time-variant rate schedule for customers. It also requires a utility to impose a net metering adjustment charge on each customer-generator who accepts the offer of utility for net metering and establishes the adjustment charges, which are tiered based on the amount of cumulative installed capacity and peak demand for electricity in this state. Further, Assembly Bill 405 sets forth the procedures for determining the peak demand for electricity for the previous calendar year and repeals provisions that had established a new net metering tariff pursuant to Senate Bill 374 of the 2015 Legislature.

ASSEMBLYWOMAN CARLTON:

I would like to ask my colleague from District 10 to make sure that something is on the record. A lot of discussion on the consumer protection portion of this was centered around a private right of action so that it would not have to go through the normal channels. Consumers themselves would have the right to pursue recourse. Also included was the Recovery Fund. I just want to make sure that it is clear to everyone and on the record of legislative intent that those do not bar each other—that the consumer can have a private right of action and also go to the Recovery Fund. It is not either/or; it is and.

ASSEMBLYMAN BROOKS:

Section 21 of the bill establishes that any violation of sections 2 through 20 makes the Nevadan, the natural person, have all of the rights under NRS 41.600 for consumer fraud as well as having the ability to claim against the contractors' Recovery Fund.

Roll call on Assembly Bill No. 405:

YEAS—38.

NAYS—Daly, Hansen—2.

EXCUSED—Ellison, Hambrick—2.

Assembly Bill No. 405 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 471.

Bill read third time.

Remarks by Assemblywoman Jauregui.

ASSEMBLYWOMAN JAUREGUI:

Section 21 of the bill establishes that any violation of sections 2 through 20 makes the Nevadan, the natural person, have all of the rights under NRS [*Nevada Revised Statutes*] 41.600 for consumer fraud as well as having the ability to claim against the contractors recovery fund.

Roll call on Assembly Bill No. 471:

YEAS—40.

NAYS—None.

EXCUSED—Ellison, Hambrick—2.

Assembly Bill No. 471 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 37.

Bill read third time.

Remarks by Assemblyman Carrillo.

ASSEMBLYMAN CARRILLO:

Senate Bill 37 makes various changes relating to the issuance and renewal of license plates commemorating the 150th anniversary of Nevada's admission into the Union. The bill clarifies that the Department of Motor Vehicles [DMV] may no longer issue this commemorative license plate. Senate Bill 37 also removes the prohibition on the DMV to charge the \$20 fee for renewal of the commemorative license plates after October 31, 2016, and it requires this money to be divided equally between the Division of Museums and History of the Department of Tourism and Cultural Affairs and the Division of State Parks of the State Department of Conservation and Natural Resources for educational and preservation projects.

This bill is effective on July 1, 2017.

Roll call on Senate Bill No. 37:

YEAS—40.

NAYS—None.

EXCUSED—Ellison, Hambrick—2.

Senate Bill No. 37 having received a two-thirds majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 81.

Bill read third time.

Remarks by Assemblywoman Jauregui.

ASSEMBLYWOMAN JAUREGUI:

Senate Bill 81 revises existing law to eliminate state-chartered savings and loan associations and instead provide for the creation, operation, and oversight of state-chartered savings banks. Specifically, the bill converts each savings and loan association and any other depository institution chartered under Chapter 673 of the *Nevada Revised Statutes* into a savings bank. Each such converted entity has the same powers, privileges, immunities, and exceptions as a savings bank. Additionally, the bill establishes various organizational, operational, and regulatory provisions for savings banks in a manner generally consistent with the existing provisions for a savings and loan association.

The Commissioner of Financial Institutions must immediately issue a savings bank charter to each converted entity. An entity is prohibited from carrying on the business of a savings bank without being incorporated as a state-chartered savings bank.

The bill authorizes a savings bank to become a member of the Federal Reserve System and provides that a savings bank that becomes a member has the powers granted to member banks under the Federal Reserve Act. A savings bank that becomes a member of the Federal Reserve System remains subject to supervision by the Division of Financial Institutions, and information concerning the affairs of the savings bank may be shared with the Board of Governors of the Federal Reserve System.

Roll call on Senate Bill No. 81:

YEAS—40.

NAYS—None.

EXCUSED—Ellison, Hambrick—2.

Senate Bill No. 81 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 165.

Bill read third time.

Remarks by Assemblyman Carrillo.

ASSEMBLYMAN CARRILLO:

Senate Bill 165 defines, for the first time in *Nevada Revised Statutes*, the term “obesity” as a chronic disease. In addition, S.B. 165 requires the board of trustees in each school district in a county whose population is 100,000 or more, currently Clark and Washoe Counties, to measure the height and weight of a representative sample of pupils enrolled in grades 4, 7, and 10 in schools within the school district. The bill requires the Division of Public and Behavioral Health, Department of Health and Human Services, to compile a report of the results of the height and weight measurements by region and publish and disseminate the report. A copy must be submitted to the superintendent of each school district in a county whose population is 100,000 or more. The Division must also submit an annual report regarding obesity to the Nevada Legislature.

This measure is effective on July 1, 2017.

Roll call on Senate Bill No. 165:

YEAS—29.

NAYS—Paul Anderson, Edwards, Hansen, Kramer, Krasner, Marchant, McArthur, Pickard, Titus, Wheeler, Woodbury—11.

EXCUSED—Ellison, Hambrick—2.

Senate Bill No. 165 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 171.

Bill read third time.

Remarks by Assemblywoman Tolles.

ASSEMBLYWOMAN TOLLES:

Senate Bill 171 requires a retail community pharmacy to post in a conspicuous place on the premises of the pharmacy or provide upon request written instructions for safely disposing of unused drugs.

This bill is effective on October 1, 2017.

Roll call on Senate Bill No. 171:

YEAS—40.

NAYS—None.

EXCUSED—Ellison, Hambrick—2.

Senate Bill No. 171 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 308.

Bill read third time.

Remarks by Assemblyman Watkins.

ASSEMBLYMAN WATKINS:

Senate Bill 308 increases the minimum amount of coverage that must be provided by a policy of motor vehicle insurance.

Roll call on Senate Bill No. 308:

YEAS—32.

NAYS—Paul Anderson, Benitez-Thompson, Carrillo, Hansen, Krasner, Neal, Oscarson, Titus—8.

EXCUSED—Ellison, Hambrick—2.

Senate Bill No. 308 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 376.

Bill read third time.

Remarks by Assemblywoman Miller.

ASSEMBLYWOMAN MILLER:

Senate Bill 376 authorizes a court, upon a showing of good cause, to extend from 90 days to 180 days after the death of a person whose estate is in probate the period during which an agreement entered into by an apparent heir and an heir finder is void and unenforceable.

Roll call on Senate Bill No. 376:

YEAS—40.

NAYS—None.

EXCUSED—Ellison, Hambrick—2.

Senate Bill No. 376 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 396.

Bill read third time.

Remarks by Assemblymen Watkins and Ohrenschall.

Potential conflict of interest declared by Assemblyman Ohrenschall.

ASSEMBLYMAN WATKINS:

Senate Bill 396 creates a program for the growth and handling of industrial hemp and agricultural hemp seed that is separate from the existing agricultural hemp pilot research program. The bill establishes registration requirements for hemp growers, handlers, and producers through the Department of Agriculture; requires testing of hemp products by an independent laboratory; and allows existing marijuana establishments to acquire and use hemp in certain products.

ASSEMBLYMAN OHRENSCHALL:

I have a disclosure to make. Because we are considering Senate Bill 396, which proposes to make changes relating to medical marijuana and marijuana establishments, I would like to advise this Chamber that my wife is 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 entities on issues affecting its members. I have sought the advice of our Legislative Counsel, and although Senate Bill 396 does not affect the members of the trade association that my wife is employed with any differently than other medical marijuana dispensary owners and medical marijuana cultivators, I am making this disclosure and I am abstaining from voting on Senate Bill 396 out of an abundance of caution.

Roll call on Senate Bill No. 396:

YEAS—34.

NAYS—Hansen, Krasner, Marchant, McArthur, Wheeler—5.

NOT VOTING—Ohrenschall.

EXCUSED—Ellison, Hambrick—2.

Senate Bill No. 396 having received a two-thirds majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 416.

Bill read third time.

Remarks by Assemblymen Sprinkle and Ohrenschall.

Potential conflict of interest declared by Assemblyman Ohrenschall.

ASSEMBLYMAN SPRINKLE:

Senate Bill 416 authorizes a medical marijuana establishment, an association of medical marijuana establishments, or a joint committee consisting of representatives of one or more medical marijuana establishments and a labor organization to propose and enter into an agreement to carry out an apprenticeship program for medical marijuana establishment agents.

ASSEMBLYMAN OHRENSCHALL:

I have a disclosure to make. Because we are considering Senate Bill 416, which proposes to make changes relating to medical marijuana and marijuana establishments, I would like to advise this Chamber that my wife is 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 entities on issues affecting its members. I have sought the advice of our Legislative Counsel, and although Senate Bill 416 does not affect the members of the trade association that my wife is employed with any differently than other medical marijuana dispensary owners and medical marijuana cultivators, I am making this disclosure and I am abstaining from voting on Senate Bill 416 out of an abundance of caution.

Roll call on Senate Bill No. 416:

YEAS—26.

NAYS—Paul Anderson, Edwards, Hansen, Kramer, Krasner, Marchant, McArthur, Oscarson, Pickard, Titus, Tolles, Wheeler, Woodbury—13.

NOT VOTING—Ohrenschall.

EXCUSED—Ellison, Hambrick—2.

Senate Bill No. 416 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 422.

Bill read third time.

Remarks by Assemblyman Carrillo.

ASSEMBLYMAN CARRILLO:

Senate Bill 422 provides that a regional planning coalition may designate the regional transportation commission to administer the comprehensive regional policy plan. The Southern Nevada Regional Planning Coalition Act is repealed. This bill is effective on July 1, 2017.

Roll call on Senate Bill No. 422:

YEAS—40.

NAYS—None.

EXCUSED—Ellison, Hambrick—2.

Senate Bill No. 422 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 429.

Bill read third time.

Remarks by Assemblyman Daly.

ASSEMBLYMAN DALY:

Senate Bill 429 authorizes a governing body of a city or county to establish by ordinance an urban agriculture zone for the purpose of promoting the development and operation of urban agriculture. This bill provides that a master plan may also include an urban agricultural element, which must include a plan to inventory any vacant lands owned by the city or county and blighted lands in the city or county to determine if such lands may be suitable for urban farming or gardening.

A governing body of a city or county is authorized to establish by ordinance the terms and conditions for the use of vacant or blighted land owned by the city or county for the purpose of community gardening.

I just want to say that I hope with the passage of this bill that we will see in our urban areas strawberry fields forever. I will say in honor of my colleague to the left, anything further I sayeth not.

Roll call on Senate Bill No. 429:

YEAS—40.

NAYS—None.

EXCUSED—Ellison, Hambrick—2.

Senate Bill No. 429 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 434.

Bill read third time.

Remarks by Assemblyman Carrillo.

ASSEMBLYMAN CARRILLO:

Senate Bill 434 requires the city councils of Reno and Sparks to appoint the City Attorney. The City Attorney serves under the direction and supervision of the City Council and may be removed by a majority vote of the City Council at any time. This bill is effective on July 1, 2017.

Roll call on Senate Bill No. 434:

YEAS—22.

NAYS—Paul Anderson, Daly, Edwards, Hansen, Kramer, Krasner, Marchant, McArthur, McCurdy, Neal, Ohrenschall, Oscarson, Pickard, Spiegel, Titus, Tolles, Wheeler, Woodbury—18.

EXCUSED—Ellison, Hambrick—2.

Senate Bill No. 434 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 437.

Bill read third time.

Remarks by Assemblyman Brooks.

ASSEMBLYMAN BROOKS:

Senate Bill 437 changes the name of the State Board of Physical Therapy Examiners to the Nevada Physical Therapy Board. The measure also revises the composition and duties of the Board. The Board must also adopt regulations prescribing the activities a physical therapist technician may perform only under the immediate supervision of a physical therapist.

The measure also combines similar provisions governing physical therapists and physical therapist assistants. The bill also revises the way the Board can seek an injunction against a person improperly holding himself or herself out as a licensed physical therapist or physical therapist assistant or practicing physical therapy.

Roll call on Senate Bill No. 437:

YEAS—39.

NAYS—None.

EXCUSED—Ellison, Hambrick, Yeager—3.

Senate Bill No. 437 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 447.

Bill read third time.

Remarks by Assemblywoman Monroe-Moreno.

ASSEMBLYWOMAN MONROE-MORENO:

Senate Bill 447 authorizes a registered voter with a physical disability or who is 65 years of age or older to submit a written request to the appropriate county or city clerk for receipt of an absent ballot for all elections at which the registered voter is eligible to vote. Upon receiving such a request, the voter will be issued an absent ballot for each election that is conducted after the date the written request is submitted. The measure specifies that if the county clerk receives the request, he or she must also inform the city clerk, and if the city clerk receives the request, he or she must inform the county clerk.

The bill also permits any registered voter to request and vote an absent ballot for all elections held during the year he or she requests the absent ballot. A written request for an absent ballot may be made by mail or via an approved electronic transmission.

Senate Bill 447 clarifies existing provisions relating to the written statement of a person who, at the request of the registered voter, either marks and signs an absent ballot or assists the voter in marking and signing his or her absent ballot. Finally, S.B. 447 provides that if a requester of a permanent absentee ballot becomes inactive or is removed from the voter rolls at some point after the request is made, the county clerk shall no longer mail that voter an absent ballot.

The measure is effective on July 1, 2017.

Roll call on Senate Bill No. 447:

YEAS—39.

NAYS—None.

EXCUSED—Ellison, Hambrick, Yeager—3.

Senate Bill No. 447 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 454.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

ASSEMBLYMAN OHRENSCHALL:

Senate Bill 454 enacts the Uniform Powers of Appointment Act, which codifies common law with regard to powers of appointment in estate planning. The bill provides definitions and sets forth provisions governing the creation, revocation, and amendment of powers of appointment; the exercise of a power of appointment; the disclaimer or release of a power of appointment; and the right of a creditor of a holder of a power of appointment with respect to property subject to that power.

This bill is effective on October 1, 2017.

Roll call on Senate Bill No. 454:

YEAS—39.

NAYS—None.

EXCUSED—Ellison, Hambrick, Yeager—3.

Senate Bill No. 454 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 462.

Bill read third time.

Remarks by Assemblywoman Bustamante Adams.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Senate Bill 462 authorizes a board of county commissioners to create a committee to review the existing general improvement districts in the county to determine if the districts should be continued, modified, consolidated, merged, or dissolved. Each committee is limited to reviewing not more than six general improvement districts in a county per year and must submit a report to the Legislative Commission on or before July 1 of each year.

Roll call on Senate Bill No. 462:

YEAS—39.

NAYS—None.

EXCUSED—Ellison, Hambrick, Yeager—3.

Senate Bill No. 462 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 466.

Bill read third time.

Remarks by Assemblywoman Bustamante Adams.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Senate Bill 466 exempts a person licensed as an allopathic or osteopathic physician from registration under the provisions governing the State Board of Oriental Medicine. The bill provides that Board members serve at the pleasure of the Governor, which means the Governor may remove a member with or without cause. The bill increases the membership of the Board from five to seven members. Finally, the Board must submit a biannual report to the Sunset Subcommittee of the Legislative Commission containing certain information relating to the proceedings and duties of the Board.

Roll call on Senate Bill No. 466:

YEAS—39.

NAYS—None.

EXCUSED—Ellison, Hambrick, Yeager—3.

Senate Bill No. 466 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 469.

Bill read third time.

Remarks by Assemblymen Bilbray-Axelrod and Edwards.

ASSEMBLYWOMAN BILBRAY-AXELROD:

Senate Bill 469 reduces from 25 percent to 16.67 percent of the budgeted ending fund balance of a local government other than a school district the amount that must be excluded from collective bargaining negotiations and cannot be considered by a fact finder or arbitrator in determining the local government employer's ability to pay. This bill is effective on July 1, 2017.

ASSEMBLYMAN EDWARDS:

I rise today in opposition to Senate Bill 469. My district and those of many of my colleagues have a number of small municipalities. This legislation would have a very negative net impact on those smaller communities. Oftentimes those communities are still struggling to overcome the recent economic downturn. We need to keep in mind when legislating that not all Nevadans live in thriving urban areas. Many live in small towns or rural areas. Legislation that works for the big cities likely is not going to work in a place like Mesquite, Overton, or the Moapa Valley. I urge my colleagues to join me in voting no to protect these communities from the unintended fiscal harm.

Roll call on Senate Bill No. 469:

YEAS—26.

NAYS—Paul Anderson, Edwards, Hansen, Kramer, Krasner, Marchant, McArthur, Oscarson, Pickard, Titus, Tolles, Wheeler, Woodbury—13.

EXCUSED—Ellison, Hambrick, Yeager—3.

Senate Bill No. 469 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 473.

Bill read third time.

Remarks by Assemblyman Watkins.

ASSEMBLYMAN WATKINS:

Senate Bill 473 provides that an increased penalty for committing certain sexual offenses in the presence of a child under 18 years of age or a vulnerable person does not apply if the person committing the offense is under 18 years of age.

Roll call on Senate Bill No. 473:

YEAS—39.

NAYS—None.

EXCUSED—Ellison, Hambrick, Yeager—3.

Senate Bill No. 473 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 476.

Bill read third time.

Remarks by Assemblyman Pickard.

ASSEMBLYMAN PICKARD:

Senate Bill 476 requires certain members of the Commission for Common-Interest Communities and Condominium Hotels to not only be unit owners, but also reside in a unit within Nevada. This measure is effective on October 1, 2017.

Roll call on Senate Bill No. 476:

YEAS—39.

NAYS—None.

EXCUSED—Ellison, Hambrick, Yeager—3.

Senate Bill No. 476 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 480.

Bill read third time.

Remarks by Assemblywoman Joiner.

ASSEMBLYWOMAN JOINER:

Senate Bill 480 requires certain health care providers to notify a child welfare agency if the provider knows or has reasonable cause to believe that an infant is affected by a fetal alcohol spectrum disorder or prenatal substance abuse, regardless of whether the substance use was legal or illegal. The bill amends existing state law to align it with certain requirements of the federal Child Abuse Prevention and Treatment Act.

Roll call on Senate Bill No. 480:

YEAS—39.

NAYS—None.

EXCUSED—Ellison, Hambrick, Yeager—3.

Senate Bill No. 480 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 493.

Bill read third time.

Remarks by Assemblyman Brooks.

ASSEMBLYMAN BROOKS:

Senate Bill 493 eliminates the use of salary to determine which school administrators are to be excluded from membership in a bargaining unit and instead excludes from such membership any school district administrator above the rank of principal, regardless of salary.

Roll call on Senate Bill No. 493:

YEAS—39.

NAYS—None.

EXCUSED—Ellison, Hambrick, Yeager—3.

Senate Bill No. 493 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 499.

Bill read third time.

Remarks by Assemblywoman Krasner.

ASSEMBLYWOMAN KRASNER:

Senate Bill 499 clarifies that certain requirements of forest practices and procedures only apply to logging operations, including the requirement for obtaining a variance for the felling of trees within 200 feet from a body of water. The measure is effective on July 1, 2017.

Roll call on Senate Bill No. 499:

YEAS—38.

NAYS—None.

EXCUSED—Ellison, Hambrick, Joiner, Yeager—4.

Senate Bill No. 499 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 510.

Bill read third time.

Remarks by Assemblyman Wheeler.

ASSEMBLYMAN WHEELER:

Senate Bill 510 revises eligibility requirements for the Kinship Guardian Assistance Program. It eliminates the provision requiring a child to be eligible to receive maintenance payments pursuant to Part E of Title IV of the Social Security Act while residing with a relative for at least six months as a condition of receiving assistance. The bill also clarifies that the relative with whom the child resides must be a licensed provider of foster care.

Roll call on Senate Bill No. 510:

YEAS—38.

NAYS—None.

EXCUSED—Ellison, Hambrick, Joiner, Yeager—4.

Senate Bill No. 510 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 513.

Bill read third time.

Remarks by Assemblywoman Cohen.

ASSEMBLYWOMAN COHEN:

Senate Bill 513 increases the cap on the assessment for water distribution expenses where a system stream irrigates more than 200,000 acres of land from \$.30 to \$1 per acre-foot of water decreed.

Roll call on Senate Bill No. 513:

YEAS—34.

NAYS—Krasner, Marchant, McArthur, Titus—4.

EXCUSED—Ellison, Hambrick, Joiner, Yeager—4.

Senate Bill No. 513 having received a two-thirds majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 515.

Bill read third time.

Remarks by Assemblyman Wheeler.

ASSEMBLYMAN WHEELER:

Senate Bill 515 repeals the current requirement that all money received by the Administrator of the Securities Division of the Office of the Secretary of State as the result of an enforcement action be deposited in the State General Fund for credit to the Secretary of State's Operating General Fund Budget Account. Instead, this money is to be deposited with the State Treasurer for credit to the State General Fund for unrestricted use.

Roll call on Senate Bill No. 515:

YEAS—38.

NAYS—None.

EXCUSED—Ellison, Hambrick, Joiner, Yeager—4.

Senate Bill No. 515 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 311.

Bill read third time.

Remarks by Assemblyman Kramer.

ASSEMBLYMAN KRAMER:

Senate Bill 311 makes permanent the repeal of provisions requiring certain sellers of travel to register and deposit a security with the Consumer Affairs Division of the Department of Business and Industry. This bill is effective upon passage and approval.

Roll call on Senate Bill No. 311:

YEAS—38.

NAYS—None.

EXCUSED—Ellison, Hambrick, Joiner, Yeager—4.

Senate Bill No. 311 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Benitez-Thompson moved that Assembly Bills Nos. 52, 106, 206, 303, 327, 366, 402, 421, 428, 430, 472, and 492; Senate Bills Nos. 10, 12, 56, 65, 71, 79, 116, 136, 138, 144, 156, 162, 169, 194, 230, 232, 250, 253, 260, 268, 274, 282, 287, 291, 292, 322, 337, 369, 386, 397, 400, 406, 407, 409, 411, 432, 433, 468, 471, 477, 481, 519, 525, and 526; Senate Joint Resolutions Nos. 1, 4, 5, 8, 12, and 13 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 34, 57, 60, 61, 62, 65, 70, 89, 101, 105, 114, 128, 136, 145, 146,

154, 165, 173, 180, 190, 195, 199, 202, 209, 214, 228, 229, 231, 232, 245, 255, 262, 271, 310, 316, 317, 319, 335, 341, 392, 393, 425, 429, 435, 438, 439, 445, 455, 459, 465, and 466; Assembly Joint Resolutions Nos. 7, 9, 10, and 13; Senate Bills Nos. 2, 51, 75, 107, 108, 117, 122, 123, 133, 140, 141, 176, 182, 188, 195, 237, 240, 247, 252, and 256.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 350.

The following Senate amendment was read:

Amendment No. 653.

AN ACT relating to state employment; requiring certain state agencies to provide an employee orientation to new employees, to allow certain employee organizations to ~~participate in~~ **provide a presentation during** such an orientation or meet with a new employee under certain circumstances and to provide such an employee organization with certain information concerning new employees; requiring certain state agencies to allow certain employee organizations to meet with employees at certain locations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth various requirements concerning employment with a department, commission, board, bureau, office or other agency of the Executive Department of the State Government, with certain exceptions. (Chapter 284 of NRS; chapter 284 of NAC) **Section 2** of this bill requires such an employing state agency to provide an ~~in-person~~ orientation to a new employee during the employee's regular work hours within 30 days after the employee's date of hire or within a reasonable time thereafter. Additionally, **section 2** requires an employing state agency to allow an employee organization which has at least 100 members who make payments to the employee organization pursuant to payroll withholdings to give ~~to~~ **an in-person** presentation of at least 30 minutes during the orientation. The employee organization is authorized to designate a representative to attend the orientation during paid time. **Sections 2 and 3** of this bill require an employing state agency to provide such an employee organization with certain information concerning a newly hired employee and to allow such an employee organization to meet with an employee who is unable to ~~attend~~ **receive** the employee orientation within the required time.

Section 4 of this bill requires an employing state agency to allow such an employee organization to meet with an employee outside regular work hours or during breaks in designated areas on the premises of the employee's work location.

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 1.2 to 4, inclusive, of this act.

Sec. 1.2. As used in sections 1.2 to 4, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 1.4, 1.6 and 1.8 of this act have the meanings ascribed to them in those sections.

Sec. 1.4. "Employee organization" means an organization of any kind consisting of one or more units or groups that:

1. Has the improvement of the terms and conditions of employment of state employees as one of its purposes; and

2. Has at least 100 members who have amounts withheld from their salaries or wages for payment to the organization pursuant to NRS 281.129.

Sec. 1.6. "Employing state agency" means a department, commission, board, bureau, office or other agency of the Executive Department of the State Government to which this chapter applies.

Sec. 1.8. "State employee" means a person employed by an employing state agency.

Sec. 2. 1. Within 30 days after the date on which a state employee is hired or within a reasonable time thereafter, the employing state agency shall provide to the state employee an orientation during the regular work hours of the state employee which consists of:

(a) A presentation containing information related to employment with the employing state agency, including, without limitation:

~~[(a)]~~ (1) The personnel policies of the employing state agency;

~~[(b)]~~ (2) Any rules concerning ethics, conflicts of interest and civil service to which the state employee is subject; and

~~[(c)]~~ (3) Any benefits programs for which the state employee is eligible.

(b) A presentation by an employee organization, in person, of at least 30 minutes.

2. ~~The [orientation] presentation required by paragraph (a) of subsection 1 [must] may be conducted [in]:~~

~~(a) In person [and during the regular work hours of the state employee];~~

~~(b) By video conference; or~~

~~(c) Through a prerecorded video or electronic method.~~

3. ~~[The employing state agency shall allow an employee organization to make a presentation of at least 30 minutes during the orientation required by subsection 1.]~~ An employing state agency shall give ~~[the]~~ an employee organization notice of the date and time of ~~[the]~~ an orientation required by subsection 1 not later than 10 days before the orientation.

4. An employee organization may designate a state employee who is a member of the employee organization as a representative to attend the orientation required by subsection 1 on paid time. An employing state agency may not deny the representative the opportunity to attend the orientation required by subsection 1 unless the absence of the representative from work would significantly inhibit or disrupt the functioning of the employing state agency. If an employing state agency

denies the representative's attendance, the employee organization may designate another state employee who is a member of the employee organization as the representative.

5. Within 7 days after the date on which a state employee is hired, the employing state agency shall provide an employee organization with the name, job title, department, work ~~location,~~ telephone number and ~~home~~ work address of the state employee. The employing state agency shall comply with this subsection regardless of whether the state employee who is hired was previously employed by an employing state agency.

Sec. 3. An employing state agency shall provide an employee organization with the name and work location of any state employee who was unable to ~~attend~~ receive the orientation required by section 2 of this act within the period set forth in that section. The employing state agency shall allow the employee organization to meet with any such employee for at least 30 minutes during the regular work hours of the state employee to introduce the employee organization and explain its role and functions.

Sec. 4. An employing state agency shall allow an employee organization to meet with a state employee outside of or during breaks in regular work hours in areas at the state employee's work location designated by the employing state agency.

Sec. 5. (Deleted by amendment.)

Sec. 6. ~~[NRS 289.025 is hereby amended to read as follows:~~

~~*289.025 1. Except as otherwise provided in subsections 2 and 3 and NRS 239.0115, and section 2 of this act, the home address and any photograph of a peace officer in the possession of a law enforcement agency are not public information and are confidential.*~~

~~*2. The photograph of a peace officer may be released:*~~

~~*(a) If the peace officer authorizes the release; or*~~

~~*(b) If the peace officer has been arrested.*~~

~~*3. The home address of a peace officer may be released if a peace officer has been arrested and the home address is included in any of the following:*~~

~~*(a) A report of a 911 telephone call.*~~

~~*(b) A police report, investigative report or complaint which a person filed with a law enforcement agency.*~~

~~*(c) A statement made by a witness.*~~

~~*(d) A report prepared pursuant to NRS 432B.540 by an agency which provides child welfare services, which report details a plan for the placement of a child.*~~ **(Deleted by amendment.)**

Sec. 7. This act becomes effective on July 1, 2017.

Assemblyman Flores moved that the Assembly concur in the Senate Amendment No. 653 to Assembly Bill No. 350.

Remarks by Assemblyman Flores.

ASSEMBLYMAN FLORES:

The amendment provides that the new employee orientation may be conducted via videoconference or by prerecorded training video or electronic method. It also specifies that a state agency shall supply to an employee organization a new state employee's work address rather than his or her home address.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 142.

The following Senate amendment was read:

Amendment No. 672.

SUMMARY—Establishes provisions concerning children seeking federal status as special immigrant juveniles. (BDR ~~138-739~~ **1-739**)

AN ACT relating to children; requiring a court to enter an order setting forth certain findings that enable a child to apply for status as a special immigrant juvenile with the United States Citizenship and Immigration Services of the Department of Homeland Security upon a determination that evidence exists to support such findings; **authorizing a court to appoint or extend the appointment of a guardian of the person for a ward or proposed ward seeking such status in certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing federal law authorizes the issuance of an immigrant visa to a special immigrant upon satisfactory proof that the applicant is entitled to status as a special immigrant. (8 U.S.C. § 1204) Existing federal law defines the term "special immigrant" to include a juvenile immigrant who is present in the United States and: (1) has been declared dependent on a juvenile court or has been legally committed to, or placed under the custody of, an agency or department of a state or an individual or entity appointed by a state or juvenile court; (2) whose reunification with one or both of his or her parents is not viable due to abuse, neglect, abandonment or a similar basis found under state law; (3) for whom it has been determined in administrative or judicial proceedings that it would not be in his or her best interest to be returned to the previous country of nationality or last habitual residence of the child or his or her parents; and (4) who is granted status as a special immigrant juvenile by the Secretary of Homeland Security through the United States Citizenship and Immigration Services. (8 U.S.C. § 1101(a)(27)(J)) Existing federal regulations: (1) provide that a person is eligible for classification as a special immigrant if, in addition to satisfying other requirements, the person is less than 21 years of age and is unmarried; and (2) define the term "juvenile court" as a court located in the United States having jurisdiction under state law to make judicial determinations about the custody and care of juveniles. (8 C.F.R. § 204.11)

~~(This)~~ **Section 1 of this** bill authorizes the district court to make the factual findings necessary to enable a child to apply for status as a special immigrant juvenile with the United States Citizenship and Immigration Services of the

Department of Homeland Security at any time during ~~in a proceeding held in the district court or a division of the district court having jurisdiction to make judicial determinations regarding the custody and care of juveniles. This bill~~ **certain proceedings. Section 1** sets forth the factual findings necessary to enable a child to apply for such status and **;** ~~(1)~~ **requires the court to issue an order setting forth such findings upon a determination by the court that evidence exists to support such findings** ~~[. This bill]~~ **; and (2) prohibits the court from making any additional findings regarding the asserted, purported or perceived motivation of the child seeking status as a special immigrant juvenile or of the person requesting that the court make such findings. Section 1** also provides that any records containing information concerning the immigration status of such a child that are not otherwise confidential must be sealed and made available for inspection only by certain persons. ~~[This bill]~~ **Section 1** further requires the Supreme Court to adopt any rules and procedures necessary to implement the provisions of the section.

Section 2 of this bill provides that if a person includes in a petition filed or motion made in a guardianship proceeding a request that the court make the findings necessary to enable a child to apply for status as a special immigrant juvenile, the court may, in certain circumstances, appoint or extend the appointment of a guardian of the person for a ward or proposed ward seeking such status. Section 3 of this bill provides that such a guardianship is terminated on the date on which the ward reaches 21 years of age unless the ward petitions the court to terminate the guardianship before he or she reaches 21 years of age and the court grants the petition.

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

Section 1. Chapter ~~432B~~ **3** of NRS is hereby amended by adding thereto a new section to read as follows:

1. The district court has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act, 8 U.S.C. §§ 1101 et seq., and the regulations adopted pursuant thereto, and therefore may make the factual findings necessary to enable a child to apply for status as a special immigrant juvenile with the United States Citizenship and Immigration Services of the Department of Homeland Security, as described in 8 U.S.C. § 1101(a)(27)(J).

2. The factual findings set forth in subsection 3 may be made by the district court at any time during a proceeding held ~~in the district court or a division of the district court having jurisdiction to make judicial determinations regarding the custody and care of juveniles.~~ pursuant to chapter 62B, 125, 159 or 432B of NRS.

3. A person may ~~file~~ include in a petition ~~[with the district court requesting] filed or motion made pursuant to chapter 62B, 125, 159 or 432B of NRS a request~~ that the court make the following findings to enable a child to apply for status as a special immigrant juvenile with the United States Citizenship and Immigration Services:

(a) The child has been declared dependent on the court or has been legally committed to, or placed under the custody of, a state agency or department or a person appointed by the court;

(b) The reunification of the child with one or both of his or her parents was determined not to be viable because of abandonment, abuse ~~or~~ neglect ~~, abandonment~~ or a similar basis ~~or~~ under the laws of this State; and

(c) It is not in the best interests of the child to be returned to the previous country of nationality or last habitual residence of the child or his or her parents.

4. If the court determines that there is evidence to support the findings set forth in subsection 3, including without limitation, a declaration by the child who is the subject of the petition, the court shall issue an order setting forth such findings. The court shall include in the order the date on which the:

(a) Dependency, commitment or custody of the child was ordered; and

(b) Reunification of the child with one or both of his or her parents was determined not to be viable.

5. The court ~~may make~~ shall not:

(a) ~~Make any additional findings [that are supported by evidence upon the request of a party to] regarding the [proceeding. The] asserted, purported or perceived motivation of the child seeking status as a special immigrant juvenile is not admissible for the purpose of making any findings pursuant to this section, and the court shall not include] or the person requesting that the court make the findings set forth in subsection 3; or~~

(b) Include or reference any such asserted, purported or perceived motivation of any such person as a part of its findings pursuant to this section.

6. In any proceeding held regarding a petition filed pursuant to subsection 3, any records containing information concerning the immigration status of a child that are not otherwise confidential pursuant to any provision of law must be sealed and made available for inspection only by:

(a) The court;

(b) The child who is the subject of the proceeding and his or her attorney and guardian; and

(c) Any party to the proceeding and his or her attorney.

7. The Supreme Court shall adopt any rules and procedures necessary to implement the provisions of this section.

8. *As used in this section:*

(a) “Abandonment” has the meaning ascribed to “abandonment of a child” in NRS 128.012.

(b) “Abuse or neglect” has the meaning ascribed to “abuse or neglect of a child” in NRS 432B.020.

(c) “Child” means an unmarried person who is less than 21 years of age.

~~(b)~~ (d) “Special immigrant juvenile” means a person described in 8 U.S.C. § 1101(a)(27)(J).

Sec. 2. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a person includes a request that the court make the findings set forth in subsection 3 of section 1 of this act in a petition filed or motion made pursuant to this chapter, the court may appoint or extend the appointment of a guardian of the person for a ward or proposed ward seeking status as a special immigrant juvenile with the United States Citizenship and Immigration Services of the Department of Homeland Security if the ward or proposed ward:

(a) Is an unmarried person who is 18 years of age or older but less than 21 years of age; and

(b) Consents to the appointment or the extension of the appointment.

2. The appointment or the extension of the appointment of a guardian of the person pursuant to subsection 1 does not authorize the guardian to abrogate any rights that the ward or proposed ward may have pursuant to the laws of this State, including, without limitation, the right to make decisions regarding his or her medical treatment, education or residence, without the express consent of the ward or proposed ward.

Sec. 3. NRS 159.191 is hereby amended to read as follows:

159.191 1. ~~(A)~~ Except as otherwise provided in subsection 2, 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;

(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. If a court appoints or extends the appointment of a guardian of the person pursuant to section 2 of this act, the guardianship is terminated on the date on which the ward reaches 21 years of age, unless the ward petitions the court to terminate the guardianship before he or she reaches 21 years of age pursuant to NRS 159.1905 and the court grants the petition.

3. 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.}~~ **4.** 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.}~~ **5.** 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.}~~ **6.** 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. 2.}~~ **Sec. 4.** 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.

Assemblyman Yeager moved that the Assembly concur in the Senate Amendment No. 672 to Assembly Bill No. 142.

Remarks by Assemblyman Yeager.

ASSEMBLYMAN YEAGER:

The amendment revises provisions relating to applying for status as a special immigrant juvenile, including allowing the court to appoint a guardian for such a juvenile.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 254.

The following Senate amendment was read:

Amendment No. 704.

AN ACT relating to guardianships; authorizing ~~the assumption~~ **a court having jurisdiction of the guardianship of a ward to assume** jurisdiction of a trust of which ~~the~~ **the** ward is currently ~~an income~~ **a** beneficiary ~~by the court having jurisdiction of the guardianship of the ward~~ **who is receiving or is entitled to receive distributions** in certain circumstances; revising provisions relating to the filing of a verified inventory by a general or special guardian of the estate; **requiring a guardian of the estate to obtain court**

approval before submitting an irrevocable trust to the jurisdiction of the court in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a court having jurisdiction of a trust to transfer supervision of the trust to another court, upon petition by a trustee or beneficiary, when the convenience of certain persons makes a transfer desirable. (NRS 164.130) **Section 3** of this bill additionally authorizes such a court to transfer supervision of the trust to a district court having jurisdiction of the guardianship of a ward who is currently ~~an income~~ **a** beneficiary of the trust ~~for~~ **and is receiving or is entitled to receive distributions.**

Existing law requires a general or special guardian of the estate to make and file in a guardianship proceeding, not later than 60 days after the date of his or her appointment, a verified inventory of all of the property of a ward which comes to the possession or knowledge of the guardian. (NRS 159.085) **Section 2** of this bill specifies that such an inventory must include the existence of any trust of which the ward is **currently** a beneficiary ~~for~~ **who is receiving or is entitled to receive distributions.** **Section 1** of this bill provides that if such an inventory includes the existence of **such** a trust ~~for which the ward is currently an income beneficiary,~~ the trustee must be served with a copy of the inventory. **Section 1** authorizes the guardian or attorney of the ward ~~for any interested person~~ to demand ~~that~~ a copy of the trust and an accounting of the assets of the trust ~~be filed with the court having jurisdiction of the guardianship,~~ **from the trustee. If the trustee fails to comply with the demand within a certain period, section 1 authorizes the guardian or attorney of the ward to petition the court to assume jurisdiction of the trust.** **Section 1** ~~also provides that~~ **authorizes** the court ~~will~~ **to** assume jurisdiction of the trust if: (1) no objection to the court assuming jurisdiction of the trust is filed; or (2) the court does not find good cause as to why it should not ~~have~~ **assume** jurisdiction of the trust. **Section 1** further requires the trustee to file **a copy of the trust and an inventory accounting** of the assets of the trust with the court not later than 30 days after the court assumes jurisdiction of the trust or supervision of the trust is transferred pursuant to **section 3.**

Existing law requires a guardian of the estate to petition the court for an order authorizing the guardian to submit a revocable trust to the jurisdiction of the court in certain circumstances. (NRS 159.113) Section 2.5 of this bill additionally requires a guardian of the estate to petition the court for an order authorizing the guardian to submit an irrevocable trust to the jurisdiction of the court in such circumstances.

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 a new section to read as follows:

1. If the inventory filed pursuant to NRS 159.085 includes the existence of a trust of which the ward is currently ~~an income~~ a beneficiary ~~who is receiving or is entitled to receive distributions~~, the trustee must be served with a copy of the inventory for the purpose of alerting the trustee that the court may assume jurisdiction of the trust pursuant to this section or that supervision of the trust may be transferred to the court pursuant to NRS 164.130.

2. The guardian of the ward ~~or~~ attorney of the ward ~~for any interested person~~ may demand ~~that~~ a copy of the trust and an accounting of the assets of the trust ~~be filed with the court~~ from the trustee. Such a demand must be served on the trustee and all parties and include notice that ~~failure to comply with the demand may result in the court may assume~~ assuming jurisdiction of the trust ~~pursuant to this section.~~

3. If the trustee fails to comply with the demand made pursuant to subsection 2 within 30 days after being served with the demand, the guardian of the ward or attorney of the ward may petition the court to assume jurisdiction of the trust. Such a petition must be served on the trustee and all parties.

4. Not later than 30 days after being served with a ~~demand~~ petition pursuant to subsection ~~2, a party~~ 3, the trustee may object to the court assuming jurisdiction of the trust. ~~If~~ Except as otherwise provided in subsection 3 of NRS 164.045, if no objection is filed or if the court does not find good cause as to why it should not ~~have~~ assume jurisdiction of the trust, the court ~~will~~ may assume jurisdiction of the trust.

~~4.~~ 5. Not later than 30 days after the court assumes jurisdiction of the trust pursuant to this section or supervision of the trust is transferred to the court pursuant to NRS 164.130, the trustee shall file a copy of the trust and an ~~inventory~~ accounting of the assets of the trust with the court.

~~5.~~ 6. The provisions of chapters 162 to 167, inclusive, of NRS apply to a trust of which a court has jurisdiction.

~~6. As used in this section, "income beneficiary" has the meaning ascribed to it in NRS 164.785.~~

Sec. 2. 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 ~~including, without limitation, the existence of any trust of which the ward is a beneficiary,~~ which comes to the possession or knowledge of the guardian ~~including, without limitation, the existence of any trust of which the ward is currently a beneficiary who is receiving or is entitled to receive distributions.~~

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. 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. 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 ward appraised as provided in NRS 159.0865 and 159.305.

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 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. 2.5. 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 or an irrevocable 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. 3. NRS 164.130 is hereby amended to read as follows:

164.130 ~~164.130~~ Upon petition by any trustee or beneficiary, a court having jurisdiction of a trust may transfer supervision of the trust to ~~any~~:

~~(a)~~ 1. Any district court within the State, or to any court outside Nevada which accepts jurisdiction over the trust, when the convenience of

beneficiaries, trustees, attorneys or other interested persons makes a transfer desirable.

~~[(b)] 2. A district court within this State having jurisdiction of the guardianship of a ward who is currently [an income] a beneficiary of the trust and is receiving or is entitled to receive distributions, if the district court has not assumed jurisdiction pursuant to section 1 of this act.~~

~~[2. As used in this section, "income beneficiary" has the meaning ascribed to it in NRS 164.785.]~~

Assemblyman Yeager moved that the Assembly concur in the Senate Amendment No. 704 to Assembly Bill No. 254.

Remarks by Assemblyman Yeager.

ASSEMBLYMAN YEAGER:

The amendment changes "ward" to "protected person," revises language concerning disbursements from a trust providing that certain persons may petition the court to assume jurisdiction of the trust, and adds an irrevocable trust to the trusts that may be submitted to the court's jurisdiction in certain circumstances.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 314.

The following Senate amendment was read:

Amendment No. 707.

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, revises provisions relating to the manner in which such money is held 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 ~~6(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 ~~{};~~ **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 ~~{} 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~~ 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 ~~[]~~ 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:

(1) 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~~ ***Except as otherwise provided in subsection 13, 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. **Nothing in this section exempts any real or personal property from any statute of this State that authorizes the recovery of money owed to the Department of Health and Human Services as a result of the payment of benefits from Medicaid.**

14. 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 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 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 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; ~~[or]~~

(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 ~~[-] 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 ~~[-]~~, *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 ~~[-]~~:

(1) *The court* determines a bond is unnecessary ~~[-]~~; *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]~~ **120** days after ~~[appointment,]~~ **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 ~~[]~~ *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 ~~[. Except]~~ to the extent ~~[the no-contest clause in the trust is vague or ambiguous.]~~ *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; ~~or~~

(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 ~~;~~ **; 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:

~~{(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 ~~[-]~~ unless the trust specifically authorizes the trustee to make that distribution ~~[-]~~ ***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 ~~if~~ *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~~ *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.]~~ **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.]~~ **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 [a] 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.

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:

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 that the Assembly concur in the Senate Amendment No. 707 to Assembly Bill No. 314.

Remarks by Assemblyman Yeager.

ASSEMBLYMAN YEAGER:

The amendment clarifies provisions relating Medicaid benefits and conforms a provision regarding heir finders.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 3:03 p.m.

ASSEMBLY IN SESSION

At 3:05 p.m.

Mr. Speaker presiding.

Quorum present.

Assemblyman Yeager withdrew the motion that the Assembly concur in the Senate Amendment No. 707 to Assembly Bill No. 314.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to the following students, teachers, and chaperones from John W. Bonner Elementary School: Gavin Brown, Lauren Clark, Emma Daniels, Diego Diaz, John Dorcey, Natasha Flore, Matthew Frankot, Brodie Millsop, Jacey Phillips, Scarlett Pignatello, Logan Santos, Alexander Schmidt, Fynn Wedl, Jack Wisan, Delylah Wright, Lianxi Yang, Jayden Jackson, Maura Jaros, Slade Knoch, Kevin Lee, Alyson Holden, Anthony Howard, Isabella Soto, Christiana Stefanovsky, Kailee Barrera, Jade Douglas, Hakan Rudd, Ty Yamachika, Anya Fainer, Sara Kelemen, Gabriella Moss, Alexa Nunez-Alvarez, Jaidon O'Neal, Hailey Colman, Dana Dabney, Isabella Delibassis, Morgan Drew-Flanagan, Dylan Feeny, Eliana Gewelber-Williams, Justus Giovacchini, Nicholas Laines, Nathaniel Lovering, Addison Lynch, Jaelynn Olvera, Tristan Jeannest, Gavin Tucker, Brooke Webb, Justin Christensen, Noah Altman, Aubreanah Madrid Tabet, Saldon Song, Robert Taylor, Skye Meznarich, Xuechen Qu, Jackson Gould, Emma Herpin, Xander Simms, Abbe Rodriguez, Lucas Turner, Moriah Wayman, Ansley Yousfi, Brannon Serna, Sophia Antonio, Tatum Baker, Bailey Ballejos, Adrian Carlo Calazan, Riley Char, Aaron Ching, Katie Davis, Martin Dimov, Gia Gencarelli, Tatiana Hatem, Ethan Hidalgo, Alexander Hosszu, Quinn Johnson, Dylan Khoury, Grace Laguna, Princillia Hina Lundmark Then, Saffiya Mackelprang, Christian Schuck, Joleen Schwalb, Emmy Waid, Caymen Wimmer, Joseph Nicci, Andressa Nival, and Werner Randon.

On request of Assemblywoman Jauregui, the privilege of the floor of the Assembly Chamber for this day was extended to Mary Dungan and the following students, teachers, and chaperones from John R. Hummel Elementary School: Emily Nguyen, Trinity Cross, Justin Perez-Avil, Dakota Garcia, Capri Moser, Aden Behrns, Miranda Martinez, Jaelynn Medina, Pax Haven Davila, Mario Godoy, Gabrielle Collette, Megan Pedot, Zayden Nave, Sehaj Natt, Hayden Legg, Liberty Macias Fitzgerald, Thomas Lauguico, Ryan Lee, and Tamanah Babee.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to William Contine.

On request of Assemblyman Sprinkle, the privilege of the floor of the Assembly Chamber for this day was extended to Ashley Graham.

On request of Assemblyman Thompson, the privilege of the floor of the Assembly Chamber for this day was extended to Janise Wiggins.

Assemblywoman Benitez-Thompson moved that the Assembly adjourn until Wednesday, May 24, 2017, at 11:30 a.m.

Motion carried.

Assembly adjourned at 3:09 p.m.

Approved:

JASON FRIERSON
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly