

**THE ONE HUNDRED AND THIRD DAY**

---

CARSON CITY (Friday), May 19, 2017

Senate called to order at 11:55 a.m.

President Hutchison presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Brennan Wilson.

I pray today for the Nevada State Senate. I recognize that each Senator and elected official has been placed in their office by You, to carry out Your purposes. Romans 13:3-4 says, *For rulers are not a cause of fear for good behavior, but for evil. Do you want to have no fear of authority? Do what is good, and you will have praise from the same; for it is a minister of God to you for good.*

You have placed these individuals in their offices to be ministers for good. So, Lord, I pray that You help these officials to make wise decisions that would be used for good.

I pray this be the power of my God, Jesus Christ, who raised Himself from the dead.

AMEN.

Pledge of Allegiance to the Flag.

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

## REPORTS OF COMMITTEES

*Mr. President:*

Your Committee on Commerce, Labor and Energy, to which were referred Senate Joint Resolution No. 6; Assembly Bill No. 458, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

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

KELVIN ATKINSON, *Chair**Mr. President:*

Your Committee on Education, to which were referred Assembly Bills Nos. 117, 196, 275, 312, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MOISES DENIS, *Chair**Mr. President:*

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

PAT SPEARMAN, *Chair**Mr. President:*

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 26, 125, 177, 218, 235, 268, 411, 412, 444, 453, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Assembly Bills Nos. 254, 314, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which was re-referred Senate Bill No. 361, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TICK SEGERBLOM, *Chair*

*Mr. President:*

Your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 350, 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 Concurrent Resolution No. 4, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and be adopted as amended.

NICOLE J. CANNIZZARO, *Chair*

*Mr. President:*

Your Committee on Natural Resources, to which was referred Assembly Bill No. 138, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

YVANNA D. CANCELA, *Chair*

*Mr. President:*

Your Committee on Senate Parliamentary Rules and Procedures has approved the consideration of: Amendment No. 818 to Senate Bill No. 368.

KELVIN ATKINSON, *Chair*

#### MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 18, 2017

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 2, 51, 75, 107, 117, 133, 140, 141, 176, 182, 188, 195, 237, 240, 247, 252; Assembly Bill No. 483.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 110, 278, 447, 473.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 33, Amendment No. 684; Senate Bill No. 50, Amendment No. 717; Senate Bill No. 91, Amendment No. 712, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 677 to Assembly Bill No. 57; Senate Amendment No. 671 to Assembly Bill No. 214; Senate Amendment No. 737 to Assembly Bill No. 255.

CAROL AIELLO-SALA

*Assistant Chief Clerk of the Assembly*

#### WAIVERS AND EXEMPTIONS

##### NOTICE OF EXEMPTION

May 18, 2017

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the exemption of: Senate Bills Nos. 146, 150.

CINDY JONES

*Fiscal Analysis Division*

#### WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Senator Ford

For: Senate Bill No. 344 and Assembly Bill No. 21

To Waive:

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

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

Has been granted effective: Friday, May 19, 2017.

AARON D. FORD  
*Senate Majority Leader*

JASON FRIERSON  
*Speaker of the Assembly*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Ford has approved the addition of Senator Harris as a primary sponsor of Senate Bill No. 267.

Senator Cancela moved that Senate Bill No. 265 be taken from the General File and placed on the General File, third Agenda.

Motion carried.

Senator Segerblom moved that Assembly Bill No. 26 be taken from the General File, and placed on the Secretary's desk.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 110.

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

Motion carried.

Assembly Bill No. 278.

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

Motion carried.

Assembly Bill No. 447.

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

Motion carried.

Assembly Bill No. 473.

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

Motion carried.

Assembly Bill No. 483.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Segerblom moved that the action whereby Assembly Bill No. 26 was taken from the General File and placed on the Secretary's desk be rescinded.

Motion carried.

Senator Segerblom moved that Assembly Bill No. 36 be taken from the General File and placed on the Secretary's desk.

Motion carried.

## GENERAL FILE AND THIRD READING

Senate Bill No. 203.

Bill read third time.

Remarks by Senator Segerblom.

Senate Bill No. 203 expresses the intent of the Nevada Legislature that Nevada statutes concerning corporate law must not be supplanted or modified by the law of other jurisdictions. The bill also provides that in order to establish liability to stockholders or creditors on the part of a director or officer of a domestic corporation, a breach of fiduciary duty accompanied by intentional misconduct, actual fraud or a knowing violation of law is necessary to rebut the presumption that the director or officer is not liable. The bill also clarifies the powers a director or officer may exercise under certain circumstances and revises the elements that a director or officer may take into account in making a business decision.

Roll call on Senate Bill No. 203:

YEAS—21.

NAYS—None.

Senate Bill No. 203 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 488.

Bill read third time.

Remarks by Senator Spearman.

Senate Bill No. 488 expands the current list of crimes related to sex trafficking to provide that a person is guilty of sex trafficking if he or she facilitates, arranges, provides or pays for the transportation of a person to or within Nevada for the purpose of engaging in unlawful sexual conduct or prostitution or, if that person is a child, engaging in certain acts relating to pornography involving minors.

A person is also guilty of sex trafficking if he or she advertises, sells or offers to sell travel services that include or facilitate the travel of another person to Nevada with the knowledge that the other person is traveling to this State for the purpose of engaging in sexual conduct with a victim of sex trafficking, soliciting a child who is a victim of sex trafficking or engaging in certain acts relating to pornography involving minors. Additionally, a person is guilty of sex trafficking if he or she travels to or within Nevada for the purpose of engaging in sexual conduct with the knowledge that the victim is compelled to engage in sexual conduct, prostitution or acts relating to pornography involving minors.

The Department of Health and Human Services is required to develop a Medicaid service package called the Sexual Trauma Services Guide; it must post the information therein on the Department's website and make it available upon request. The Department is also required to hold periodic informational meetings to coordinate efforts to improve services for victims of sex trafficking and to achieve the goals of the Statewide strategic plan developed by the Nevada Coalition to Prevent the Commercial Sexual Exploitation of Children.

Roll call on Senate Bill No. 488:

YEAS—21.

NAYS—None.

Senate Bill No. 488 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 169.

Bill read third time.

**Remarks by Senator Hardy.**

Assembly Bill No. 169 provides that a county recorder has the discretion to accept and record a document that does not meet formatting requirements and removes the fee charged for such documents. The bill also sets the recording fee for certain documents at \$25 and increases the additional fee collected for recording certain documents from \$3 to \$5.

**Roll call on Assembly Bill No. 169:**

YEAS—21.

NAYS—None.

Assembly Bill No. 169 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

**Assembly Bill No. 176.**

Bill read third time.

**Remarks by Senator Spearman.**

Assembly Bill No. 176 requires the operator of a seasonal or temporary recreation program to ensure that each program site has a complete first-aid kit on-site, an emergency exit plan and at least one staff member or volunteer on site and available during the hours of operation who is certified in the use and administration of first aid, including cardiopulmonary resuscitation.

The program operator is required to complete for each program staff member a background and personal history check and a child abuse and neglect screening through the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child. A staff member who has been convicted of certain crimes or has had a substantiated report of child abuse or neglect filed against him or her must be terminated after affording the person an opportunity to correct the information. In addition, the program operator is required to maintain certain records regarding program staff.

**Roll call on Assembly Bill No. 176:**

YEAS—21.

NAYS—None.

Assembly Bill No. 176 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

**Assembly Bill No. 192.**

Bill read third time.

**Remarks by Senator Settlemeyer.**

Assembly Bill No. 192 requires with limited exceptions appointing authorities for positions in the State service to make temporary limited appointments of certified persons with disabilities to positions not to exceed 700 hours. The bill further requires each appointing authority to ensure that at least one person on the staff of the appointing authority satisfies certain training requirements related to making a temporary, limited appointment of a certified person with a disability and training concerning the unique challenges a person with a disability faces in the workplace.

**Roll call on Assembly Bill No. 192:**

YEAS—21.

NAYS—None.

Assembly Bill No. 192 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 223.

Bill read third time.

Remarks by Senator Spearman.

Assembly Bill No. 223 requires an electric utility to include in its integrated-resource plan an energy-efficiency program for residential customers that reduces the consumption of electricity or any fossil fuel and a proposal for the expenditure of not less than 5 percent of the total expenditures related to energy-efficiency and conservation programs on programs directed to low-income customers of the electric utility. The bill allows the Public Utilities Commission of Nevada (PUCN) to accept an energy-efficiency program, if it determines the energy-efficiency plan as a whole is cost effective. It specifies that any order of the PUCN accepting or modifying an energy-efficiency plan requires at least 5 percent of the expenditures relating to energy-efficiency and conservation programs in the plan must be directed toward energy-efficiency programs for low-income customers, unless such a requirement is not cost effective.

Roll call on Assembly Bill No. 223:

YEAS—21.

NAYS—None.

Assembly Bill No. 223 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 233.

Bill read third time.

Remarks by Senator Hammond.

Assembly Bill No. 233 authorizes a lessor of a motor truck to impose additional charges to recover any costs incurred by the lessor in conducting his or her business. Any such charges must be disclosed at the time the lessor provides a price quote or estimate for the lease of the motor truck.

Roll call on Assembly Bill No. 233:

YEAS—21.

NAYS—None.

Assembly Bill No. 233 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 261.

Bill read third time.

Remarks by Senator Gustavson.

Assembly Bill No. 261 revises provisions governing the issuance of an instruction permit for operating a motorcycle to make them similar to provisions governing the issuance of an instruction permit for operating a motor vehicle other than a motorcycle, with certain exceptions. The bill provides that a permit holder may not carry a passenger, may not drive after dark and that the 50 hours of driving experience required before a license may be issued is not required to be supervised. The bill makes other conforming changes.

Roll call on Assembly Bill No. 261:

YEAS—21.

NAYS—None.

Assembly Bill No. 261 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 272.

Bill read third time.

Remarks by Senators Cannizzaro and Gansert.

SENATOR CANNIZZARO:

Assembly Bill No. 272 authorizes county and city clerks to establish one or more polling places where any registered voter may vote in person on the day of a primary or general election. This practice is often referred to as "vote center" style of voting and is used currently during early voting. The location of these sites must be published unless all polling locations accommodate any eligible voter. For any such polling place, the clerk shall prepare a roster of all eligible voters in the county or city, as applicable.

The measure sets forth the procedure by which a voter shall cast a ballot at a vote-center location, including signing the election roster or a signature card, verifying his or her signature, and confirming that the voter has not already voted in the current election in that county. The measure also provides a process whereby a voter's identity can be determined if his or her signature does not match the roster or signature card.

The bill authorizes county and city clerks to extend the period for early voting through the Sunday before election day and determine the hours of operation during that time. In addition, Assembly Bill No. 272 provides that election materials may be prepared in the language of a minority group if the clerk determines there is a significant and substantial need to do so.

If an Indian tribe so requests, at least one polling place must be established on an Indian reservation or colony for a primary or general election, as well as a temporary branch polling place for early voting. However, a clerk is not required to establish an election-day polling place, if an early-voting polling location had been established for the reservation or colony for that election. Any proposed location must satisfy criteria established by the clerk to locate any other polling place.

SENATOR GANSERT:

I rise in opposition to this bill. It is important that polling places are readily available for all individuals. What we heard during testimony is that there is no minimum requirement for the number of polling places nor their distribution so there is a concern about making sure everyone has easy access to the polls on the day of an election.

Roll call on Assembly Bill No. 272:

YEAS—12.

NAYS—Gansert, Goicoechea, Gustavson, Hammond, Hardy, Harris, Kieckhefer, Roberson, Settelmeyer—9.

Assembly Bill No. 272 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 301.

Bill read third time.

Remarks by Senator Gansert.

Assembly Bill No. 301 provides with limited exceptions that communications made between parties during a peer-support counseling session are confidential. The bill creates a testimonial

privilege allowing with limited exceptions a counselor or participant in a peer-support counseling session to refuse to disclose or prevent another party from disclosing any communication made during a peer-support counseling session. The bill also provides that any notes, records or reports of any peer-support counseling session are not public records. Finally, the bill provides immunity from liability to a law enforcement or public safety agency for any disclosure made in violation of the provisions of this bill by any personnel of the agency who participate in a peer-support counseling session.

Roll call on Assembly Bill No. 301:

YEAS—21.

NAYS—None.

Assembly Bill No. 301 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 334.

Bill read third time.

Remarks by Senators Farley, Roberson and Hammond.

SENATOR FARLEY:

Assembly Bill No. 334, with certain exceptions, prohibits a driver on a controlled-access highway with two or more lanes for traffic traveling in the same direction to continue to operate a motor vehicle in the extreme left lane if the driver is traveling below the posted speed limit and perceives to be overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed.

SENATOR ROBERSON:

I would like to echo the comments of my colleague from Senate District No. 8, and I am sure everyone in this Body shares the same sentiments; this is a very important bill. It does not go far enough, but I will take it. I am in support.

SENATOR HAMMOND:

I received a picture from someone who is in the building a great deal of time from a trip they took to Canada of a road sign relating to this issue. Despite the fact it came from Canada, I am still going to vote in favor of this issue.

Roll call on Assembly Bill No. 334:

YEAS—21.

NAYS—None.

Assembly Bill No. 334 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 364.

Bill read third time.

Remarks by Senator Manendo.

Assembly Bill No. 364 directs Nevada's Department of Transportation, in cooperation with Clark County, the City of Las Vegas, the City of Henderson and the Regional Transportation Commission of Southern Nevada, to conduct an interim study concerning traffic and safety on the roads, highways and freeways in the urban eastern part of Clark County. The bill also requires the Department to submit a report of the findings to the Legislature and the Office of the Governor.



Roll call on Assembly Bill No. 364:

YEAS—21.

NAYS—None.

Assembly Bill No. 364 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 108.

The following Assembly Amendment was read:

Amendment No. 659.

SUMMARY—Requires a study to determine the manner in which to include certain instruction relating to criminal law in the social studies curriculum for public high schools. (BDR S-523)

AN ACT relating to education; requiring the State Board of Education to create a subcommittee to study the manner in which to include certain instruction in criminal law in the social studies courses required for graduation from a public high school; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each pupil enrolled in a public high school to enroll in at least three units of credit in social studies. (NRS 389.018) This bill requires the State Board of Education to create a subcommittee to study the manner in which to include certain instruction in criminal law in the required units of credit in social studies and specifies certain crimes which frequently involve persons under the age of 18 years that must be included in the instruction. In addition, this bill requires that such instruction emphasize personal responsibility for understanding and complying with the law and lists specific topics to be included as part of this instruction. In addition, the instruction must include information to assist victims and witnesses of such crimes and lists specific topics for this instruction. This bill requires: (1) the State Board of Education to report the findings of the subcommittee to the Legislative Committee on Education, including any actions it has taken or intends to take to include the instruction in the social studies courses; and (2) the Legislative Committee on Education to consider the report and transmit any recommendations for legislation to ensure the instruction is included in the curriculum for social studies to the 80th Session of the Nevada Legislature.

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

Section 1. (Deleted by amendment.)

Sec. 1.5. 1. The State Board of Education shall create a subcommittee to study the manner in which to include, in one of the three units of credit in social studies required pursuant to NRS 389.018 instruction concerning crimes

that frequently involve persons under the age of 18 years. Such instruction must include, without limitation, crimes involving:

(a) Sexual conduct, including, without limitation, sexual assault, statutory sexual seduction, sex trafficking and sexting;

(b) Alcohol and controlled substances, including, without limitation, driving under the influence and the possession, use and distribution of alcohol and controlled substances;

(c) Domestic violence;

(d) Stalking; and

(e) Destruction of property.

2. The instruction described in subsection 1 must emphasize personal responsibility for understanding and complying with the law and must include, without limitation, instruction on:

(a) The elements of the various crimes;

(b) Appropriate conduct necessary to avoid being accused of such crimes, including, without limitation, specific instruction concerning the legal requirements for finding consent with respect to sexual conduct;

(c) The consequences of engaging in such crimes;

(d) The rights of a person alleged to have committed any such crime; and

(e) The criminal justice system.

3. The instruction described in subsection 1 must provide information to assist victims and witnesses of such crimes, including, without limitation:

(a) The rights of victims;

(b) Resources available to victims;

(c) The rights and responsibilities of a person who witnesses any such crime; and

(d) Information concerning how to report such a crime and where to seek assistance.

4. The study conducted by the subcommittee created pursuant to subsection 1 must include, without limitation:

(a) The manner in which to modify the curriculum of the relevant course in social studies to include the instruction described in subsections 1, 2 and 3;

(b) Any appropriate revision to the requirements for licensure or endorsement that may be necessary or appropriate for a teacher who provides the instruction described in subsections 1, 2 and 3;

(c) The professional development that may be necessary or appropriate for a teacher who provides the instruction described in subsections 1, 2 and 3; and

(d) Consideration of any similar instruction provided in another state or school district.

5. The subcommittee created pursuant to subsection 1 shall report its findings to the State Board of Education on or before April 1, 2018. The State Board of Education shall, on or before July 1, 2018, submit a report to the Legislative Committee on Education which includes its recommendations to carry out the instruction described in subsections 1, 2 and 3, as well as any

actions the State Board has taken or intends to take to include the instruction in the relevant social studies course.

6. The Legislative Committee on Education shall consider the report submitted by the State Board of Education and, on or before September 1, 2018, prepare and submit a written report to the Director of the Legislative Counsel Bureau, for transmittal to the 80th Session of the Nevada Legislature, concerning the Committee's consideration of the matters described in this section and any recommendations for legislation to ensure the instruction described in subsections 1, 2 and 3 are included in the curriculum for social studies that is required to be taken in high school.

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

Senator Denis moved that the Senate concur in Assembly Amendment No. 659 to Senate Bill No. 108.

Remarks by Senator Denis.

Amendment No. 659 to Senate Bill No. 108 adds the word "trafficking" to the bill.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 122.

The following Assembly Amendment was read:

Amendment No. 649.

SUMMARY—Establishes a program to provide grants for family planning services. (BDR 40-630)

AN ACT relating to family planning; establishing a program to award grants to local governmental entities and nonprofit organizations for the purpose of providing certain services relating to family planning; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Division of Health Care Financing and Policy of the Department of Health and Human Services to: (1) conduct a family planning service in any county of this State; and (2) establish a policy of referral of certain persons for family planning services. (NRS 422.308) Section 5 of this bill establishes the Account for Family Planning in the State General Fund and requires the Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services to administer the Account. Section 5 requires the money in the Account to be expended to award grants of money to local governmental entities and nonprofit organizations to be used to provide certain services relating to family planning to persons who would otherwise have difficulty obtaining those services. Section 5 authorizes a local government that is awarded a grant to provide such family planning services through a contract with another person or entity. Section 6 of this bill authorizes the Administrator to accept gifts, grants and donations for the purpose of awarding such grants. Section 7 of this bill requires the recipient of a grant to provide certain information to a person to whom the recipient provides ~~for counseling~~ education that is funded by a

grant. Sections 7 and 9 of this bill provide that any personally identifiable information concerning a person to whom a grant recipient provides services is confidential. Section 8 of this bill requires the State Board of Health to adopt regulations concerning the award of grants.

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

Section 1. Chapter 442 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. *As used in sections 2 to 8, inclusive of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Account" means the Account for Family Planning created by section 5 of this act.*

Sec. 4. *"Administrator" means the Administrator of the Division.*

Sec. 5. 1. *The Account for Family Planning is hereby created in the State General Fund. The Administrator shall administer the Account.*

2. *Except as otherwise provided in subsection 5, the money in the Account must be expended to award grants of money to local governmental entities and nonprofit organizations to provide the family planning services described in this section to persons who would otherwise have difficulty obtaining such services because of poverty, lack of insurance or transportation or any other reason. Grants of money awarded pursuant to this section may only be used to fund:*

(a) *The provision of ~~family planning~~ education by trained personnel concerning family planning;*

(b) *The distribution of information concerning family planning;*

(c) *The referral of persons to appropriate agencies, organizations and providers of health care for consultation, examination, treatment, genetic counseling and prescriptions for the purpose of family planning;*

(d) *The distribution of contraceptives, the installation of contraceptive devices and the performance of contraceptive procedures approved by the United States Food and Drug Administration, which must be limited to:*

(1) *Sterilization surgery for women;*

(2) *Surgical sterilization implants for women;*

(3) *Implantable rods;*

(4) *Copper intrauterine devices and intrauterine devices with progestin;*

(5) *Contraceptive injections and patches;*

(6) *Combined oral contraceptive pills, progestin only oral contraceptives and oral contraceptives for extended or continuous use;*

(7) *Vaginal contraceptive rings;*

(8) *Diaphragms;*

(9) *Contraceptive sponges;*

(10) *Cervical caps;*

(11) *Female condoms;*

(12) *Spermicide; and*

(13) *Levonorgestrel and ulipristal acetate;*

(e) *The provision of or referral of persons for preconception health services and assistance to achieve pregnancy; and*

(f) *The provision of or referral of persons for testing for and treatment of sexually transmitted infections.*

3. *Family planning services funded by a local governmental entity using a grant awarded pursuant to this section may be provided wholly or partially through a contract between the local governmental entity and another local governmental entity, an agency of the State, a community health nurse, a consultant or any other person or entity.*

4. *Family planning services funded using a grant awarded pursuant to this section must be ~~provided~~ made available to persons requesting such services:*

(a) *In a manner that protects the dignity of the recipient;*

(b) *Without regard to religion, race, color, national origin, physical or mental disability, age, sex, gender identity or expression, sexual orientation, number of previous pregnancies or marital status;*

(c) *In accordance with ~~the~~*

~~—(1) Written~~ *written clinical protocols that are in accordance with nationally recognized standards of care;*

~~—(2) The provisions of 42 U.S.C. § 300(a) requiring a grantee to encourage family participation, to the extent practical, in family planning projects; and~~

~~—(3) The provisions of Program Policy Notice 2014-01 issued by the Office of Population Affairs of the United States Department of Health and Human Services on June 5, 2014, prohibiting a grantee from requiring the consent of parents or guardians for the provision of services to a minor or notifying the parent or guardian of a minor before or after the minor has requested or received family planning services, regardless of whether that Program Policy Notice is superseded or revoked;~~ and

(d) *By persons who are required by NRS 432B.220 to report the abuse or neglect of a child.*

5. *The Administrator may not use more than 10 percent of the money in the Account to administer the Account.*

6. *The Administrator shall award grants of money from the Account based entirely on the need for family planning services in the community served by the local governmental entity or the nonprofit organization and the ability of the local governmental entity or nonprofit organization to effectively deliver family planning services.*

7. *The existence of the Account does not create a right in any local government or nonprofit organization to receive money from the Account.*

8. *As used in this section, "preconception health services" means the promotion of proper health practices, screenings and interventions conducted before pregnancy to identify and modify biomedical, behavioral and social*

risks to a woman's health or pregnancy outcome through prevention and management.

Sec. 6. 1. The Administrator may apply for and accept any gift, donation, bequest, grant or other source of money for the purpose of awarding grants pursuant to section 5 of this act. Any money so received must be deposited in the Account.

2. The interest and income earned on money in the Account from any gift, donation or bequest, after deducting any applicable charges, must be credited to the Account.

3. Money from any gift, donation or bequest that remains in the Account at the end of the fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

Sec. 7. 1. A local governmental entity or nonprofit organization that receives a grant pursuant to section 5 of this act shall:

(a) Inform a person to whom the entity or organization provides ~~(counseling)~~ education concerning family planning which is funded by a grant of any methods or procedures that may be used to assist the person to achieve his or her goals concerning family planning. The information must include:

(1) A clear explanation of family planning services, procedures, prescriptions and devices available directly from the entity or organization and those for which referral is required;

(2) A description of any risks of the method or procedure, including possible negative outcomes and discomfort or pain that may result from using the method or procedure;

(3) A description of the likely outcome and benefits of using the method or procedure;

(4) A description of any alternative methods or procedures designed to accomplish the same goal; and

(5) Answers to any questions the person has concerning the method or procedure.

(b) Notify a person to whom the entity or organization provides ~~(counseling)~~ education concerning family planning which is funded by a grant that the person is free to refuse any method or procedure about which the entity or organization informs the person pursuant to paragraph (a).

2. Any personally identifiable information concerning a person to whom services funded by a grant pursuant to section 5 of this act are provided is confidential. A local governmental entity or nonprofit organization that receives such a grant shall comply with all laws concerning the privacy of information, including, without limitation, the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and applicable regulations.

Sec. 8. 1. The State Board of Health shall adopt any regulations necessary to carry out the provisions of sections 2 to 8, inclusive, of this act. The regulations must establish, without limitation:

(a) *The manner in which a local governmental entity or nonprofit organization may apply for a grant pursuant to section 5 of this act; and*

(b) *A requirement that the recipient of a grant pursuant to section 5 of this act must submit any information that the State Board of Health determines is necessary for the Administrator to determine the purposes for which such a grant was used and evaluate the outcomes of services provided using such grants.*

2. *The regulations adopted pursuant to this section must not require a local governmental entity or nonprofit organization to apply for a grant pursuant to section 5 of this act.*

Sec. 9. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 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 7 of this act, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential



information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 10. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act and on January 1, 2018, for all other purposes.

Bill read third time.

Senator Woodhouse moved that the Senate concur in Assembly Amendment No. 649 to Senate Bill No. 122.

Remarks by Senator Woodhouse.

Amendment No. 649 to Senate Bill No. 122 changes the word "counseling" to "education." The rest of the changes are technical in nature.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 123.

The following Assembly Amendment was read:

Amendment No. 650.

SUMMARY—Revises provisions relating to the State Long-Term Care Ombudsman. (BDR 38-507)

AN ACT relating to long-term care; revising provisions governing the State Long-Term Care Ombudsman; revising the authority of the ~~[State Long-Term Care]~~ Ombudsman to review and recommend changes to certain governmental policies relating to facilities for long-term care; revising provisions governing the appointment of advocates and the creation of a volunteer advocacy program; revising provisions relating to certain inspections of long-term care facilities by the Ombudsman; revising provisions concerning the reporting of the abuse, neglect, exploitation, isolation or abandonment of an older person; repealing certain provisions governing the investigation of certain complaints; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Administrator of the Aging and Disability Services Division of the Department of Health and Human Services to appoint the State Long-Term Care Ombudsman to advocate for the protection of the health, safety, welfare and rights of residents of facilities for long-term care. (NRS 427A.125) Existing law defines "resident" as a person who is 60 years

of age or older. (NRS 427A.0295) Section 1 of this bill revises the definition of "resident" to mean any resident of a facility for long-term care and thus enables the Ombudsman to advocate for any resident of a long-term care facility.

Existing law ~~also~~ requires the Ombudsman, under the direction of the Administrator, to review, recommend and provide advice concerning governmental policies which affect long-term care facilities. (NRS 427A.145) Section ~~4.1~~ 1.5 of this bill revises this provision to authorize the Ombudsman to independently analyze, monitor and provide recommendations for changes to federal, state and local governmental actions and policies relating to facilities for long-term care.

Existing law authorizes the Administrator to appoint one or more advocates to assist the Ombudsman. Existing law further authorizes the Administrator to: (1) create a volunteer advocacy program within the Division to be administered by the Ombudsman under the direction of the Administrator; and (2) appoint volunteer advocates. (NRS 427A.127) Existing federal regulations require the Ombudsman to determine the designation of representatives of the Office of the Ombudsman. (45 C.F.R. § 1324.13(c)) Section 2 of this bill transfers to the Ombudsman the authority to: (1) appoint advocates; and (2) create and administer a volunteer advocacy program.

Existing law authorizes the Ombudsman and his or her advocates to inspect the records of a facility for long-term care. Under certain circumstances, the Ombudsman is required to obtain the informed consent of the resident or his or her guardian or representative before inspecting certain records relating to the resident. (NRS 427A.145) Section 3 of this bill requires the Ombudsman and his or her advocates to comply with certain federal regulations relating to consent before inspecting the medical and personal financial records of the resident. Section 3 further provides that, in accordance with federal regulations, informed consent may be obtained orally, visually, in writing or through the use of auxiliary aids.

Existing law requires certain professionals, including any employee of the Department of Health and Human Services, who know or have reasonable cause to believe that an older person has been abused, neglected, exploited, isolated or abandoned to report, in certain circumstances, such abuse, neglect, exploitation, isolation or abandonment to: (1) the local office of the Aging and Disability Services Division of the Department; (2) a police department or sheriff's office; or (3) a toll-free telephone service designated by the Aging and Disability Services Division. (NRS 200.5093) Existing federal regulations require the Ombudsman and certain representatives of the Ombudsman to be exempted from this reporting requirement. (45 C.F.R. § 1324.11(e)(3)(iv)) Section 4 of this bill exempts the Ombudsman and his or her advocates and volunteers from the requirement to report the abuse, neglect, exploitation, isolation or abandonment of an older person when federal regulations require the Ombudsman and his or her advocates and volunteers to be exempted from that requirement.

Existing law authorizes the Administrator of the Division to direct the Ombudsman or his or her advocate to investigate a complaint involving a person who is less than 60 years of age. Section 5 of this bill repeals this provision ~~[ ]~~ as section 1 revises the definition of "resident" to include any person who resides in a facility for long-term care.

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

*Section 1.* NRS 427A.0295 is hereby amended to read as follows:

427A.0295 "Resident" means a person who ~~is 60 years of age or older,~~  
resides in a facility for long-term care.

~~[Section 1.]~~ *Sec. 1.5.* NRS 427A.125 is hereby amended to read as follows:

427A.125 1. The Office of the State Long-Term Care Ombudsman is hereby created within the Division.

2. The Administrator shall appoint the State Long-Term Care Ombudsman to advocate for the protection of the health, safety, welfare and rights of residents of facilities for long-term care. The Ombudsman is in the classified service of the State. The Ombudsman shall, under direction of the Administrator:

(a) Train advocates to:

(1) Receive, investigate and attempt to resolve complaints made by or on behalf of residents of facilities for long-term care.

(2) Investigate acts, practices, policies or procedures of any facility for long-term care or any governmental agency which relates to such care and may adversely affect the health, safety, welfare or civil rights of residents of such facilities, and report the results of the investigations to the Ombudsman and the Administrator.

(3) Record and analyze information and complaints about facilities for long-term care to identify problems affecting their residents.

(4) Provide for the support and development of resident and family councils to protect the well-being and rights of residents of facilities for long-term care.

(5) Assist facilities for long-term care to provide services to residents in the manner set forth in paragraph (b).

(b) Develop a course of training to be made available to officers, directors and employees of a facility for long-term care to encourage such facilities to provide services to their residents in a manner that allows the residents to follow their own routine and make their own decisions concerning the daily activities in which to participate. The course must also provide information concerning how to provide services in that manner.

(c) Coordinate services within the Department which may affect residents and prospective residents of facilities for long-term care to ensure that such services are made available to eligible persons.

(d) ~~[Recommend and review policies, legislation and regulations, both in effect and proposed, which affect facilities for long-term care.]~~

~~—(e) Upon request, advise and assist the Governor, the Legislature and public and private groups in formulating and putting into effect policies which affect facilities for long term care and their residents.~~

~~—(f) Provide information to interested persons and to the general public concerning the functions and activities of the Ombudsman.~~

~~[(g)]~~ (e) Report annually to the Administrator.

3. *The Ombudsman may:*

(a) *Analyze, provide comment on and monitor the development and implementation of any federal, state or local governmental action, activity or program that relate to the protection of the health, safety, welfare and rights of residents of facilities for long-term care; and*

(b) *Recommend changes to any federal, state or local governmental action, activity or program described in paragraph (a) without the prior approval of the Administrator.*

Sec. 2. NRS 427A.127 is hereby amended to read as follows:

427A.127 1. The ~~[Administrator]~~ Ombudsman may appoint one or more advocates to assist the Ombudsman who are within the Division and in the classified service of the State. Each advocate shall perform his or her duties at the direction of the Ombudsman.

2. The ~~[Administrator]~~ Ombudsman may:

(a) Create a volunteer advocacy program within the ~~[Division]~~ Office of the Ombudsman to be administered by the Ombudsman ; ~~under the direction of the Administrator;~~ and

(b) Appoint volunteer advocates who may act as representatives of the Ombudsman.

Sec. 3. NRS 427A.145 is hereby amended to read as follows:

427A.145 In conducting an investigation, the Ombudsman or an advocate may:

1. Inspect any facility for long-term care and any records maintained by the facility. Except as otherwise provided in this subsection, the medical and personal financial records may be inspected only with the informed consent of the resident, the legal guardian of the resident or the person or persons designated as responsible for decisions regarding the resident. *Such consent must be obtained in accordance with the provisions of 45 C.F.R. § 1324.11(e)(2) and may be obtained orally, visually, in writing or through the use of auxiliary aids and services, as long as such consent is documented by the Ombudsman or the advocate. If ~~[the resident is unable to consent to the inspection and has no legal guardian,~~ the provisions of 45 C.F.R. § 1324.11(e)(2) authorize records to be inspected without the consent of the resident, the legal guardian of the resident or the person or persons designated as responsible for decisions regarding the resident, the inspection may be conducted without consent.*

2. Interview:

(a) Officers, directors and employees of any facility for long-term care, including any licensed provider of health care as defined in NRS 629.031, who renders services to the facility or its residents.

(b) Any resident of the facility and the legal guardian of the resident, if any, and the family of the resident or the person or persons designated as responsible for decisions regarding his or her care if the resident consents to the interview.

3. Obtain such assistance and information from any agency of the State or its political subdivisions as is necessary properly to perform the investigation.

Sec. 4. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited, isolated or abandoned shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation, isolation or abandonment of the older person to:

(1) The local office of the Aging and Disability Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office; or

(3) A toll-free telephone service designated by the Aging and Disability Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited, isolated or abandoned.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation, isolation or abandonment of the older person involves an act or omission of the Aging and Disability Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, music therapist, athletic trainer, driver of an ambulance, paramedic, licensed dietitian or other person providing medical services licensed or certified to practice in this State, who examines, attends

or treats an older person who appears to have been abused, neglected, exploited, isolated or abandoned.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation, isolation or abandonment of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 449.4304.

(g) Any employee of the Department of Health and Human Services ~~+~~, *except the State Long-Term Care Ombudsman appointed pursuant to NRS 427A.125 and any of his or her advocates or volunteers where prohibited from making such a report pursuant to 45 C.F.R. § 1321.11.*

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation, isolation or abandonment of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

(m) Every person who operates or is employed by a peer support recovery organization, as defined in NRS 449.01563.

(n) Every person who operates or is employed by a community health worker pool, as defined in NRS 449.0028, or with whom a community health worker pool contracts to provide the services of a community health worker, as defined in NRS 449.0027.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect, isolation or abandonment, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his or her written findings. The written findings

must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging and Disability Services Division of the Department of Health and Human Services, must be forwarded within 30 days after the completion of the report to the:

- (a) Aging and Disability Services Division;
- (b) Repository for Information Concerning Crimes Against Older Persons created by NRS 179A.450; and
- (c) Unit for the Investigation and Prosecution of Crimes.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited, isolated or abandoned, the Aging and Disability Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if the older person is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 5. NRS 427A.136 is hereby repealed.

Sec. 6. This act becomes effective on July 1, 2017.

#### TEXT OF REPEALED SECTION

427A.136 Investigation of complaint involving person who is less than 60 years of age. The Administrator may direct the Ombudsman or an advocate to investigate a complaint involving a person who is less than 60 years of age.

Senator Spearman moved that the Senate concur in Assembly Amendment No. 650 to Senate Bill No. 123.

Remarks by Senator Spearman.

Amendment No. 650 to Senate Bill No. 123 revises the definition of "resident" to mean any resident of a facility for long-term care and thus enables the Ombudsman to advocate for any resident of a long-term care facility.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 256.

The following Assembly Amendment was read:

Amendment No. 658.

SUMMARY—Revises provisions relating to the Board of Dental Examiners of Nevada. (BDR 54-549)

AN ACT relating to dentistry; requiring the Board of Dental Examiners of Nevada to appoint a panel to review investigations and informal hearings conducted by an investigator of the Board; requiring the review and consideration of the findings and recommendations of a review panel before disciplinary action is taken against a person; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Board of Dental Examiners of Nevada, upon its own motion, and requires the Board, upon a verified complaint by any person, to investigate a person who practices dentistry in this State for allegations of actions that would support disciplinary action. (NRS 631.360) Existing law also authorizes the Board to appoint one of its members, employees, investigators or other agents to conduct an investigation and informal hearing relating to a person who is alleged to have violated the provisions of chapter 631 of NRS. (NRS 631.363)

Section 1 of this bill requires the Board to appoint a panel of three people, consisting of two members of the Board and one holder of a license to practice dentistry or dental hygiene in this State, to review an investigation and informal hearing conducted by an investigator appointed by the Board. Section 1 requires such a panel to review: (1) all files and records collected or produced by the investigator; (2) findings of fact and conclusions prepared by the investigator and submitted to the Board; and (3) any other information deemed necessary by the panel. Section 1 further requires: (1) a review panel to submit a recommendation to the Board as to whether the findings and recommendations of the investigation should be accepted by the Board; and (2) the Board to review and consider the findings and recommendations of the review panel before taking any disciplinary action against a person or taking any other action relating to a complaint filed with the Board. Section 3 of this bill requires a hearing officer or panel to review and consider the findings and recommendations of a review panel before taking disciplinary action against a person. Section 5 of this bill provides that any records or information obtained by a review panel are deemed confidential. Section 6 of this bill extends to members of a review panel the immunity from civil liability provided under existing law to members and employees of the Board.

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

Section 1. Chapter 631 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Board shall appoint a panel to review an investigation or informal hearing conducted pursuant to NRS 631.363. Such a panel must consist of:*

*(a) If the subject of the investigation or informal hearing is a holder of a license to practice dental hygiene, ~~two members of the Board other than a member appointed pursuant to NRS 631.363 to conduct the investigation and informal hearing~~ who is a holder of a license to practice dentistry, one member of the Board who is a holder of a license to practice*



dental hygiene and one holder of a license to practice dental hygiene who is not a member of the Board and is not the subject of the investigation or informal hearing.

(b) If the subject of the investigation or informal hearing is a holder of a license to practice dentistry or any other person not described in paragraph (a), ~~two members of the Board other than a member appointed pursuant to NRS 631.363 to conduct the investigation and informal hearing,~~ one member of the Board who is a holder of a license to practice dentistry, one member of the Board who is a holder of a license to practice dental hygiene and one holder of a license to practice dentistry who is not a member of the Board and is not the subject of the investigation or informal hearing.

2. A review panel appointed pursuant to subsection 1 shall, in conducting a review of an investigation or informal hearing conducted pursuant to NRS 631.363, review and consider, without limitation:

(a) All files and records collected or produced by the investigator;

(b) Any written findings of fact and conclusions prepared by the investigator; and

(c) Any other information deemed necessary by the review panel.

3. The investigator who conducted the investigation or informal hearing pursuant to NRS 361.363 shall not participate in a review conducted pursuant to subsection 1.

4. Before the Board takes any action or makes any disposition relating to a complaint, the review panel appointed pursuant to subsection 1 to conduct a review of the investigation or informal hearing relating to the complaint shall present to the Board its findings and recommendation relating to the investigation or informal hearing, and the Board shall review and consider those findings and recommendations.

5. Meetings held by a review panel appointed pursuant to subsection 1 are not subject to the provisions of chapter 241 of NRS.

Sec. 2. NRS 631.190 is hereby amended to read as follows:

631.190 In addition to the powers and duties provided in this chapter, the Board shall:

1. Adopt rules and regulations necessary to carry out the provisions of this chapter.

2. Appoint such committees, review panels, examiners, officers, employees, agents, attorneys, investigators and other professional consultants and define their duties and incur such expense as it may deem proper or necessary to carry out the provisions of this chapter, the expense to be paid as provided in this chapter. Notwithstanding the provisions of this subsection, the Attorney General in his or her sole discretion may, but is not required to, serve as legal counsel for the Board at any time and in any and all matters.

3. Fix the time and place for and conduct examinations for the granting of licenses to practice dentistry and dental hygiene.

4. Examine applicants for licenses to practice dentistry and dental hygiene.

5. Collect and apply fees as provided in this chapter.

6. Keep a register of all dentists and dental hygienists licensed in this State, together with their addresses, license numbers and renewal certificate numbers.

7. Have and use a common seal.

8. Keep such records as may be necessary to report the acts and proceedings of the Board. Except as otherwise provided in NRS 631.368, the records must be open to public inspection.

9. Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

10. Have discretion to examine work authorizations in dental offices or dental laboratories.

Sec. 3. NRS 631.355 is hereby amended to read as follows:

631.355 1. Any disciplinary action taken by a hearing officer or panel pursuant to NRS 631.350 is subject to the same procedural requirements which apply to disciplinary actions taken by the Board, and the officer or panel has those powers and duties given to the Board in relation thereto. *Before taking disciplinary action, the hearing officer or panel shall review and consider the findings and recommendations of a review panel appointed pursuant to section 1 of this act.*

2. Any decision of the hearing officer or panel relating to the imposition of any disciplinary action pursuant to this chapter is a final decision in a contested case.

Sec. 4. NRS 631.363 is hereby amended to read as follows:

631.363 1. The Board may appoint one of its members and any of its employees, investigators or other agents to conduct an investigation and informal hearing concerning any practice by a person constituting a violation of the provisions of this chapter or the regulations of the Board.

2. The investigator designated by the Board to conduct a hearing shall notify the person being investigated at least 10 days before the date set for the hearing. The notice must describe the reasons for the investigation and must be served personally on the person being investigated or by mailing it by registered or certified mail to his or her last known address.

3. If, after the hearing, the investigator determines that the Board should take further action concerning the matter, the investigator shall prepare written findings of fact and conclusions and submit them to the Board. A copy of the report must be sent to the person being investigated.

4. If the Board, after receiving the report of its investigator pursuant to this section, holds its own hearing on the matter pursuant to NRS 631.360, it may consider the investigator's report but is not bound by his or her findings or conclusions. The investigator *and any member of a review panel appointed pursuant to section 1 of this act* shall not participate in the hearing conducted by the Board.

5. If the person who was investigated agrees in writing to the findings and conclusions of the investigator, the Board may adopt that report as its final

order and take such action as is necessary without conducting its own hearing on the matter.

Sec. 5. NRS 631.368 is hereby amended to read as follows:

631.368 1. Except as otherwise provided in this section and NRS 239.0115, any records or information obtained during the course of an investigation by the Board *or a review panel appointed pursuant to section 1 of this act* and any record of the investigation *or review* are confidential.

2. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The Board shall, to the extent feasible, communicate or cooperate with or provide any record or information described in subsection 1 to any other licensing board or any other agency that is investigating a person, including a law enforcement agency.

Sec. 6. NRS 631.378 is hereby amended to read as follows:

631.378 1. Any person who furnishes information to the Board concerning a licensee or an applicant for licensure, in good faith and without malicious intent, is immune from any civil action for furnishing that information.

2. The Board, *a review panel*, any member, employee or committee of the Board ~~{ }~~ *or a review panel*, counsel, investigator, expert, hearing officer, licensee or other person who assists the Board in the investigation or prosecution of an alleged violation of a provision of this chapter, a proceeding concerning licensure or reissuance of a license or a criminal prosecution is immune from any civil liability for:

(a) Any decision or action taken in good faith and without malicious intent in response to information acquired by the Board.

(b) Disseminating information concerning a licensee or an applicant for licensure to any member of the public, other licensing board, national association of registered boards, an agency of the Federal Government or of the State, the Attorney General or any law enforcement agency.

3. A defendant who is the prevailing party in a civil action brought pursuant to subsection 2 may recover the attorney's fees and costs incurred in defending the action.

Sec. 6.5. NRS 241.016 is hereby amended to read as follows:

241.016 1. The meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter.

2. The following are exempt from the requirements of this chapter:

(a) The Legislature of the State of Nevada.

(b) Judicial proceedings, including, without limitation, proceedings before the Commission on Judicial Selection and, except as otherwise provided in NRS 1.4687, the Commission on Judicial Discipline.

(c) Meetings of the State Board of Parole Commissioners when acting to grant, deny, continue or revoke the parole of a prisoner or to establish or modify the terms of the parole of a prisoner.

3. Any provision of law, including, without limitation, NRS 91.270, 219A.210, 239C.140, 281A.350, 281A.440, 281A.550, 284.3629, 286.150, 287.0415, 288.220, 289.387, 295.121, 360.247, 388.261, 388A.495, 388C.150, 392.147, 392.467, 394.1699, 396.3295, 433.534, 435.610, 463.110, 622.320, 622.340, 630.311, 630.336, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196 and 706.1725, *and section 1 of this act*, which:

(a) Provides that any meeting, hearing or other proceeding is not subject to the provisions of this chapter; or

(b) Otherwise authorizes or requires a closed meeting, hearing or proceeding,

↪ prevails over the general provisions of this chapter.

4. The exceptions provided to this chapter, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to deliberate or act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

Sec. 7. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2018, for all other purposes.

Senator Atkinson moved that the Senate concur in Assembly Amendment No. 658 to Senate Bill No. 256.

Motion carried by a constitutional majority.

Bill ordered enrolled.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Ford moved that Senate Bill No. 368 be taken from the Secretary's desk and placed at the bottom of the General File, third Agenda.

Motion carried.

#### REPORTS OF COMMITTEES

*Mr. President:*

Your Committee on Finance, to which was re-referred Senate Bill No. 213, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

#### MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 4.

Resolution read.

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

Amendment No. 638.

SUMMARY—Directs the Legislative ~~{Commission}~~ Committee on Energy to ~~{create}~~ conduct an interim study concerning the development of renewable energy resources in this State. (BDR R-1130)~

SENATE CONCURRENT RESOLUTION—Directing the Legislative ~~{Commission to create a committee}~~ Committee on Energy to conduct an

interim study concerning the development of renewable energy resources in this State.

WHEREAS, A renewable energy resources program administered by appropriate state and local agencies in this State has the potential to unleash the vast renewable energy resources in this State and put Nevada at the forefront of renewable energy development; and

WHEREAS, The foundation of such a program is rooted in Nevada's expansive and, to date, largely untapped potential for renewable energy resources, including Nevada's yet-to-be-developed geothermal resources, which are more substantial than in any other state, and Nevada's large deposits of lithium, which are currently the only deposits producing lithium for use in the United States; and

WHEREAS, Geothermal energy has the smallest carbon footprint of any form of renewable energy and can be used across a wide spectrum of temperatures, including lower temperatures capable of providing heat for public facilities, homes, greenhouse agriculture and vegetable dehydration and higher temperatures that can produce electricity; and

WHEREAS, Lithium is critical to the burgeoning electrical automobile industry and for battery technology in general, with a wide array of applications for all forms of renewable energy; and

WHEREAS, Systematic studies are needed to locate these renewable energy resources, to analyze the feasibility for developing such resources, to determine the best methods for extraction of such resources and to determine if initial support is needed to assist entrepreneurial industries to develop such resources; ~~now, therefore, be it~~ and

WHEREAS, The implementation of cost effective energy efficiency measures by state agencies in this State has the potential to save energy costs for the State of Nevada and protect and improve the environment in this State; and

WHEREAS, The conduct of a statewide audit to identify energy cost-effective energy efficiency measures for implementation by state agencies will enable the State of Nevada to realize the cost savings and environmental benefits of energy efficiency measures; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, ~~[That the Legislative Commission is hereby directed to appoint, as soon as practicable after July 1, 2017, a committee to conduct an interim study, as described herein, which is composed of:~~

~~1. Three members of the Senate, two of whom are appointed by the Majority Leader of the Senate and one of whom is appointed by the Minority Leader of the Senate; and~~

~~2. Three members of the Assembly, two of whom are appointed by the Speaker of the Assembly and one of whom is appointed by the Minority Leader of the Assembly; and be it further~~

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

~~RESOLVED, That the [committee] Legislative Committee on Energy shall conduct an interim study of the development of the renewable energy resources available in this State; and be it further~~

RESOLVED, That the study include consideration of methods to increase the opportunities for students in this State to study subjects related to renewable energy at community colleges and universities in this State; and be it further

RESOLVED, That, as part of the study, the Legislative Committee on Energy may, if feasible, enter into a contract or other agreement with the University of Nevada, Reno and the University of Nevada, Las Vegas for the gathering of data concerning the total cost of various sources of supply of energy, including, without limitation, natural gas plants, geothermal facilities and solar resources, from obtaining the energy to the delivery of the energy to the end-user of the energy; and be it further

RESOLVED, That the study include the feasibility of converting existing mines into geothermal resources and of using the lithium resources in this State for purposes of energy, which must include, without limitation, consideration of:

1. The potential for using geothermal energy in universities, governmental offices, prisons and other major public facilities in Nevada;

2. The potential for developing geothermal resources for individual mines and mining districts;

3. Ways to support the selection of Fallon, Nevada, as the site for the Frontier Observatory for Research in Geothermal Energy (FORGE) laboratory to be funded by the United States Department of Energy to test technologies for developing engineered geothermal systems involving the mining of heat from rocks for energy;

4. Methods for the acquisition of light detection and ranging (LiDAR) data, which is high resolution topographic data that may provide critical information on the distribution of faults and rock layers that host renewable energy resources;

5. Methods for the acquisition of new, detailed geologic and energy resource potential maps, including three-dimensional maps, to help identify areas with the greatest potential for development of geothermal and lithium resources;

6. The development of infrastructure and support for staff, including, without limitation, laboratories, geoscientists, digital curators, web specialists, engineers and economists at state agencies to facilitate implementation of a renewable energy resources program in this State; and

7. Any other matter that the ~~[committee]~~ Committee determines is relevant to the study; and be it further ~~[+]~~

RESOLVED, That, in conducting the study, the Legislative Committee on Energy shall partner or consult with representatives of the Nevada System of Higher Education, the elementary and secondary education system in this State, the National Renewable Energy Laboratory and the private sector; and be it further

RESOLVED, That the Legislative Committee on Energy shall, if feasible, contract with the University of Nevada, Reno and the University of Nevada, Las Vegas to conduct a statewide audit to identify energy efficiency measures that could be implemented by agencies of the State of Nevada, determine the costs and benefits of those measures, determine the savings that could be realized by the State of Nevada if those agencies implemented the energy efficiency measures identified in the audit and make recommendations for the implementation of energy efficiency measures by those agencies; and be it further

RESOLVED, That the Legislative Committee on Energy shall submit a report concerning the statewide audit to the Legislature and the Governor and provide a copy of the recommendations of the statewide audit to each agency of the State of Nevada; and be it further

RESOLVED, That any recommended legislation proposed by the ~~committee~~ Legislative Committee on Energy must be approved by a majority of the members of the Assembly and a majority of the members of the Senate appointed to the ~~committee~~ Committee; and be it further

RESOLVED, That the Legislative ~~Commission~~ Committee on Energy shall submit a report of the results of the study, including, without limitation, a report of any data collected and presented to the Committee concerning the cost of various sources of supply of energy, and any recommendations for legislation to the 80th Session of the Nevada Legislature.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 638 to Senate Concurrent Resolution No. 4 deletes provisions directing the Legislative Commission to appoint a committee to conduct the study and instead directs the interim Legislative Committee on Energy to conduct the study; amends a few "whereas" clauses as they relate to renewable energy; expands the scope of the study to include the involvement of and partnership with Nevada's community colleges and universities, and directs the Committee to contract with UNR and UNLV, if possible, to conduct a statewide audit to determine the savings that could be realized by the State of Nevada if governmental agencies implemented certain energy efficiency measures.

Amendment adopted.

Resolution read.

Remarks by Spearman, Kieckhefer and Hardy.

SENATOR SPEARMAN:

Senate Concurrent Resolution No. 4 states that the study will include reviewing ways to support the selection of Fallon, Nevada, as the site for the Frontier Observatory for Research and Geothermal Energy, also known as FORGE Laboratory, to test technologies for developing engineered geothermal systems. Additionally, consideration would be given to the acquisition of high-resolution topographic data that may provide critical data on the distribution of faults and rock layers that hold renewable-energy resources. The study would also review methods for the

acquisition of new, detailed geologic and energy-resource maps to help identify areas in Nevada with the greatest potential for development of geothermal and lithium resources. The resolution provides for the involvement of, and partnership with, Nevada's community colleges and universities, including the possibility of entering into a contract with the University of Nevada, Reno and the University of Nevada, Las Vegas to conduct State wide energy-savings audits of various State agencies and to gather data recording the costs to supply and deliver various forms of energy.

This is a good bill. Nevada and Utah are the finalists for the FORGE Laboratory. This is one of the ways we can signal to the Department of Energy that Nevada is not only interested but also open for business. It is also a good way to engage the universities and community colleges and their students in research that is not only viable but relevant to the economic and scientific operations that are present in the 21st Century and will drive a huge economic development opportunity for the members here in the north and in the south. I urge your support.

SENATOR KIECKHEFER:

I rise in support of the bill before we amended it, but we are back in the same place we were. We have already required this Committee to do one interim study, this is the second that will now be placed into this standing Legislative Committee. Generally, those interim committees do not have funding to do things like this. I do not know if this is being addressed financially in terms of how much the Legislative Commission is going to have to fund these sorts of things. That is what interim studies are for; standing interim committees are not for jamming with interim studies with specific purposes that they may not have the time or resources to handle. I am opposed to this resolution.

SENATOR SPEARMAN:

This will not have a fiscal note. We have talked to the universities and community colleges, and they have agreed to take this on as part of a research opportunity. We have discussed many times about how we can get UNR and UNLV to a Tier 1 status. One way to do this is through research. This is one of the ways they can use this opportunity for their faculty to publish research that is peer reviewed. This will help them, and it will help us. They will take this on as a research opportunity that will be mutually beneficial to the colleges and universities and to the State, particularly to those in the north. We talk about renewable-energy resources in the south, and people think of solar energy; but we also have renewable-energy resources here in the north. This is one of the ways we will be able to identify them without cost. We can identify them and promulgate regulations and whatever else we need so people in the north can enjoy the same type of economic revival we are enjoying in the south. I still urge your support.

SENATOR HARDY:

This sounds like a public-private partnership. Does it have buy-in from the private sector in order to support the public sector in the energy study in partnership with the colleges and universities?

SENATOR SPEARMAN:

We have public resources. Nevada and Utah are the last two finalists for the FORGE Laboratory to come here. With the FORGE Laboratory it is not only monies that will help build, but also the private investment dollars that will come to help in the geological studies. I met with the people from FORGE and faculty member from UNR and UNLV a few weeks ago, and they told me that we are second only to California in geothermal resources, yet we use less than 30 percent of them. We only have one baseload now, and that is natural gas. If anything happens to the price of natural gas, what will we do? Geothermal is a compatible resource and is a baseload resource for energy production in the State. The public piece is the partnering with the universities so we get the information. The private piece comes when people see that we are selected for the FORGE project and when they see we are interested in expanding our renewable-energy resources.

SENATOR HARDY:

Does that mean the geothermal industry and the State of Nevada has monetary buy-in to do this study?



Senators Ford, Atkinson and Roberson moved the previous question.

Motion carried.

The question being on the adoption of Amendment No. 638 to Senate Concurrent Resolution No. 4.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

#### SECOND READING AND AMENDMENT

Senate Bill No. 361.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 700.

SUMMARY—Revises provisions related to domestic violence. (BDR 53-775)

AN ACT relating to domestic violence; providing under certain circumstances for days of leave if an employee is a victim of an act which constitutes domestic violence; prohibiting the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation from disqualifying certain persons from receiving unemployment benefits under certain circumstances; prohibiting employers from conditioning employment in certain circumstances; increasing the penalty for violating certain orders for protection; increasing the penalty for a battery which constitutes domestic violence in certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth certain unlawful acts which constitute domestic violence when committed against certain specified persons. (NRS 33.018) Section 1 of this bill requires an employer to provide certain days of leave to an employee who has been employed by the employer for at least 60 days and who is a victim of an act which constitutes domestic violence, or such an employee whose family or household member is a victim of an act which constitutes domestic violence. Section 1 specifically requires that ~~[(1)]~~ such an employee is entitled to 30 days of leave during a 12-month period ~~[(1) and (2) 7 of the 30 days of leave are to be paid days of leave earned at a rate of 1 hour per 30 hours worked.]~~ Such leave: (1) may be paid or unpaid; (2) must be used within the 12 months immediately following the date on which the act which constitutes domestic violence occurred; (3) may be used consecutively or intermittently; and (4) under certain circumstances, must be deducted from leave permitted by the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq. Section 1 authorizes an employee to use the leave ~~[(1) beginning on the 60th calendar day of employment; and (2)]~~ for purposes related to a person who is a victim of an act which constitutes domestic violence. Section 1 additionally requires an employer to maintain a record of the use of the days of leave for each employee for a 3-year period and to make those records available for inspection by the Labor Commissioner. Finally,

section 1 requires the Labor Commissioner to prepare a bulletin setting forth the right to these benefits and requires employers to post the bulletin in the workplace.

Section 4 of this bill prohibits the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation from disqualifying a person from receiving unemployment compensation benefits if: (1) the person left employment to protect himself or herself, or his or her family or household member, from an act which constitutes domestic violence; and (2) the person actively engaged in an effort to preserve employment. Section 4 also authorizes the Administrator to request evidence from the person to support a claim for benefits.

Section 6 of this bill requires an employer to provide reasonable accommodations for an employee who is a victim of an act which constitutes domestic violence or whose family or household member is a victim of an act which constitutes domestic violence.

Section 7 of this bill prohibits an employer from conditioning the employment of an employee or prospective employee or taking certain employment actions because: (1) the employee is a victim of an act which constitutes domestic violence; (2) the employee's family or household member is a victim of an act which constitutes domestic violence; or (3) of other circumstances related to being a victim of an act which constitutes domestic violence.

Existing law authorizes a court to issue a temporary or extended order for protection to protect a person from domestic violence. (NRS 33.020, 33.030) Further, existing law provides that a person who intentionally violates a temporary or extended order for protection against domestic violence is guilty of a misdemeanor unless a more severe penalty is prescribed for the act. Section 8 of this bill instead makes the intentional violation of: (1) a temporary order a gross misdemeanor; and (2) an extended order a category C felony punishable by the penalties applicable to other category C felonies.

Existing law establishes the acts which constitute domestic violence, including committing a battery against a person with whom the aggressor has a certain relationship. (NRS 33.018) Under existing law, a person who is convicted of a third or subsequent offense of battery which constitutes domestic violence within 7 years is guilty of a category C felony. Additionally, if a person is convicted of a battery which constitutes domestic violence that is committed by strangulation, the person is guilty of a category C felony. (NRS 200.485) Section 9 of this bill makes it a category B felony punishable by a minimum term of imprisonment of 2 years and a maximum term of 15 years, and a fine of not less than \$2,000 but not more than \$5,000, to commit a battery which constitutes domestic violence if the person has previously been convicted of: (1) a felony in this State for committing battery which constitutes domestic violence; or (2) a violation of the law of any other jurisdiction that prohibits conduct that is the same or similar to a felony in this State for committing a battery which constitutes domestic violence.

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:

1. Every employer shall provide days of leave as follows:

(a) An employee who has been employed by an employer for at least 60 days and who is a victim of an act which constitutes domestic violence, or whose family or household member is a victim of an act which constitutes domestic violence, is entitled to not less than 30 days of leave in one 12-month period.  
~~{Seven of the 30 days of leave must accrue and be paid pursuant to paragraphs (b) and (c).}~~ Days of leave provided pursuant to this paragraph:

(1) May be paid or unpaid by the employer;

(2) Must be used within the 12 months immediately following the date on which the act which constitutes domestic violence occurred;

(3) May be used consecutively or intermittently; and

(4) If used for a reason for which leave may also be taken pursuant to the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq., must be deducted from the amount of leave the employee is entitled to take pursuant to this section and from the amount of leave the employee is entitled to take pursuant to the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq.

~~(b) {Paid days of leave must accrue at a rate of not less than 1 hour for every 30 hours worked by the employee. For the purpose of this calculation, a salaried employee shall be deemed to work 40 hours per week, unless the employee's normal week of work is less than 40 hours, in which case paid days of leave must accrue based on hours worked in the employee's normal week of work.~~

~~(c) Paid days of leave must be compensated at the rate of pay at which the employee is compensated at the time such leave is taken, and paid on the same payday as the days taken are normally paid. For the purposes of this calculation, the compensation rate for an employee who is paid by salary, commission, piece rate or a method other than an hourly wage must be calculated by dividing the employee's total wages paid for the immediately preceding 90 days by the number of hours worked during the period.~~

~~(d) An employer is not required to compensate an employee for any days of leave upon separation from employment, except that if~~ If an employee is rehired by the employer {within 1 year} after separation from that employer, any previously accrued unused days of leave must be reinstated { } if the time allowed to use the days of leave pursuant to subparagraph (2) of paragraph (a) has not expired. In that case, such days of leave must be used within the time allowed pursuant to subparagraph (2) of paragraph (a).

2. An employee may use the days of leave pursuant to subsection 1 as follows:

(a) ~~{An employee must be allowed to use days of leave beginning the 60th calendar day of his or employment.~~

~~=(b)=~~ An employee may use the days of leave ~~for~~ only:

(1) For the diagnosis, care or treatment of a health condition related to an act which constitutes domestic violence committed against the employee or family or household member of the employee;

(2) To obtain counseling or assistance related to an act which constitutes domestic violence committed against the employee or family or household member of the employee;

(3) To participate in any court proceedings related to an act which constitutes domestic violence committed against the employee or family or household member of the employee; or

(4) To establish a safety plan, including, without limitation, any action to increase the safety of the employee or the family or household member of the employee from a future act which constitutes domestic violence.

~~=(e)=~~ ~~To the extent possible, an~~

(b) After taking any days of leave upon the occurrence of the act which constitutes domestic violence, an employee shall give ~~reasonable~~ not less than 48 hours' advance notice to his or her employer of the need to use additional days of leave.

~~=(d)=~~ for any purpose listed in paragraph (a).

3. An employer shall not:

~~=(1)=~~ (a) Deny an employee the right to use days of leave in accordance with the conditions of this section;

~~=(2)=~~ (b) Require an employee to find a replacement worker as a condition of using days of leave; or

~~=(3)=~~ (c) Retaliate against an employee for using days of leave.

~~=(3)=~~ 4. The employer of an employee who takes days of leave pursuant to this section may require ~~any~~ the employee to provide to the employer documentation that confirms or supports the reason the employee provided for requesting leave.

~~=(4)=~~ Such documentation may include, without limitation, a police report, a copy of an application for an order for protection, an affidavit from an organization which provides services to victims of domestic violence or documentation from a physician. Any documentation provided to an employer pursuant to this subsection is confidential and must not be retained by the employer.

5. The Labor Commissioner shall prepare a bulletin which clearly sets forth the right to the benefits created by this section. The Labor Commissioner shall post the bulletin on the Internet website maintained by the Office of Labor Commissioner, if any, and shall require all employers to post the bulletin in a conspicuous location in each workplace maintained by the employer. The bulletin may be included in any printed abstract posted by the employer pursuant to NRS 608.013.

~~=(5)=~~ 6. An employer shall maintain a record of the ~~use of~~ days of leave taken pursuant to this section for each employee for a 3-year period following

*the entry of such information in the record and, upon request, shall make those records available for inspection by the Labor Commissioner.*

~~6.~~ 7. *The provisions of this section do not:*

(a) *Limit or abridge any other rights, remedies or procedures available under the law.*

(b) *Negate any other rights, remedies or procedures available to an aggrieved party.*

(c) *Prohibit, preempt or discourage any contract or other agreement that provides a more generous leave benefit or paid leave benefit.*

~~7.~~ 8. *As used in this section:*

(a) *"Domestic violence" has the meaning ascribed to it in NRS 33.018.*

(b) *"Family or household member" means a spouse, a ~~former spouse,~~ child, a parent or other adult person who is related ~~(by blood)~~ within the first degree of consanguinity or affinity to the employee, or other adult person who is or was actually residing with ~~the person,~~ the employee at the time of the act which constitutes domestic violence.*

Sec. 2. NRS 608.180 is hereby amended to read as follows:

608.180 The Labor Commissioner or the representative of the Labor Commissioner shall cause the provisions of NRS 608.005 to 608.195, inclusive, *and section 1 of this act* to be enforced, and upon notice from the Labor Commissioner or the representative:

1. The district attorney of any county in which a violation of those sections has occurred;

2. The Deputy Labor Commissioner, as provided in NRS 607.050;

3. The Attorney General, as provided in NRS 607.160 or 607.220; or

4. The special counsel, as provided in NRS 607.065,

↪ shall prosecute the action for enforcement according to law.

Sec. 3. NRS 608.195 is hereby amended to read as follows:

608.195 1. Except as otherwise provided in NRS 608.0165, any person who violates any provision of NRS 608.005 to 608.195, inclusive, *and section 1 of this act*, or any regulation adopted pursuant thereto, is guilty of a misdemeanor.

2. In addition to any other remedy or penalty, the Labor Commissioner may impose against the person an administrative penalty of not more than \$5,000 for each such violation.

Sec. 4. Chapter 612 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Administrator shall not deny any otherwise eligible person benefits if the Administrator finds that:*

(a) *The person left employment to protect himself or herself, or a family or household member, from an act which constitutes domestic violence; and*

(b) *The person actively engaged in an effort to preserve employment.*

2. *The Administrator may request the person to furnish evidence satisfactory to support the person's claim for benefits.*

3. *As used in this section:*

(a) "Domestic violence" has the meaning ascribed to it in NRS 33.018.

(b) "Family or household member" means a spouse, a ~~former spouse,~~ child, a parent or other adult person who is related ~~by blood~~ within the first degree of consanguinity or affinity to the employee, or other adult person who is or was actually residing with ~~a person,~~ the employee at the time of the act which constitutes domestic violence.

Sec. 5. Chapter 613 of NRS is hereby amended by adding thereto the provisions set forth as sections 6 and 7 of this act.

Sec. 6. 1. An employer must make reasonable accommodations for an employee who is a victim of an act which constitutes domestic violence or whose family or household member is a victim of an act which constitutes domestic violence. The employer may provide such accommodations, including, without limitation, as:

- (a) A transfer or reassignment;
- (b) A modified schedule;
- (c) A new telephone number for work; or
- (d) Any other reasonable accommodations deemed necessary to ensure the safety of the employee, the workplace, the employer or other employees.

2. An employer may require an employee to provide to the employer documentation that confirms or supports the reason the employee requires the reasonable accommodations.

3. As used in this section:

- (a) "Domestic violence" has the meaning ascribed to it in NRS 33.018.
- (b) "Family or household member" has the meaning ascribed to it in section 4 of this act.

Sec. 7. 1. It is unlawful for any employer in this State to discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against, an employee because:

- (a) The employee requested to use days of leave pursuant to section 1 of this act;
- (b) The employee participated in court proceedings related to an act which constitutes domestic violence;
- (c) The employee requested an accommodation pursuant to section 6 of this act; or
- (d) A person who allegedly committed an act which constitutes domestic violence commits an act which constitutes domestic violence in the workplace of the employee.

2. As used in this section, "domestic violence" has the meaning ascribed to it in NRS 33.018.

Sec. 8. NRS 33.100 is hereby amended to read as follows:

33.100 ~~[A]~~ Unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, any person who intentionally violates ~~[a]~~ :

- 1. A temporary ~~[or]~~ order is guilty of a gross misdemeanor;

2. ~~An extended order is guilty of a misdemeanor, unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order.] category C felony and shall be punished as provided in NRS 193.130.~~

Sec. 9. NRS 200.485 is hereby amended to read as follows:

200.485 1. Unless a greater penalty is provided pursuant to subsection 2 or 3 or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:

(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

➡ The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.

(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

➡ The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.

(c) For the third ~~and any subsequent~~ offense within 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. Unless a greater penalty is provided pursuant to *subsection 3 or* NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed by strangulation as described in NRS 200.481, is guilty of a category C felony and shall be punished as provided in NRS 193.130 and by a fine of not more than \$15,000.

3. *Unless a greater penalty is provided pursuant to NRS 200.481, a person who has been previously convicted of:*

(a) *A battery which constitutes domestic violence pursuant to NRS 33.018 that is punishable as a felony pursuant to paragraph (c) of subsection 1 or subsection 2; or*

(b) *A violation of the law of any other jurisdiction that prohibits the same or similar conduct set forth in paragraph (a),*

➡ *and who commits a battery which constitutes domestic violence pursuant to NRS 33.018 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years*

*and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than \$2,000 but more than \$5,000.*

4. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:

(a) For the first offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, but not more than 12 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

(b) For the second offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

➤ If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

~~{4. — An}~~

5. *Except as otherwise provided in this subsection, an offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. An offense which is listed in paragraph (a) or (b) of subsection 3 that occurred on any date preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions.* The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

~~{5.}~~ 6. In addition to any other fine or penalty, the court shall order such a person to pay an administrative assessment of \$35. Any money so collected must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.

~~{6.}~~ 7. In addition to any other penalty, the court may require such a person to participate, at his or her expense, in a program of treatment for the abuse of alcohol or drugs that has been certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

~~{7.}~~ 8. If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the



court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of the convicted person's ability to pay.

~~{8.}~~ 9. If a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. A court shall not grant probation to and, except as otherwise provided in NRS 4.373 and 5.055, a court shall not suspend the sentence of such a person.

~~{9.}~~ 10. As used in this section:

(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

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

(c) "Offense" includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

Sec. 10. NRS 432B.640 is hereby amended to read as follows:

432B.640 1. Upon receiving a referral from a court pursuant to subsection ~~{7}~~ 8 of NRS 200.485, an agency which provides child welfare services may, as appropriate, conduct an assessment to determine whether a psychological evaluation or counseling is needed by a child.

2. If an agency which provides child welfare services conducts an assessment pursuant to subsection 1 and determines that a psychological evaluation or counseling would benefit the child, the agency may, with the approval of the parent or legal guardian of the child:

(a) Conduct the evaluation or counseling; or

(b) Refer the child to a person that has entered into an agreement with the agency to provide those services.

Sec. 11. This act becomes effective;

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

2. On ~~{October}~~ January 1, ~~{2017}~~ 2018, for all other purposes.

Senator Segerblom moved the adoption of the amendment.

Remarks by Senator Segerblom.

Amendment No. 700 to Senate Bill No. 361 revises language setting forth how leave is to be granted and calculated, whether it is to be paid or unpaid, and adds language tying the leave to the Federal Family Medical Leave Act under certain circumstances. It also revises requirements concerning notice of leave that an employee must give to his or her employer, the documentation

that may be used to support a request for leave related to domestic violence, narrows the definition of "family or household member" and moves the effective date of the bill out to January 1, 2018.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Joint Resolution No. 6.

Resolution read second time and ordered to third reading.

Assembly Bill No. 26.

Bill read second time and ordered to third reading.

Assembly Bill No. 117.

Bill read second time and ordered to third reading.

Assembly Bill No. 125.

Bill read second time and ordered to third reading.

Assembly Bill No. 138.

Bill read second time and ordered to third reading.

Assembly Bill No. 142.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

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 ~~for 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 ~~or neglect or abandonment~~ or a similar basis ~~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. ~~1A.~~ 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~~ 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.

~~4.4~~ 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.

~~5.4~~ 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. 2.4~~ 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.

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.

Amendment No. 672 revises Assembly Bill No. 142 to authorize a district court to make factual findings under certain additional chapters of *Nevada Revised Statutes* related to juveniles; provide that a court must not make any additional findings regarding the asserted, purported or perceived motivation of the child seeking status as a special immigrant juvenile or the person requesting that the court make certain findings, and authorize a court to appoint a guardian to a person if the ward or proposed ward seeking status as a special immigrant juvenile with the United States Citizenship and Immigration Services if the person is unmarried, between 18 and 21 years of age, and consents to the appointment. Such a guardianship ends when the person reaches 21 years of age, unless the person petitions the court to terminate the guardianship sooner.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 177.

Bill read second time and ordered to third reading.

Assembly Bill No. 196.

Bill read second time and ordered to third reading.



Assembly Bill No. 218.

Bill read second time and ordered to third reading.

Assembly Bill No. 235.

Bill read second time and ordered to third reading.

Assembly Bill No. 254.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 704.

SUMMARY—Revises provisions governing guardianships. (BDR 13-595)

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 ~~and~~ 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 ~~and~~ 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 ~~of 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. ~~++~~ 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 ~~1.1~~ Upon petition by any trustee or beneficiary, a court having jurisdiction of a trust may transfer supervision of the trust to ~~any~~ :

~~1.1~~ 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.

~~1.2~~ 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.~~

Senator Segerblom moved the adoption of the amendment.

Remarks by Senator Segerblom.

Amendment No. 704 to Assembly Bill No. 254 makes technical revisions including changing the word "ward" to "protected person;" revising language concerning disbursements from a trust; providing that certain persons may petition the court to assume jurisdiction of a trust, and adding an "irrevocable" trust to trusts that may be submitted to the court's jurisdiction in certain circumstances.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 268.

Bill read second time and ordered to third reading.

Assembly Bill No. 275.

Bill read second time and ordered to third reading.

Assembly Bill No. 312.

Bill read second time and ordered to third reading.

Assembly Bill No. 314.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 707.

SUMMARY—Revises various provisions relating to estates. (BDR 2-738)

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 ~~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 ~~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 . ~~{or, 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:*

*(I) Whose claim was rejected by the personal representative, partially allowed by the personal representative and rejected by the creditor pursuant to NRS 147.160, or deemed rejected by the personal representative pursuant to NRS 147.110;*

*(II) Who adjudicated the creditor's claims in the proper court or by a summary adjudication; and*

*(III) Who obtained a favorable final judgment on its claim from the proper court,*

*➡ within 60 days after the probate court enters an order confirming the amount of payment of the approved claim that is final and no longer subject to reconsideration or appeal or within 1 year after the decedent's death, whichever is later.*

*(b) If an action had been commenced against the decedent before the decedent's death, the creditor receives a judgment against the decedent's estate and the creditor has filed a proper and timely creditor's claim against the estate, within 60 days after ~~{final allowance of the claim by}~~ the probate court enters an order confirming the amount of payment of the adjudicated claim that is final and no longer subject to reconsideration or appeal or within 1 year after the decedent's death, whichever is later.*

~~*{(b) As to a creditor whose claim against the decedent is being adjudicated in a separate proceeding that is still pending 1 year after the decedent's death, within 60 days after the adjudication of the claim in favor of the creditor is final and no longer subject to reconsideration or appeal.}*~~

*(c) As to the recovery of benefits paid for Medicaid, within 3 years after the decedent's death.*

*(d) As to all other creditors, within 1 year after the decedent's death.*

11. Unless a written notice asserting that a decedent's probate estate is nonexistent or insufficient to pay allowed claims and statutory allowances has been received from the decedent's personal representative, the following rules apply:

*(a) Payment or delivery of assets by a financial institution, registrar or other obligor to a nonprobate transferee in accordance with the terms of the governing instrument controlling the transfer releases the obligor from all claims for amounts paid or assets delivered.*

*(b) A trustee receiving or controlling a nonprobate transfer is released from liability under this section with respect to any assets distributed to the trust's beneficiaries. Each beneficiary to the extent of the distribution received*

becomes liable for the amount of the trustee's liability attributable to assets received by the beneficiary.

12. ~~Notwithstanding~~ 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 includes provisions revoking the first will*, the destruction, cancellation or revocation of the second will does not revive the first will ~~[-]~~ 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 ~~[-]~~ :

(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 ~~if~~ *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; ~~for~~
- (c) Obtain ~~a~~ court ~~ruling~~ *instruction* with respect to the *proper administration of the estate or the construction or legal effect of the will ~~it~~ 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 ~~it, 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)}~~ (1) A certain amount of money, or certain other assets, be retained by the personal representative to:

~~{(1)}~~ (1) 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 ~~{{a}}~~ :

*(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. ~~{{}}~~ 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 ~~{{}}~~ 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 ~~{{}}~~, 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~~ of the estate, the court does not lose jurisdiction of the estate, life estate or estate for years by final distribution ~~of~~ 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 ~~is complete. Proof of distribution of the residue may be made upon petition of the trustee, his or her successor in interest or of~~ ~~the trustee, his or her successor in interest or of~~ any person entitled to share in the distribution ~~of~~ 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]~~ 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~~ *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:

~~{-}~~ (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]~~ *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; ~~or~~

(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 ~~to~~; or

(c) *The trust instrument authorizes the exoneration or reimbursement of a trustee and the actions of the trustee did not constitute willful misconduct or gross negligence.*

2. If a trustee commits a tort which increases the value of the trust property, the trustee shall be entitled to exoneration or reimbursement with respect thereto to the extent of such increase in value, even though the trustee would not otherwise be entitled to exoneration or reimbursement.

3. Nothing in this section shall be construed to change the existing law with regard to the liability of trustees of charitable trusts for torts of themselves or their employees.

Sec. 48. NRS 163.4185 is hereby amended to read as follows:

163.4185 1. A distribution interest may be classified as:

(a) A mandatory interest if the trustee has no discretion to determine whether a distribution should be made, when a distribution should be made or the amount of the distribution.

(b) A support interest if the ~~{distribution of a support interest contains a standard for distribution for the support of a person which may be interpreted by the trustee or a court, as necessary. A provision in a trust which provides a support interest may contain mandatory language which a}~~ trustee ~~{must follow.}~~ *is required to make distributions to the beneficiary pursuant to an ascertainable standard.*

(c) A discretionary interest if the trustee has discretion to determine whether a distribution should be made, when a distribution should be made and the amount of the distribution.

2. If a trust contains a combination of a mandatory interest, a support interest or a discretionary interest, the trust must be separated as:

(a) A mandatory interest only to the extent of the mandatory language provided in the trust;

(b) A support interest only to the extent of the support language provided in the trust; and

(c) A discretionary interest for any remaining trust property.

3. If a trust provides for a support interest that also includes mandatory language but the mandatory language is qualified by discretionary language, the support interest must be classified and separated as a discretionary interest.

4. *As used in this section, "ascertainable standard" means a standard relating to a person's health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code,*

26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States Treasury promulgated thereunder.

Sec. 49. NRS 163.556 is hereby amended to read as follows:

163.556 1. Except as otherwise provided in this section, unless the terms of a testamentary instrument or irrevocable trust provide otherwise, a trustee with discretion or authority to distribute trust income or principal to or for a beneficiary of the trust may exercise such discretion or authority by appointing the property subject to such discretion or authority in favor of a second trust as provided in this section.

2. The second trust to which a trustee appoints property of the first trust may only have as beneficiaries one or more of the beneficiaries of the original trust:

(a) To or for whom a distribution of income or principal may be made from the original trust;

(b) To or for whom a distribution of income or principal may be made in the future from the original trust at a time or upon the happening of an event specified under the first trust; or

(c) Both paragraphs (a) and (b).

➔ For purposes of this subsection, a permissible appointee of a power of appointment exercised by a beneficiary of the second trust is not considered a beneficiary of the second trust.

3. A trustee may not appoint property of the original trust to a second trust if:

(a) Appointing the property will reduce any income interest of any income beneficiary of the original trust if the original trust is:

(1) A trust for which a marital deduction has been taken for federal or state income, gift or estate tax purposes;

(2) A trust for which a charitable deduction has been taken for federal or state income, gift or estate tax purposes; or

(3) A grantor-retained annuity trust or unitrust under ~~{27}~~ 26 C.F.R. § 25.2702-3(b) and (c).

➔ As used in this paragraph, "unitrust" has the meaning ascribed to it in NRS 164.700.

(b) The property to be appointed is subject to a power of withdrawal which is held by a beneficiary of the original trust and may be executed at the time of the proposed appointment, unless after the exercise of such appointment, the beneficiary of the original trust's power of withdrawal is unchanged with respect to the trust property.

(c) Property specifically allocated for one beneficiary of the original trust is no longer allocated for that beneficiary under either or both trusts, unless the beneficiary consents in writing.

(d) Property held for the benefit of one or more beneficiaries under both the original and the second trust has a lower value than the value of the property held for the benefit of the same beneficiaries under only the original trust, unless:

(1) The benefit provided is limited to a specific amount or periodic payments of a specific amount; and

(2) The value of the property held in either or both trusts for the benefit of one or more beneficiaries is actuarially adequate to provide the benefit.

(e) A contribution made to the original trust qualified for a gift tax exclusion as described in section 2503(b) of the Internal Revenue Code, 26 U.S.C. § 2503(b), by reason of the application of section 2503(c) of the Internal Revenue Code, 26 U.S.C. § 2503(c), unless the second trust provides that the beneficiary's remainder interest must vest not later than the date upon which such interest would have vested under the terms of the original trust.

4. A trustee who is a beneficiary of the original trust may not exercise the authority to appoint property of the original trust to a second trust if:

(a) Under the terms of the original trust or pursuant to law governing the administration of the original trust:

(1) The trustee does not have discretion to make distributions to himself or herself;

(2) The trustee's discretion to make distributions to himself or herself is limited by an ascertainable standard, and under the terms of the second trust, the trustee's discretion to make distributions to himself or herself is not limited by the same ascertainable standard; or

(3) The trustee's discretion to make distributions to himself or herself can only be exercised with the consent of a cotrustee or a person holding an adverse interest and under the terms of the second trust the trustee's discretion to make distributions to himself or herself is not limited by an ascertainable standard and may be exercised without consent; or

(b) Under the terms of the original trust or pursuant to law governing the administration of the original trust, the trustee of the original trust does not have discretion to make distributions that will discharge the trustee's legal support obligations but under the second trust the trustee's discretion is not limited.

5. Notwithstanding the provisions of subsection 1, a trustee who may be removed by the beneficiary or beneficiaries of the original trust and replaced with a trustee that is related to or subordinate, as described in section 672 of the Internal Revenue Code, 26 U.S.C. § 672(c), to a beneficiary, may not exercise the authority to appoint property of the original trust to a second trust to the extent that the exercise of the authority by such trustee would have the effect of increasing the distributions that can be made from the second trust to such beneficiary or group of beneficiaries that held the power to remove the trustee of the original trust and replace such trustee with a related or subordinate person, unless the distributions that may be made from the second trust to such beneficiary or group of beneficiaries described in paragraph (a) of subsection 4 are limited by an ascertainable standard.

6. The provisions of subsections 4 and 5 do not prohibit a trustee who is not a beneficiary of the original trust or who may not be removed by the beneficiary or beneficiaries and replaced with a trustee that is related to or

subordinate to a beneficiary from exercising the authority to appoint property of the original trust to a second trust pursuant to the provisions of subsection 1.

7. Before appointing property pursuant to subsection 1, a trustee may give notice of a proposed action pursuant to NRS 164.725 or may petition a court for approval pursuant to NRS 153.031, 164.015 or 164.725. Any notice of a proposed action or a petition for a court's approval must include the trustee's opinion of how the appointment of property will affect the trustee's compensation and the administration of other trust expenses.

8. The trust instrument of the second trust may:

(a) Grant a general or limited power of appointment to one or more of the beneficiaries of the second trust who are beneficiaries of the original trust.

(b) Provide that, at a time or occurrence of an event specified in the trust instrument, the remaining trust assets in the second trust must be held for the beneficiaries of the original trust upon terms and conditions that are substantially identical to the terms and conditions of the original trust.

9. The power to appoint the property of the original trust pursuant to subsection 1 must be exercised by a writing, signed by the trustee and filed with the records of the trust.

10. The exercise of the power to invade principal of the original trust pursuant to subsection 1 is considered the exercise of a power of appointment, other than power to appoint the property to the trustee, the trustee's creditors, the trustee's estate or the creditors of the trustee's estate and the provisions of NRS 111.1031 apply to such power of appointment.

11. The provisions of this section do not abridge the right of any trustee who has the power to appoint property which arises under any other law.

12. The provisions of this section do not impose upon a trustee a duty to exercise the power to appoint property pursuant to subsection 1.

13. The power to appoint property to another trust pursuant to subsection 1 is not a power to amend the trust and a trustee is not prohibited from appointing property to another trust pursuant to subsection 1 if the original trust is irrevocable or provides that it may not be amended.

14. A trustee's power to appoint property to another trust pursuant to subsection 1 is not limited by the existence of a spendthrift provision in the original trust.

15. A trustee exercising any power granted pursuant to this section may designate himself or herself or any other person permitted to act as a trustee as the trustee of the second trust.

16. The trustee of a second trust, resulting from the exercise of the power to appoint property to another trust pursuant to subsection 1, may also exercise the powers granted pursuant to this section with respect to the second trust.

17. ~~For the purposes of this section, "second trust" means an irrevocable trust that receives trust income or principal appointed by the trustee of the original trust, and may be established by any person, including, without limitation, a new trust created by the trustee, acting in that capacity, of the original trust. If the trustee of the original trust establishes the second trust,~~

~~then for purposes of creating the new second trust, the requirement of NRS 163.008 that the instrument be signed by the settlor shall be deemed to be satisfied by the signature of the trustee of the second original trust. The second trust may be a trust created under the same trust instrument as the original trust or under a different trust instrument.~~

~~—18. As used in this section, "ascertainable standard" means a standard relating to an individual's health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code, 26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States Treasury promulgated thereunder.~~

~~—19.} This section applies to a trust that is governed by, sitused in or administered under the laws of this State, whether the trust is initially governed by, sitused in or administered under the laws of this State pursuant to the terms of the trust instrument or whether the governing law, situs or administration of the trust is moved to this State from another state or foreign jurisdiction.~~

*18. The power to appoint to a second trust pursuant to this section may be exercised to appoint to a second trust that is a special needs trust, pooled trust or third-party trust.*

*19. As used in this section:*

*(a) "Ascertainable standard" means a standard relating to a person's health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code, 26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States Treasury promulgated thereunder.*

*(b) "Pooled trust" means a trust described in 42 U.S.C. § 1396p(d)(4)(C) that meets the requirements for such a trust under any law or regulation of this State relating to the treatment of trusts for purposes of eligibility for Medicaid or other needs-based public assistance.*

*(c) "Second trust" means an irrevocable trust that receives trust income or principal appointed by the trustee of the original trust, and may be established by any person, including, without limitation, a new trust created by the trustee, acting in that capacity, of the original trust. If the trustee of the original trust establishes the second trust, then for purposes of creating the new second trust, the requirement of NRS 163.008 that the instrument be signed by the settlor shall be deemed to be satisfied by the signature of the trustee of the second original trust. The second trust may be a trust created under the same trust instrument as the original trust or under a different trust instrument.*

*(d) "Special needs trust" means a trust under 42 U.S.C. § 1396p(d)(4)(A) that meets the requirements for such a trust under any law or regulation of this State relating to the treatment of trusts for purposes of eligibility for Medicaid or other needs-based public assistance.*

*(e) "Third-party trust" means a trust that is:*

*(1) Established by a third party with the assets of the third party to provide for the supplemental needs of a person who is eligible for needs-based public assistance at or after the time of the creation of the trust; and*

(2) *Exempt from the provisions of any law or regulation of this State relating to the treatment of trusts for purposes of eligibility for Medicaid.*

Sec. 50. NRS 163.610 is hereby amended to read as follows:

163.610 ~~{A fiduciary}~~ *Unless otherwise provided by the trust instrument, a trustee may ~~{take such actions as are necessary to cause}~~ include capital gains from the sale or exchange of ~~{trust assets, as determined for federal income tax purposes, to be taxed for federal income tax purposes as part of a distribution of income, including, without limitation, income which has been increased by an adjustment from principal to income under NRS 164.795, a unitrust distribution or a distribution of principal}~~ capital assets in distributable net income to the extent the gains are, in a reasonable and impartial exercise of discretion by the trustee, allocated to:*

1. *Income pursuant to the power of the trustee to adjust between principal and income pursuant to NRS 164.795;*

2. *Principal and treated consistently by the trustee in the books, records and tax returns of the trust as part of the distribution to a beneficiary; or*

3. *Principal but distributed to a beneficiary or utilized by the trustee in determining the amount that is distributed or required to be distributed to a beneficiary.*

Sec. 51. NRS 164.010 is hereby amended to read as follows:

164.010 1. Upon petition of any person appointed as trustee of an express trust by any written instrument other than a will, or upon petition of a settlor or beneficiary of the trust, the district court of the county in which ~~{the}~~ any trustee resides or conducts business ~~{,}~~ at the time of the filing of the petition or in which the trust has been domiciled ~~{,}~~ as of the time of the filing of the petition shall ~~{consider the application to}~~ assume jurisdiction of the trust as a proceeding in rem ~~{,}~~ unless another court has properly assumed continuing jurisdiction in rem in accordance with the laws of that jurisdiction and the district court determines that it is not appropriate for the district court to assume jurisdiction under the circumstances.

2. ~~{If}~~ 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.~~

~~[-]~~ 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.

3. If a person with authority to order the burial or cremation of the human remains of a decedent pursuant to paragraphs (c) to (h), inclusive, of subsection 1 has been arrested for or charged with murder, as defined in NRS 200.010, or voluntary manslaughter, as defined in NRS 200.050, in connection with the death of the decedent, the authority of the person to order the disposition of the human remains of the decedent is automatically relinquished and passes to the next person in order of priority pursuant to subsection 1.

4. If there is more than one person authorized to order the burial or cremation of the human remains of a decedent within a particular priority class pursuant to paragraphs (d) to (h), inclusive, of subsection 1, a funeral establishment or direct cremation facility may require a majority of the members of the priority class to agree upon a disposition of the remains of the decedent.

5. A person who accepts legal and financial responsibility for the burial or cremation of the human remains of a decedent as described in subparagraph (4) of paragraph (b) of subsection 2 does not have a claim against the estate of the decedent or against any other person for the cost of the burial or cremation.

6. If the deceased person was an indigent or other person for whom the final disposition of the decedent's remains is a responsibility of a county or the State, the appropriate public officer may order the burial or cremation of the remains and provide for the respectful disposition of the remains.

7. If the deceased person donated his or her body for scientific research or, before the person's death, a medical facility was made responsible for the final disposition of the person, a representative of the scientific institution or medical facility may order the burial or cremation of his or her remains.

8. A living person may order the burial or cremation of human remains removed from his or her body or the burial or cremation of his or her body after death. In the latter case, any person acting pursuant to his or her instructions is an authorized agent.

9. A person 18 years of age or older wishing to authorize another person to order the burial or cremation of his or her human remains in the event of the person's death *may include such an authorization in a validly executed will or durable power of attorney or* may execute an affidavit before a notary public in substantially the following form:

State of Nevada                    }  
  }ss  
County of                            }

(Date) .....

I, ....., (person authorizing another person to order the burial or cremation of his or her human remains in the event of his or her death) do hereby designate ..... (person who is being authorized to order the burial or cremation of the human remains of a person in the event of his or her death) to order the 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.

Senator Segerblom moved the adoption of the amendment.

Remarks by Senator Segerblom.

Amendment No. 707 to Assembly Bill No. 314 clarifies that the bill's provisions do not impact the recovery of money owed to the Department of Health and Human Services in relation to the payment of Medicaid benefits.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 350.

Bill read second time.

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

Amendment No. 653.

SUMMARY—Revises provisions relating to state employment.  
(BDR 23-932)

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 ~~an~~ 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.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 653 to Assembly Bill No. 350 provides that the new employee orientation may be conducted via video conference or by a prerecorded training video or electronic method,

and specifies that the State agency shall supply to an employee organization the new State employee's work address rather than his or her home address.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 411.

Bill read second time and ordered to third reading.

Assembly Bill No. 412.

Bill read second time and ordered to third reading.

Assembly Bill No. 444.

Bill read second time and ordered to third reading.

Assembly Bill No. 453.

Bill read second time and ordered to third reading.

Assembly Bill No. 454.

Bill read second time.

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

Amendment No. 697.

SUMMARY—Makes various changes to provisions relating to accountants.  
(BDR 54-109)

AN ACT relating to accountants; revising provisions relating to the qualifications and appointment of members of the Nevada State Board of Accountancy; revising provisions relating to the adoption or amendment of rules of professional conduct by the Board; revising the qualifications for a certificate of certified public accountant; revising certain educational and work experience requirements for a certificate of certified public accountant; eliminating the requirement that an accounting firm which performs attest services but which does not have an office in this State must register with the Board; providing that such an accounting firm may perform attest services under the same conditions as it practices and performs nonattest services; authorizing the issuance of a cease and desist order to a person believed to be engaged in the unlawful practice of accounting; repealing provisions relating to the registration of public accountants and business entities formed by public accountants; increasing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally provides for the regulation of accountants in this State. (Chapter 628 of NRS) Sections 1, 3 and 4 of this bill revise definitions relating to services to be performed by accountants to conform with the seventh edition of the Uniform Accountancy Act, published by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy.

Section 9 of this bill requires the Nevada State Board of Accountancy to provide notice of proposed new rules of professional conduct or amendments to rules of professional conduct to permit holders by electronic mail rather than by delivery by the United States Postal Service. Section 10 of this bill removes the requirement that to qualify for a certificate of certified public accountant, the applicant must either be a resident of this State or designate an agent in this State to receive service of process for the applicant. Sections 11-13 of this bill revise certain educational, work experience and examination requirements for a certificate of certified public accountant.

Section 14.2 of this bill eliminates the requirement that a partnership, corporation, limited-liability company or sole proprietorship must register with the Board in order to perform attest services for a client having his or her home office in this State. (NRS 628.335) Section 14.2 additionally authorizes such a partnership, corporation, limited-liability company or sole proprietorship to perform attest services for a client having his or her home office in this State without registering only if the partnership, corporation, limited-liability company or sole proprietorship meets the existing criteria for nonattest services. Sections 13.5, 14.4-14.8 and 31.5 of this bill make conforming changes necessitated by the revisions to section 14.2.

Section 28 of this bill authorizes the Board to provide another licensing board or agency with otherwise confidential and privileged records relating to a complaint if the Board is cooperating in an investigation by that board or agency. Section 39 of this bill authorizes the Board to issue a cease and desist order to a person the Board believes to be engaging in certain unlawful acts relating to accounting. Section 40 of this bill increases the penalty for committing certain unlawful acts relating to accounting from a misdemeanor to a gross misdemeanor.

Section 45 of this bill repeals provisions relating to the registration and regulation of registered public accountants and business entities formed by public accountants. Sections 5, 6, 8, ~~14-27, 29-38~~ 14, 15-27, 29-31, 32-38 and 41-44 of this bill make conforming changes.

Under existing law, the Nevada Society of Certified Public Accountants is required to submit to the Governor the names of at least three persons qualified for membership on the Board for each position on the Board to be filled by a certified public accountant. (NRS 628.075) Section 7 of this bill authorizes the Nevada Society of Certified Public Accountants to recommend to the Governor the reappointment of a current Board member who is eligible for reappointment without submitting other names for consideration.

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

Section 1. Chapter 628 of NRS is hereby amended by adding thereto a new section to read as follows:

*"Report," when used with respect to any attest or compilation service, means an opinion, report or other form of language that states or implies assurance as to the reliability of the attested information or compiled financial*



*statements, and that also includes or is accompanied by a statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the attested information or complied financial statements referred to, or special competence on the part of the person or firm issuing such language, including, without limitation, another form of language that is conventionally understood to imply such assurance or such special knowledge or competence.*

Sec. 2. NRS 628.003 is hereby amended to read as follows:

628.003 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 628.005 to 628.033, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 3. NRS 628.005 is hereby amended to read as follows:

628.005 "Attest," "attesting" and "attestation" mean *providing the* ~~issuance of opinions, reports or other documents which state or imply assurance of the reliability of information when the opinions, reports or other documents are accompanied by or contain any name, title or wording which indicates that the person or other entity which has issued them is an accountant or auditor, or has expert knowledge in accounting or auditing. The terms include any disclaimer of an opinion when the disclaimer is in a form which is understood to imply any positive assurance of the reliability of the information and expertise on the part of the person making the disclaimer.]~~ *following services:*

1. *An audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS) published by the American Institute of Certified Public Accountants.*

2. *A review of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS) published by the American Institute of Certified Public Accountants.*

3. *An examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE) published by the American Institute of Certified Public Accountants.*

4. *An engagement to be performed in accordance with the standards of the Public Company Accounting Oversight Board.*

5. *An examination, review or agreed upon procedures engagement to be performed in accordance with the SSAE, other than an examination described in subsection 3.*

Sec. 4. NRS 628.014 is hereby amended to read as follows:

628.014 "Compilation" means ~~the presentation, in the form of financial statements prepared,~~ *providing a service to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS)*

published by the American Institute of Certified Public Accountants, ~~[of information]~~ that is ~~[a representation by]~~ *presented in the [owner or management] form of [an entity] financial statements, of information that is the representation of the owner or management without undertaking to [state or imply assurance of the reliability of]* *express any assurance on the [information.] statements.*

Sec. 5. NRS 628.0345 is hereby amended to read as follows:

628.0345 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a certificate issued pursuant to NRS 628.190 to 628.310, inclusive, ~~[any registration or license granted to a registered public accountant pursuant to NRS 628.350]~~ or a permit issued pursuant to NRS 628.380 shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a certificate issued pursuant to NRS 628.190 to 628.310, inclusive, ~~[any registration or license granted to a registered public accountant pursuant to NRS 628.350]~~ or a permit issued pursuant to NRS 628.380 shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the certificate ~~[, registration, license]~~ or permit; or

(b) A separate form prescribed by the Board.

3. A certificate ~~[, registration, license]~~ or permit described in subsection 1 may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 6. NRS 628.045 is hereby amended to read as follows:

628.045 1. ~~[Except as otherwise provided in subsection 2, the]~~ The Governor shall appoint to the Board ~~[six]~~ :

(a) Six members who are certified public accountants ~~[in the State of Nevada and one member who is a registered public accountant]~~ in the State of Nevada ~~[. Of the six members who are certified public accountants:]~~ of whom:

~~[(a)]~~ (1) One member must be employed by the government or by private industry; and

~~[(b)]~~ (2) Five members must be engaged in the practice of public accounting.

~~[2. Whenever the total number of registered public accountants who practice is 10 or fewer, the Board must consist of six members who are certified public accountants and the member who is a registered public accountant until that member's term of office expires. Thereafter, the Board must consist of:~~

~~—(a) Six members who are certified public accountants, one of whom must be employed by the government or by private industry.]~~

(b) One member who represents the public. This member must not be:

(1) A certified public accountant ~~[.]~~ or a public accountant ; ~~[or a registered public accountant:]~~ or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a certified public accountant ~~[.]~~ or a public accountant . ~~[or a registered public accountant.]~~

~~—3.]~~ 2. No person may be appointed to the Board unless he or she is:

(a) Engaged in active practice as a certified public accountant ~~[or registered public accountant]~~ and holds a live permit to practice public accounting in this State, or is appointed as the member who represents the public.

(b) A resident of the State of Nevada.

Sec. 7. NRS 628.075 is hereby amended to read as follows:

628.075 1. ~~[The]~~ *Except as otherwise provided in subsection 2, the Nevada Society of Certified Public Accountants shall, at least 30 days before the beginning of any term, or within 30 days after a position on the Board becomes vacant, submit to the Governor the names of at least three persons qualified for membership on the Board for each position to be filled by a certified public accountant. The Governor shall appoint new members or fill the vacancy from the list, or request a new list. If the Nevada Society of Certified Public Accountants fails to submit timely nominations for a position on the Board, the Board may submit nominations to the Governor, who shall appoint members from among the nominees or request a new list.*

2. *If the term of a current member of the Board is expiring and that member is eligible for reappointment to the Board, the Nevada Society of Certified Public Accountants may recommend to the Governor the reappointment of that member without having to submit additional names for consideration to the Governor.*

3. The Governor may appoint any qualified person who is a resident of this State to the position which is to be occupied by a person who represents the public.

Sec. 8. NRS 628.130 is hereby amended to read as follows:

628.130 The Board shall:

1. Have a seal of which judicial notice must be taken.
2. Keep records of its proceedings. In any proceedings in court, civil or criminal, arising out of or founded upon any provision of this chapter, copies of those records certified as correct under the seal of the Board are admissible in evidence as tending to prove the contents of the records.
3. Maintain a website on the Internet or its successor and post on its website:
  - (a) The names arranged alphabetically by classifications of all accountants and business entities holding ~~licenses,~~ certificates, registrations or permits under this chapter.
  - (b) The names of the members of the Board.
  - (c) Such other matter as may be deemed proper by the Board.

Sec. 9. NRS 628.160 is hereby amended to read as follows:

628.160 1. The Board may by regulation adopt and amend rules of professional conduct appropriate to establish and maintain a high standard of quality, integrity and dignity in the profession of public accountancy.

2. In addition to the requirements of chapter 233B of NRS, the Board shall ~~[, at least 60 days before the adoption of any such rule or amendment, mail copies of the]~~ *provide notice of any such proposed rule or amendment to each holder of a live permit, to the electronic mail address shown in the records of the Board, together along with a notice information* advising the holder of the permit of the date, time and place of the hearing on the proposed rule or amendment and requesting that he or she submit any comments thereon at least 15 days before the hearing. The comments are advisory only. ~~[Failure by inadvertence or error to mail the rule, amendment or notice to each holder of a permit does not affect the validity of any rule or amendment if the Board has made an effort in good faith to mail the notice to all holders of permits.]~~ *The Board shall also make available on its Internet website the proposed rule or amendment.*

3. The Board may adopt regulations concerning the professional conduct of corporations, partnerships and limited-liability companies practicing certified public accounting or public accounting which it deems consistent with or required by the public welfare, including regulations:

- (a) Governing the style, name and title of the corporations, partnerships and limited-liability companies.
- (b) Governing the affiliation of the corporations, partnerships and limited-liability companies with any other organizations.

Sec. 10. NRS 628.190 is hereby amended to read as follows:

628.190 1. Except as otherwise provided in this section and NRS 628.310, a certificate of certified public accountant must be granted by the Board to any person who:

- (a) Is ~~[a resident of this State or, if not a resident, has designated to the Board an agent who is a resident for notification and service of process;~~

~~—(b) Is a person who is~~ without any history of acts involving dishonesty or moral turpitude;

~~{{(e)}}~~ (b) Complies with the requirements of education and *work* experience as provided in NRS 628.200;

~~{{(d)}}~~ (c) Has submitted to the Board a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

~~{{(e)}}~~ (d) Has passed the examination prescribed by the Board.

2. The Board may refuse to grant a certificate of certified public accountant to an applicant if he or she has been convicted of a felony in this State or an offense in another state or jurisdiction which would be a felony if committed in this State.

3. The Board may issue a provisional certificate to an applicant until the Board receives the report from the Federal Bureau of Investigation.

Sec. 11. NRS 628.200 is hereby amended to read as follows:

628.200 1. Except as otherwise provided in subsection 4, the requirements of education for a certificate of certified public accountant are:

(a) At least 150 semester hours or an equivalent number of quarter hours; and

(b) A baccalaureate degree or an equivalent degree from a college or university recognized by the Board:

(1) With a major in accounting, or what the Board determines to be substantially the equivalent of a major in accounting; or

(2) With a major other than accounting supplemented by what the Board determines to be substantially the equivalent of an accounting major, including related courses in other areas of business administration.

2. The requirement for *work* experience for a certificate of certified public accountant is:

(a) Two years of public accounting experience in a partnership, corporation, limited-liability company or sole proprietorship engaged in the practice of public accounting under the direct supervision of a person who is a certified public accountant; or

(b) ~~[[Experience in internal auditing work or governmental accounting and auditing work]]~~ *Other work experience under the direct supervision of a person engaged in active practice as a certified public accountant*, of a character and for a length of time sufficient in the opinion of the Board to be substantially equivalent to the requirements of paragraph (a).

3. The Board:

(a) Shall adopt regulations concerning:

(1) The number of semester hours or an equivalent number of quarter hours in accounting and other courses required by an applicant to satisfy the requirements of subsection 1.

(2) The public accounting experience ~~[, internal auditing work, and governmental accounting and auditing]~~ or other work experience required by an applicant to satisfy the requirements of subsection 2.

(b) May provide by regulation for the substitution of qualified programs of continuing education to satisfy partially the requirement of *work* experience described in paragraph (b) of subsection 2 or may add any program to the requirement of *work* experience.

4. Notwithstanding any provision of this section to the contrary, an applicant for a certificate of certified public accountant who has received conditional credit pursuant to NRS 628.260 for passing a section of the examination required for a certificate, and who applies that credit to subsequent passage of the examination, is subject to the educational requirements to receive a certificate that were in effect on the date on which the applicant ~~[first received the conditional credit.]~~ *passed all sections of the examination.*

Sec. 12. NRS 628.240 is hereby amended to read as follows:

628.240 A candidate for a certificate of certified public accountant who has met the educational requirements as prescribed by the Board pursuant to NRS 628.230 is eligible to take the examination without waiting until he or she meets the requirements of *work* experience if the candidate also meets the requirements of ~~[paragraphs]~~ *paragraph (a) and (b)* of subsection 1 of NRS 628.190.

Sec. 13. NRS 628.310 is hereby amended to read as follows:

628.310 1. The Board may waive the examination, the requirements for education or the requirements for *work* experience, or any combination thereof, required under NRS 628.190, and may issue a certificate as a certified public accountant to any person who is the holder of a certificate as a certified public accountant then in effect issued under the laws of any state or other jurisdiction of the United States approved by the Board, constituting a recognized qualification for the practice of public accounting comparable to that of a certified public accountant of this State, if:

(a) The person has passed an examination that is substantially the same as the examination conducted pursuant to NRS 628.230 with a grade that would have been a passing grade in this State on the date on which the person received his or her original certificate;

(b) The person has experience in the practice of public accountancy, either as a certified public accountant or as a staff accountant employed by a partnership, corporation, limited-liability company or sole proprietorship engaged in the practice of public accounting and working under the direct supervision of a person who is a certified public accountant, while holding a certificate as a certified public accountant for more than 4 of the 10 years immediately preceding his or her making application pursuant to this chapter; and

(c) The requirements for education of the state or other jurisdiction from which the person received his or her original certificate are determined by the Board to satisfy the requirements for education of this State.

2. The Board may ~~[waive the examination, the requirements for education or the requirements for experience, or any combination thereof, under NRS 628.190, and may]~~ issue a certificate as a certified public accountant to any person who is the holder of an equivalent certificate then in effect issued by a foreign country if:

(a) Persons who are certified as public accountants in this State are granted similar privileges by the foreign country in which the applicant is certified;

(b) The applicant's certificate:

(1) Was issued by the appropriate authority that regulates the practice of public accountancy in the foreign country in which the certificate was issued;

(2) Has not expired or been revoked or suspended; and

(3) Authorizes the applicant to issue reports upon financial statements;

(c) The requirements for education and examination of the regulatory authority of the foreign country were substantially equivalent to the requirements for education and examination of this State on the date on which the applicant received his or her certificate;

(d) The applicant:

(1) Complied with requirements for experience in the foreign country in which the certificate was issued that are substantially equivalent to the requirements set forth in NRS 628.200; or

(2) Has completed in any state at least 4 years of public accounting experience, or equivalent experience determined to be appropriate by the Board, within the 10 years immediately preceding his or her making application for certification in this State;

(e) The applicant has passed a written examination on national standards for public accounting and ethics that is acceptable to the Board; and

(f) The applicant submits with the application a list of all jurisdictions in which he or she has applied for and received a certificate to practice public accounting.

3. A person who is granted a certificate as a certified public accountant pursuant to subsection 2 shall notify the Board, in writing, within 30 days after:

(a) The person is issued an equivalent certificate to practice public accounting by another jurisdiction or is denied the issuance of such a certificate;

(b) A certificate to practice public accounting issued to the person by another jurisdiction is revoked or suspended; or

(c) Another jurisdiction in which the person is certified to practice public accounting commences any type of disciplinary action against the person.

*Sec. 13.5. NRS 628.315 is hereby amended to read as follows:*

628.315 1. Except as otherwise provided in this chapter, a natural person who holds a valid license as a certified public accountant from any state other

than this State shall be deemed to be a certified public accountant for all purposes under the laws of this State other than this chapter.

2. A natural person granted practice privileges pursuant to subsection 1 is not required to obtain:

- (a) A certificate pursuant to NRS 628.190; or
- (b) A permit pursuant to NRS 628.380.

3. A natural person granted practice privileges pursuant to subsection 1 and a partnership, corporation, limited-liability company or sole proprietorship that employs such a person shall be deemed to consent, as a condition of the grant of such practice privileges:

(a) To the personal and subject matter jurisdiction, and disciplinary authority, of the Board.

(b) To comply with the provisions of this chapter and the regulations of the Board.

(c) That, in the event that the license from the state wherein the natural person's principal place of business is located becomes invalid, the natural person will cease offering or engaging in the practice of professional accounting in this State individually and on behalf of a partnership, corporation, limited-liability company or sole proprietorship.

(d) To the appointment of the state board that issued the license as the agent upon whom process may be served in any investigation, action or proceeding relating to the natural person or the partnership, corporation, limited-liability company or sole proprietorship by the Board.

4. A natural person granted practice privileges pursuant to subsection 1 may perform attest services for a client having his or her home office in this State only if the partnership, corporation, limited-liability company or sole proprietorship that employs the person is registered pursuant to NRS 628.335 ~~or~~ *or is exempt from registration pursuant to subsection 3 of NRS 628.335.*

Sec. 14. NRS 628.325 is hereby amended to read as follows:

628.325 1. One or more natural persons may organize a corporation for the practice of public accounting under the Professional Entities and Associations Act, chapter 89 of NRS. The corporation is not required to have more directors than shareholders, but at least one director must be a shareholder. The other directors need not, but may, be shareholders.

2. One or more natural persons may:

- (a) Organize a corporation pursuant to chapter 78 of NRS;
- (b) Qualify to do business as a foreign corporation pursuant to chapter 80 of NRS;
- (c) Organize a limited-liability company pursuant to chapter 86 of NRS; or
- (d) Register as a foreign limited-liability company pursuant to chapter 86 of NRS,

↳ to practice public accounting.

3. The organization, qualification or registration of a corporation or company pursuant to subsection 2:

- (a) Does not modify:



- (1) The relationship between an accountant and a client;
- (2) The liability arising out of that relationship; or
- (3) The compliance of the corporation or company with this chapter or any regulations adopted pursuant thereto.

(b) Does not render:

(1) A person liable in tort for any act in which he or she has not personally participated.

(2) The manager, a member or an employee of a limited-liability company liable in contract for any contract which the person executes on behalf of a limited-liability company within the limits of his or her authority.

4. Notwithstanding any specific statute to the contrary, a simple majority of the ownership of a corporation, partnership or limited-liability company organized for the practice of public accounting in this State, in terms of the financial interests and voting rights of all shareholders, partners, officers, members and principals thereof, must belong to persons who are certified public accountants in any state . ~~for registered public accountants in this State.~~ Each shareholder, partner, officer, member or principal whose principal place of business is in this State and who performs professional services in this State must be {:

~~—(a) If the corporation, partnership or limited liability company registered with the Board is a corporation, partnership or limited liability company of certified public accountants,}~~ a certified public accountant in this State in good standing . {; and

~~—(b) If the corporation, partnership or limited liability company registered with the Board is a corporation, partnership or limited liability company of public accountants, a certified public accountant or registered public accountant in this State in good standing.}~~

5. A corporation, partnership or limited-liability company organized for the practice of public accounting in this State may have as a shareholder, partner, officer, member or principal any natural person who is not a certified public accountant in any state ~~for a registered public accountant in this State}~~ if:

(a) The natural person is actively engaged in the business of the corporation, partnership or limited-liability company, or any affiliate thereof; and

(b) The corporation, partnership or limited-liability company complies with any other requirements that the Board by regulation may impose.

*Sec. 14.2. NRS 628.335 is hereby amended to read as follows:*

628.335 1. The Board shall grant or renew registration to a partnership, corporation, limited-liability company or sole proprietorship that demonstrates its qualifications therefor in accordance with this chapter.

2. A partnership, corporation or limited-liability company with an office in this State shall register with the Board if the partnership, corporation or limited-liability company:

- (a) Performs attest services;
- (b) Performs compilation services;

(c) Is engaged in the practice of public accounting; or

(d) Is styled and known as a certified public accountant or uses the abbreviation "C.P.A."

3. A partnership, corporation, limited-liability company or sole proprietorship that does not have an office in this State ~~+~~

~~—(a) Shall register with the Board if the partnership, corporation, limited liability company or sole proprietorship performs attest services for a client having his or her home office in this State.~~

~~—(b) May~~ may practice public accounting, may perform compilation services or other professional services within the practice of public accounting ~~[other than]~~, including, without limitation, attest services, for a client having his or her home office in this State, may be styled and known as a certified public accountant and may use the title or designation "certified public accountant" and the abbreviation "C.P.A." without registering with the Board only if:

~~[(1)]~~ (a) Persons who are certified public accountants in any state constitute a simple majority, in terms of financial interests and voting rights of all partners, shareholders, officers, members and principals thereof, of the ownership of the partnership, corporation, limited-liability company or sole proprietorship;

~~[(2)]~~ (b) The partnership, corporation, limited-liability company or sole proprietorship complies with the provisions of subsection 5 of NRS 628.325, if applicable;

~~[(3)]~~ (c) A natural person granted practice privileges pursuant to NRS 628.315 practices such public accounting or performs such compilation services or such other professional services within the practice of public accounting for the client having his or her home office in this State; and

~~[(4)]~~ (d) The partnership, corporation, limited-liability company or sole proprietorship can lawfully perform such services in the state where the natural person described in ~~[subparagraph (3)]~~ paragraph (c) has his or her principal place of business.

4. A natural person granted practice privileges pursuant to NRS 628.315 must not be required to obtain a permit from this State pursuant to NRS 628.380 if the person performs such professional services for:

(a) Which a partnership, corporation, limited-liability company or sole proprietorship is required to register pursuant to this section or is exempt from registration pursuant to subsection ~~[2 or]~~ 3; or

(b) A partnership, corporation or limited-liability company registered pursuant to the provisions of NRS 628.325.

Sec. 14.4. NRS 628.340 is hereby amended to read as follows:

628.340 1. A partnership required to register with the Board pursuant to NRS 628.335 or which performs attest services and is exempt from registration pursuant to subsection 3 of NRS 628.335 must meet the following requirements:

(a) At least one general partner must be either a certified public accountant of this State in good standing or, if the partnership ~~is required to register~~ *performs attest services and is exempt from registration* pursuant to ~~paragraph (a) of~~ subsection 3 of NRS 628.335, a natural person granted practice privileges pursuant to NRS 628.315.

(b) Each partner who is a resident of this State and is personally and regularly engaged within this State in the practice of public accounting as a member thereof, or whose principal place of business is in this State and who is engaged in the practice of professional accounting in this State, must be a certified public accountant of this State in good standing.

(c) Each partner who is personally and regularly engaged in the practice of public accounting in this State must be either a certified public accountant of this State in good standing or, if the partnership ~~is required to register~~ *performs attest services and is exempt from registration* pursuant to ~~paragraph (a) of~~ subsection 3 of NRS 628.335, a natural person granted practice privileges pursuant to NRS 628.315.

(d) Each partner who is regularly engaged in the practice of public accounting within the United States must be a certified public accountant in good standing of some state or jurisdiction of the United States.

(e) Each manager in charge of an office of the partnership in this State must be either a certified public accountant of this State in good standing or a natural person granted practice privileges pursuant to NRS 628.315.

(f) A corporation or limited-liability company which is registered pursuant to NRS 628.343 or 628.345 *or which is exempt from registration pursuant to subsection 3 of NRS 628.335* may be a partner, and a partnership which is registered pursuant to this section *or which is exempt from registration pursuant to subsection 3 of NRS 628.335* may be a general partner, in a partnership engaged in the practice of public accounting.

2. Application for registration must be made upon the affidavit of ~~either~~ a general partner who holds a live permit to practice in this State as a certified public accountant ~~or, if the partnership is required to register pursuant to paragraph (a) of subsection 3 of NRS 628.335, a natural person granted practice privileges pursuant to NRS 628.315.~~ The Board shall determine whether the applicant is eligible for registration and may charge an initial fee and an annual renewal fee set by the Board by regulation. A partnership which is so registered may use the words "certified public accountants" or the abbreviation "C.P.A.'s" or "CPA's" in connection with its partnership name. Notice must be given to the Board within 1 month after the admission to or withdrawal of a partner from any partnership so registered.

*Sec. 14.6. NRS 628.343 is hereby amended to read as follows:*

628.343 1. A corporation required to register with the Board pursuant to NRS 628.335 *or which performs attest services and is exempt from registration pursuant to subsection 3 of NRS 628.335* shall comply with the following requirements:

(a) The sole purpose and business of the corporation must be to furnish to the public services not inconsistent with this chapter or the regulations of the Board, except that the corporation may invest its money in a manner not incompatible with the practice of public accounting.

(b) The principal officer of the corporation and any officer or director having authority over the practice of public accounting by the corporation must be a certified public accountant of some state in good standing.

(c) At least one shareholder of the corporation must be either a certified public accountant of this State in good standing or, if the corporation ~~is required to register~~ performs attest services and is exempt from registration pursuant to ~~paragraph (a) of~~ subsection 3 of NRS 628.335, a natural person granted practice privileges pursuant to NRS 628.315.

(d) Each manager in charge of an office of the corporation in this State and each shareholder or director who is regularly and personally engaged within this State in the practice of public accounting must be either a certified public accountant of this State in good standing or, if the corporation ~~is required to register~~ performs attest services and is exempt from registration pursuant to ~~paragraph (a) of~~ subsection 3 of NRS 628.335, a natural person granted practice privileges pursuant to NRS 628.315.

(e) In order to facilitate compliance with the provisions of this section relating to the ownership of stock, there must be a written agreement binding the shareholders or the corporation to purchase any shares offered for sale by, or not under the ownership or effective control of, a qualified shareholder. The corporation may retire any amount of stock for this purpose, notwithstanding any impairment of its capital, so long as one share remains outstanding.

(f) The corporation shall comply with other regulations pertaining to corporations practicing public accounting in this State adopted by the Board.

2. Application for registration must be made upon the affidavit of ~~either~~ a shareholder who holds a live permit to practice in this State as a certified public accountant ~~or, if the corporation is required to register pursuant to paragraph (a) of subsection 3 of NRS 628.335, a natural person granted practice privileges pursuant to NRS 628.315.~~ The Board shall determine whether the applicant is eligible for registration and may charge an initial fee and an annual renewal fee set by the Board by regulation. A corporation which is so registered may use the words "certified public accountants" or the abbreviation "C.P.A.'s" or "CPA's" in connection with its corporate name. Notice must be given to the Board within 1 month after the admission to or withdrawal of a shareholder from any corporation so registered.

*Sec. 14.8. NRS 628.345 is hereby amended to read as follows:*

628.345 1. A limited-liability company required to register with the Board pursuant to NRS 628.335 or which performs attest services and is exempt from registration pursuant to subsection 3 of NRS 628.335 shall comply with the following requirements:

(a) The sole purpose and business of the limited-liability company must be to furnish to the public services not inconsistent with this chapter or the

regulations of the Board, except that the limited-liability company may invest its money in a manner not incompatible with the practice of public accounting.

(b) The manager, if any, of the limited-liability company must be a certified public accountant of some state in good standing.

(c) At least one member of the limited-liability company must be either a certified public accountant of this State in good standing or, if the limited-liability company ~~is required to register~~ performs attest services and is exempt from registration pursuant to ~~paragraph (a) of~~ subsection 3 of NRS 628.335, a natural person granted practice privileges pursuant to NRS 628.315.

(d) Each person in charge of an office of the limited-liability company in this State and each member who is regularly and personally engaged within this State in the practice of public accounting must be either a certified public accountant of this State in good standing or, if the limited-liability company ~~is required to register~~ performs attest services and is exempt from registration pursuant to ~~paragraph (a) of~~ subsection 3 of NRS 628.335, a natural person granted practice privileges pursuant to NRS 628.315.

(e) In order to facilitate compliance with the provisions of this section relating to the ownership of interests, there must be a written agreement binding the members or the limited-liability company to purchase any interest offered for sale by, or not under the ownership or effective control of, a qualified member.

(f) The limited-liability company shall comply with other regulations pertaining to limited-liability companies practicing public accounting in this State adopted by the Board.

2. Application for registration must be made upon the affidavit of the manager or a member of the limited-liability company. The affiant must hold a live permit to practice in this State as a certified public accountant. ~~for, if the limited liability company is required to register pursuant to paragraph (a) of subsection 3 of NRS 628.335, be a natural person granted practice privileges pursuant to NRS 628.315.~~ The Board shall determine whether the applicant is eligible for registration and may charge an initial fee and an annual renewal fee set by the Board by regulation. A limited-liability company which is so registered may use the words "certified public accountants" or the abbreviation "C.P.A.'s" or "CPA's" in connection with its name. Notice must be given to the Board within 1 month after the admission to or withdrawal of a member from any limited-liability company so registered.

Sec. 15. NRS 628.370 is hereby amended to read as follows:

628.370 1. Each office established or maintained in this State for the practice of public accounting in this State by a certified public accountant or a partnership, corporation or limited-liability company composed of certified public accountants ~~[, or by a registered public accountant or a partnership, corporation or limited liability company composed of registered public accountants,]~~ must be registered annually under this chapter with the Board.

The Board may charge a fee for the registration of an office in an amount set by regulation.

2. The Board shall by regulation prescribe the procedure to be followed in registering offices.

Sec. 16. NRS 628.375 is hereby amended to read as follows:

628.375 1. Before a certified public accountant ~~[, a registered public accountant]~~ or a partnership, corporation or limited-liability company composed of certified public accountants ~~[or registered public accountants]~~ with an office in this State engages in the practice of public accounting in this State under a fictitious name, the person or entity must register the fictitious name with the Board.

2. The Board shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations that prescribe:

- (a) The procedure for registering a fictitious name with the Board; and
- (b) The fee for registering a fictitious name with the Board.

Sec. 17. NRS 628.380 is hereby amended to read as follows:

628.380 1. Permits to engage in the practice of public accounting in this State must be issued by the Board to holders of the certificate of certified public accountant issued under NRS 628.190 to 628.310, inclusive, ~~[and to registered public accountants registered or licensed pursuant to NRS 628.350,]~~ if all offices of the holder of a certificate ~~[or registrant]~~ are maintained and registered as required under NRS 628.370, and if the holder of a certificate ~~[or registrant]~~ has complied with the continuing education requirements provided in this chapter and in the Board's regulations.

2. All permits expire on December 31 of each year and may be renewed annually for a period of 1 year by holders of certificates ~~[and registrants]~~ in good standing upon payment of an annual renewal fee set by the Board by regulation.

3. Failure of a holder of a certificate ~~[or registrant]~~ to apply for an annual permit to practice deprives him or her of the right to a permit, unless the Board, in its discretion, determines that the failure was caused by excusable neglect.

4. The Board shall adopt a regulation specifying the fee for the renewal of a permit after January 31 of each year.

5. The Board may provide by regulation for the placing of certificates ~~[and registrations]~~ on a retired or inactive status. The regulation may provide for a procedure for applying for retired or inactive status and for applying to return to active status, and must specify fees, if any, to accompany the applications.

Sec. 18. NRS 628.385 is hereby amended to read as follows:

628.385 The Legislature finds that:

1. The explosion of knowledge and the increasing complexity of practice make it essential that certified public accountants ~~[and public accountants]~~ continue to develop their competence and maintain the general quality of the practice of their profession.

2. The public interest requires that certified public accountants ~~and registered public accountants~~ provide competent service in all areas of their practice.

3. Formal programs of continuing education provide certified public accountants ~~and public accountants~~ with the opportunity to maintain the general quality of the practice of their profession.

4. It is in the public interest to require that certified public accountants ~~and registered public accountants~~ who have certificates ~~and who have been registered, respectively,~~ under the provisions of this chapter comply with requirements for continuing education adopted by the Board as a prerequisite to the issuance or renewal of permits to engage in the practice of public accounting pursuant to NRS 628.380.

Sec. 19. NRS 628.386 is hereby amended to read as follows:

628.386 1. The Board may by regulation prescribe, amend or repeal rules, including, but not limited to:

- (a) A definition of basic requirements for continuing education;
- (b) A delineation of qualifying programs;
- (c) A system of control and reporting; and
- (d) A program to ensure that licensees are maintaining the standards of the profession.

2. In exercising its power under this section, the Board shall establish standards which will assure reasonable currency of knowledge as a basis for a high standard of practice by certified public accountants . ~~and registered public accountants.~~ The standards must be established in a manner to assure that a variety of alternatives are available to certificate holders ~~and registrants~~ to comply with the requirements of continuing education for renewal of permits and must take cognizance of specialized areas of practice.

Sec. 20. NRS 628.387 is hereby amended to read as follows:

628.387 The Board may, in accordance with the intent of this chapter, make exceptions from continuing education requirements for certificate holders ~~for registrants~~ not engaged in public practice, or for reasons of health, military service or other good cause, except that if such certificate holder ~~for registrant~~ returns to the practice of public accounting he or she shall meet such continuing education requirements as the Board may determine.

Sec. 21. NRS 628.388 is hereby amended to read as follows:

628.388 The Board may appoint a Committee on Continuing Education consisting of certified public accountants ~~and registered public accountants~~ in active practice and holding live permits. Upon assignment and as directed by the Board, the Committee shall assist the Board in the administration of the provisions of this chapter for continuing education.

Sec. 22. NRS 628.390 is hereby amended to read as follows:

628.390 1. After giving notice and conducting a hearing, the Board may revoke, or may suspend for a period of not more than 5 years, any certificate issued under NRS 628.190 to 628.310, inclusive, any practice privileges granted pursuant to NRS 628.315 or 628.335 ~~any registration or license~~

~~granted to a registered public accountant under NRS 628.350,~~ or any registration of a partnership, corporation, limited-liability company, sole proprietorship or office, or may revoke, suspend or refuse to renew any permit issued under NRS 628.380, or may publicly censure the holder of any permit, ~~license~~ *certificate* or registration or any natural person granted practice privileges pursuant to NRS 628.315, for any one or any combination of the following causes:

(a) Fraud or deceit in obtaining a certificate as a certified public accountant ~~[, or in obtaining registration or a license as a public accountant under this chapter]~~ or in obtaining a permit to practice public accounting under this chapter.

(b) Dishonesty, fraud or gross negligence by a certified ~~for registered~~ public accountant or a natural person granted practice privileges pursuant to NRS 628.315.

(c) Violation of any of the provisions of this chapter.

(d) Violation of a regulation or rule of professional conduct adopted by the Board under the authority granted by this chapter.

(e) Conviction of a felony relating to the practice of public accounting under the laws of any state or jurisdiction.

(f) Conviction of any crime:

- (1) An element of which is dishonesty or fraud; or
- (2) Involving moral turpitude,

↪ under the laws of any state or jurisdiction.

(g) Cancellation, revocation, suspension, placing on probation or refusal to renew authority to practice as a certified public accountant ~~for a registered public accountant~~ by any other state, for any cause other than failure to pay an annual registration fee or to comply with requirements for continuing education or review of his or her practice in the other state.

(h) Suspension, revocation or placing on probation of the right to practice before any state or federal agency.

(i) Unless the person has been placed on inactive or retired status, failure to obtain an annual permit under NRS 628.380, within:

(1) Sixty days after the expiration date of the permit to practice last obtained or renewed by the holder of a certificate ; ~~for registrant,~~ or

(2) Sixty days after the date upon which the holder of a certificate ~~for registrant~~ was granted the certificate , ~~for registration,~~ if no permit was ever issued to the person, unless the failure has been excused by the Board.

(j) Conduct discreditable to the profession of public accounting or which reflects adversely upon the fitness of the person to engage in the practice of public accounting.

(k) Making a false or misleading statement in support of an application for a certificate ~~[, registration]~~ or permit of another person.

(l) Committing an act in another state or jurisdiction which would be subject to discipline in that state.



2. After giving notice and conducting a hearing, the Board may deny an application to take the examination prescribed by the Board pursuant to NRS 628.190, deny a person admission to such an examination, invalidate a grade received for such an examination or deny an application for a certificate issued pursuant to NRS 628.190 to 628.310, inclusive, to a person who has:

(a) Made any false or fraudulent statement, or any misleading statement or omission relating to a material fact in an application:

(1) To take the examination prescribed by the Board pursuant to NRS 628.190; or

(2) For a certificate issued pursuant to NRS 628.190 to 628.310, inclusive;

(b) Cheated on an examination prescribed by the Board pursuant to NRS 628.190 or any such examination taken in another state or jurisdiction of the United States;

(c) Aided, abetted or conspired with any person in a violation of the provisions of paragraph (a) or (b); or

(d) Committed any combination of the acts set forth in paragraphs (a), (b) and (c).

3. In addition to other penalties prescribed by this section, the Board may impose a civil penalty of not more than \$5,000 for each violation of this section.

4. The Board shall not privately censure the holder of any permit ~~[, license,] or certificate [or registration]~~ or any natural person granted practice privileges pursuant to NRS 628.315.

5. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 23. NRS 628.393 is hereby amended to read as follows:

628.393 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a certificate issued pursuant to NRS 628.190 to 628.310, inclusive, ~~[a registration or license granted to a registered public accountant pursuant to NRS 628.350]~~ or a permit issued pursuant to NRS 628.380, the Board shall deem the certificate ~~[, registration, license]~~ or permit issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the certificate ~~[, registration, license]~~ or permit by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate ~~[, registration, license]~~ or permit has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a certificate issued pursuant to NRS 628.190 to 628.310, inclusive, ~~[a registration or license granted to a registered public accountant pursuant to NRS 628.350]~~ or a permit issued pursuant to NRS 628.380 that has been suspended by a district court pursuant to

NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate ~~[-registration, license]~~ or permit was suspended stating that the person whose certificate ~~[-registration, license]~~ or permit was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 24. NRS 628.395 is hereby amended to read as follows:

628.395 In addition to any penalty which it may assess pursuant to NRS 628.390, the Board may suspend any of the provisions of an order issued pursuant to that section and place the certified ~~for registered~~ public accountant on probation, subject to limitations and conditions specified by the Board, which may include requirements for continuing education or for a review of the accountant's practice, either periodically or continuously.

Sec. 25. NRS 628.400 is hereby amended to read as follows:

628.400 1. After giving notice and conducting a hearing, the Board shall revoke the registration of a partnership, corporation or limited-liability company if at any time it does not have all the qualifications prescribed by the section of this chapter under which it qualified for registration.

2. After giving notice and conducting a hearing, the Board may revoke or suspend the registration of a partnership, corporation or limited-liability company, or may censure the partnership, corporation or limited-liability company, or impose a sanction authorized by NRS 628.390 ~~[-]~~ or 628.395, for any of the causes enumerated in subsection 1 of NRS 628.390, or for one or both of the following additional causes:

(a) The revocation or suspension of the certificate or registration or the revocation or suspension or refusal to renew the permit to practice of any partner or shareholder who is personally engaged in the practice of public accounting in this State, whether or not he or she holds a live permit in this State.

(b) The cancellation, revocation, suspension or refusal to renew the authority of the partnership, corporation or limited-liability company, or any partner, shareholder or member thereof to practice public accounting in any other state for any cause other than failure to pay an annual registration fee or comply with a requirement for continuing education or practice review in the other state.

Sec. 26. NRS 628.410 is hereby amended to read as follows:

628.410 1. The Board may initiate proceedings under this chapter:

- (a) On its own motion;
- (b) On the complaint of any person; or
- (c) On a complaint made by a board of accountancy of another state.

2. A written notice of the hearing must be served on the respondent not less than 30 days before the date of the hearing, either personally or by mailing a copy thereof by registered or certified mail to the address of the respondent last known to the Board.

3. If, after having been served with the notice of hearing, the respondent fails to appear at the hearing and defend, the Board may proceed to hear evidence against the respondent and may enter such order as is justified by the evidence. The order is final unless the respondent petitions for a review thereof. Within 30 days after the date of any order, upon a showing of good cause for failing to appear and defend, the Board may reopen the proceedings and may permit the respondent to submit evidence in his or her behalf.

4. At any hearing, a respondent may be represented before the Board by counsel or by a certified public accountant ~~for registered public accountant~~ of this State in good standing. The respondent is entitled, on application to the Board, to the issuance of subpoenas to compel the attendance of witnesses on his or her behalf.

5. The Board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents. In case of disobedience to a subpoena, the Board may invoke the aid of any court of this State in requiring the attendance and testimony of witnesses and the production of documentary evidence.

6. A hearing may be conducted by:

(a) The Board, less any member or members who have been disqualified, without the appointment of persons to hear the case in place of the disqualified members; or

(b) A member of the Board appointed by the Board as a hearing officer, with the remaining members of the Board, less any member or members who have been disqualified, to review the record, make a final decision and issue the order,

↪ unless the Board, after disqualifications, consists of less than three members to hear or review the case, in which circumstance the Governor must appoint one or more qualified persons so that the panel which hears or reviews the case consists of at least three persons.

7. A stenographic record of the hearing must be kept and a transcript thereof filed with the Board.

8. At all hearings, the Attorney General or a deputy designated by the Attorney General or such other legal counsel as may be employed shall appear and represent the Board.

9. The decision of the Board must be by majority vote thereof.

Sec. 27. NRS 628.415 is hereby amended to read as follows:

628.415 1. Any disciplinary action taken by a hearing officer or panel pursuant to NRS 628.140 is subject to the same procedural requirements which apply to disciplinary actions taken by the Board, and the officer or panel has those powers and duties given to the Board in relation thereto.

2. A decision of the hearing officer or panel relating to the imposition of a civil penalty, costs and attorney's fees is a final decision in a contested case. Any party aggrieved by a decision of the officer or panel to place a certified ~~for registered~~ public accountant on probation or revoke or suspend a

certificate ~~{,}~~ or permit ~~{, registration or license}~~ may appeal that decision to the Board.

Sec. 28. NRS 628.418 is hereby amended to read as follows:

628.418 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential ~~{,}~~ and privileged.

2. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. *The provisions of this section do not prohibit the Board or an employee of the Board from cooperating with another licensing board or any other agency that is investigating a person who holds a certificate or a permit issued pursuant to NRS 628.380 or a partnership, corporation, limited-liability company or sole proprietorship that is registered with the Board pursuant to NRS 628.335, by providing documents or other information relating to a complaint.*

Sec. 29. NRS 628.420 is hereby amended to read as follows:

628.420 Upon application in writing and after a hearing, the Board may:

1. Issue a new certificate to a certified public accountant whose certificate has been revoked;

2. ~~{Permit the reregistration of a public accountant whose registration has been revoked;~~

~~—3.}~~ Reissue or modify the suspension of any permit to practice public accounting which has been revoked or suspended, unless the permit was suspended pursuant to NRS 425.540; or

~~{4.}~~ 3. Modify any action taken against any person or any order which it has issued pursuant to NRS 628.390.

Sec. 30. NRS 628.430 is hereby amended to read as follows:

628.430 All statements, records, schedules, working papers and memoranda made by a certified public accountant ~~{, a registered public accountant}~~ or a natural person granted practice privileges pursuant to NRS 628.315 incident to or in the course of professional service to clients by the accountant, except reports submitted by a certified public accountant ~~{, a registered public accountant}~~ or a natural person granted practice privileges pursuant to NRS 628.315 to a client, are the property of the accountant, in the absence of an express agreement between the accountant and the client to the contrary. No such statement, record, schedule, working paper or memorandum may be sold, transferred or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than one or more surviving partners or new partners of the accountant or to his or her corporation.

Sec. 31. NRS 628.435 is hereby amended to read as follows:

628.435 1. A practitioner shall comply with all professional standards for accounting and documentation related to an attestation applicable to particular engagements.

2. Except as otherwise provided in this section and in all professional standards for accounting and documentation related to an attestation applicable to particular engagements, a practitioner shall retain all documentation related to an attestation for not less than 5 years after the date of the report containing the attestation.

3. Documentation related to an attestation that, at the end of the retention period set forth in subsections 1 and 2, is a part of or subject to a pending investigation of, or disciplinary action against, a practitioner must be retained and must not be destroyed until the practitioner has been notified in writing that the investigation or disciplinary action has been closed or concluded.

4. As used in this section:

(a) "Documentation related to an attestation" includes, without limitation:

(1) All documentation relating to consultations and resolutions of any differences of professional opinion regarding the exercise of professional judgment relating to an attestation; and

(2) Documentation of the findings or issues related to the attestation that, based on the judgment of the practitioner after an objective analysis of the facts and circumstances, is determined to be significant, regardless of whether the documentation includes information or data that is inconsistent with the final conclusions of the practitioner.

(b) "Practitioner" means:

(1) A holder of a certificate issued pursuant to NRS 628.190 to 628.310, inclusive, ~~[any registration or license granted to a registered public accountant pursuant to NRS 628.350]~~ or a permit issued pursuant to NRS 628.380;

(2) A partnership, corporation, limited-liability company or sole proprietorship registered pursuant to NRS 628.335; or

(3) A natural person granted practice privileges pursuant to NRS 628.315.

Sec. 31.5. NRS 628.435 is hereby amended to read as follows:

628.435 1. A practitioner shall comply with all professional standards for accounting and documentation related to an attestation applicable to particular engagements.

2. Except as otherwise provided in this section and in all professional standards for accounting and documentation related to an attestation applicable to particular engagements, a practitioner shall retain all documentation related to an attestation for not less than 5 years after the date of the report containing the attestation.

3. Documentation related to an attestation that, at the end of the retention period set forth in subsections 1 and 2, is a part of or subject to a pending investigation of, or disciplinary action against, a practitioner must be retained

and must not be destroyed until the practitioner has been notified in writing that the investigation or disciplinary action has been closed or concluded.

4. As used in this section:

(a) "Documentation related to an attestation" includes, without limitation:

(1) All documentation relating to consultations and resolutions of any differences of professional opinion regarding the exercise of professional judgment relating to an attestation; and

(2) Documentation of the findings or issues related to the attestation that, based on the judgment of the practitioner after an objective analysis of the facts and circumstances, is determined to be significant, regardless of whether the documentation includes information or data that is inconsistent with the final conclusions of the practitioner.

(b) "Practitioner" means:

(1) A holder of a certificate issued pursuant to NRS 628.190 to 628.310, inclusive, or a permit issued pursuant to NRS 628.380;

(2) A partnership, corporation, limited-liability company or sole proprietorship registered pursuant to NRS 628.335 ~~and~~ or which is performing attest services while exempt from registration pursuant to subsection 3 of NRS 628.335; or

(3) A natural person granted practice privileges pursuant to NRS 628.315.

Sec. 32. NRS 628.440 is hereby amended to read as follows:

628.440 This chapter does not prohibit any person from serving as an employee of, or an assistant to, a certified public accountant ~~for registered public accountant~~ who holds a live permit, or a partnership, corporation or limited-liability company composed of certified public accountants ~~for registered public accountants registered pursuant to NRS 628.360, 628.363 or 628.365~~ if the employee or assistant does not issue any accounting or financial statement over his or her name.

Sec. 33. NRS 628.470 is hereby amended to read as follows:

628.470 A natural person shall not assume or use the title or designation "public ~~accountant,~~ " ~~registered public~~ accountant" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that he or she is a public accountant unless the person:

1. ~~Is a registered public accountant, holds a live permit and all of the person's offices in this State for the practice of public accounting are maintained and registered as required under NRS 628.370;~~

~~—2—~~ Has received a certificate as a certified public accountant under NRS 628.190 to 628.310, inclusive, holds a live permit and all of the person's offices in this State for the practice of public accounting are maintained and registered as required under NRS 628.370; or

~~{3}~~ 2. Is a natural person granted practice privileges pursuant to NRS 628.315.

Sec. 34. NRS 628.480 is hereby amended to read as follows:

628.480 A partnership, corporation, limited-liability company or sole proprietorship shall not assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the partnership, corporation, limited-liability company or sole proprietorship is composed of public accountants unless the partnership, corporation, limited-liability company or sole proprietorship is:

1. Registered as a partnership, corporation, limited-liability company or sole proprietorship of ~~{registered public accountants or as a partnership, corporation, limited liability company or sole proprietorship of}~~ certified public accountants and all offices of the partnership, corporation, limited-liability company or sole proprietorship in this State for the practice of public accounting are maintained and registered as required under NRS 628.370; or

2. Performing services within the practice of public accounting pursuant to the provisions of subsection 3 of NRS 628.335.

Sec. 35. NRS 628.510 is hereby amended to read as follows:

628.510 1. Except as otherwise provided in subsection 2, a person shall not sign or affix his or her name or the name of a partnership, corporation, limited-liability company or sole proprietorship, or any trade or assumed name used by the person or by the partnership, corporation, limited-liability company or sole proprietorship in business, with any wording indicating that he or she is an accountant or auditor, or that the partnership, corporation, limited-liability company or sole proprietorship is authorized to practice as an accountant or auditor or with any wording indicating that the person or the partnership, corporation, limited-liability company or sole proprietorship has expert knowledge in accounting or auditing, to any accounting or financial statement, or attest to any accounting or financial statement, unless:

(a) The person holds a live permit or the partnership, corporation, limited-liability company or sole proprietorship is registered pursuant to NRS 628.335 ~~[, 628.360, 628.363 or 628.365]~~ and all of the person's offices in this State for the practice of public accounting are maintained and registered under NRS 628.370;

(b) The person is a natural person granted practice privileges pursuant to NRS 628.315; or

(c) The partnership, corporation, limited-liability company or sole proprietorship is performing services within the practice of public accounting pursuant to the provisions of subsection 3 of NRS 628.335.

2. The provisions of subsection 1 do not prohibit:

(a) Any officer, employee, partner, principal or member of any organization from affixing his or her signature to any statement or report in reference to the financial affairs of that organization with any wording designating the position, title or office which he or she holds in the organization.

(b) Any act of a public official or public employee in the performance of his or her duties as such.

(c) Any person who does not hold a live permit from preparing a financial statement or issuing a report if the statement or report, respectively, includes a disclosure that:

(1) The person who prepared the statement or issued the report does not hold a live permit issued by the Board; and

(2) The statement or report does not purport to have been prepared in compliance with the professional standards of accounting adopted by the Board.

Sec. 36. NRS 628.520 is hereby amended to read as follows:

628.520 A person shall not sign or affix the name of a partnership, corporation, limited-liability company or sole proprietorship with any wording indicating that it is a partnership, corporation, limited-liability company or sole proprietorship composed of accountants or auditors or persons having expert knowledge or special expertise in accounting or auditing, to any accounting or financial statement, or attest to any accounting or financial statement, unless the partnership, corporation, limited-liability company or sole proprietorship is:

1. Registered pursuant to NRS 628.335 ~~[, 628.360, 628.363 or 628.365]~~ and all of its offices in this State for the practice of public accounting are maintained and registered as required under NRS 628.370; or

2. Performing services within the practice of public accounting pursuant to the provisions of subsection 3 of NRS 628.335.

Sec. 37. NRS 628.540 is hereby amended to read as follows:

628.540 1. Except as otherwise provided in subsection 2, a person, partnership, corporation, limited-liability company or sole proprietorship shall not engage in the practice of public accounting or hold himself, herself or itself out to the public as an "accountant" or "auditor" by use of either or both of those words ~~[, or by use of the word "accounting,"]~~ *in connection with any other language which implies that such a person or firm holds a certificate, permit or registration or has special competence as an accountant or auditor* on any sign, card, letterhead or in any advertisement or directory unless:

(a) If a natural person, he or she holds a live permit or has been granted practice privileges pursuant to NRS 628.315; or

(b) If a partnership, corporation, limited-liability company or sole proprietorship, it is registered pursuant to NRS 628.335 ~~[, 628.360, 628.363 or 628.365]~~ or is performing services within the practice of public accounting pursuant to the provisions of subsection 3 of NRS 628.335.

2. The provisions of subsection 1 do not prohibit:

(a) Any officer, employee, partner, shareholder, principal or member of any organization from describing himself or herself by the position, title or office he or she holds in that organization.

(b) Any act of a public official or public employee in the performance of his or her duties as such.



Sec. 38. NRS 628.550 is hereby amended to read as follows:

628.550 1. A person shall not assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership, corporation or limited-liability company, or in conjunction with the designation "and Company" or "and Co." or a similar designation, if there is in fact no bona fide partnership, corporation or limited-liability company:

(a) Registered under NRS 628.335 ; ~~[- 628.360, 628.363 or 628.365;]~~ or

(b) Performing services within the practice of public accounting pursuant to the provisions of subsection 3 of NRS 628.335.

~~{↪ A sole proprietor or partnership lawfully using a title or designation in conjunction with any names or designation on April 1, 1960, may continue to do so if the sole proprietor or partnership otherwise complies with the provisions of this chapter.}~~

2. A person, partnership, corporation or limited-liability company shall not engage in the practice of public accounting under any name which is misleading as to:

(a) The legal form of the firm;

(b) The persons who are partners, officers, shareholders or members; or

(c) Any other matter.

↪ The names of past partners, shareholders or members may be included in the name of a firm or its successors.

Sec. 39. NRS 628.570 is hereby amended to read as follows:

628.570 Whenever in the judgment of the Board any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of NRS 628.435 or 628.450 to 628.550, inclusive, the Board may *issue and serve on the person an order to cease and desist or* make application to an appropriate court for an order enjoining the acts or practices, and upon a showing by the Board that the person has engaged, or is about to engage, in any of those acts or practices, an injunction, restraining order or such order as may be appropriate must be granted by the court without a bond.

Sec. 40. NRS 628.580 is hereby amended to read as follows:

628.580 1. Any person who violates any provision of NRS 628.435 or 628.450 to 628.550, inclusive, is guilty of a *gross* misdemeanor.

2. Whenever the Board has reason to believe that any person is liable to punishment under this section , it may certify the facts to the Attorney General or other appropriate enforcement officer, who may, in his or her discretion, cause appropriate proceedings to be brought.

Sec. 41. NRS 628A.010 is hereby amended to read as follows:

628A.010 As used in this chapter, unless the context otherwise requires:

1. "Client" means a person who receives advice from a financial planner.

2. "Compensation" means a fee for services provided by a financial planner to a client or a commission or other remuneration derived by a financial planner from a person other than the client as the result of the purchase of a good or service by the client.

3. "Financial planner" means a person who for compensation advises others upon the investment of money or upon provision for income to be needed in the future, or who holds himself or herself out as qualified to perform either of these functions, but does not include:

(a) An attorney and counselor at law admitted by the Supreme Court of this State;

(b) A certified public accountant ~~for a public accountant licensed~~ who holds a certificate issued pursuant to NRS 628.190 to 628.310, inclusive ; ~~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. 42. NRS 172.205 is hereby amended to read as follows:

172.205 The grand jury shall have the power, with the consent of the board of county commissioners, to engage the services of an attorney other than and in addition to the district attorney, certified ~~for registered~~ public accountants, and such other skilled persons as may be necessary in the performance of its inquisitorial powers.

Sec. 43. NRS 361.375 is hereby amended to read as follows:

361.375 1. The State Board of Equalization, consisting of five members appointed by the Governor, is hereby created. The Governor shall designate one of the members to serve as Chair of the Board.

2. The Governor shall appoint:

(a) One member who is a certified public accountant . ~~for a registered public accountant.~~

(b) One member who is a property appraiser with a professional designation.

(c) One member who is versed in the valuation of centrally assessed properties.

(d) Two members who are versed in business generally.

3. Only three of the members may be of the same political party and no more than two may be from the same county.

4. An elected public officer or his or her deputy, employee or any person appointed by him or her to serve in another position must not be appointed to serve as a member of the State Board of Equalization.

5. After the initial terms, members serve terms of 4 years, except when appointed to fill unexpired terms. No member may serve more than two full terms consecutively.

6. Any member of the State Board of Equalization may be removed by the Governor if, in the opinion of the Governor, that member is guilty of malfeasance in office or neglect of duty.

7. Each member of the State Board of Equalization is entitled to receive a salary of not more than \$80, as fixed by the Board, for each day actually employed on the work of the Board.

8. While engaged in the business of the State Board of Equalization, each member and employee of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

9. A majority of the members of the State Board of Equalization constitutes a quorum, and a majority of the Board shall determine the action of the Board. The Board may adopt regulations governing the conduct of its business.

10. The State Board of Equalization shall comply with any applicable regulation adopted by the Nevada Tax Commission.

11. The staff of the State Board of Equalization must be provided by the Department and the Executive Director is the Secretary of the Board.

Sec. 44. NRS 678.390 is hereby amended to read as follows:

678.390 1. The board may appoint an audit committee to make an annual audit of the financial records of the credit union and any interim audits as may be deemed necessary by the board or as may be directed by the Commissioner. A copy of the report must be submitted to the board and the Commissioner and a summary presented to the members at the next annual meeting.

2. The audit committee may by unanimous vote suspend any director, officer or member of the credit union following an audit, for any violation of this chapter, the charter or bylaws or for any other practice which the audit committee deems to be unsafe or unauthorized. In such cases, the audit committee shall call a special meeting of the members not less than 7 nor more than 21 days following the suspension and the suspension must be ratified or overturned by the members.

3. Any member of the audit committee may be suspended by the board for the same reasons and in the same manner as provided in subsection 2.

4. The audit committee may by a majority vote call a special meeting of the members to consider any violation of this chapter, the charter or bylaws or any practice of the credit union deemed by the audit committee to be unsafe or unauthorized.

5. The board of directors or the audit committee may employ the services of a certified public accountant ~~for a registered public accountant~~ to complete the necessary audit of the records of the credit union.

Sec. 45. NRS 628.029, 628.350, 628.360, 628.363 and 628.365 are hereby repealed.

Sec. 46. 1. This section and sections 1 to 13, inclusive, 14, 15 to 31, inclusive, and 32 to 45, inclusive, of this act (becomes) become effective upon passage and approval.

2. Sections 13.5, 14.2 to 14.8, inclusive, and 31.5 of this act become effective on January 1, 2019.

LEADLINES OF REPEALED SECTIONS

628.029 "Registered public accountant" defined.

628.350 Requirements for issuance of license as public accountant.

628.360 Requirements for registration as partnership of public accountants.

628.363 Requirements for registration as corporation of public accountants.

628.365 Requirements for registration as limited-liability company of public accountants.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Amendment No. 697 to Assembly Bill No. 454 eliminates the requirement that an accounting firm that provides attest services but does not have an office in this State must register with the Nevada State Board of Accountancy and provides that such an accounting firm may perform attest services under the same conditions as it practices and performs non-attest services.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 458.

Bill read second time and ordered to third reading.

REPORTS OF COMMITTEES

*Mr. President:*

Your Committee on Senate Parliamentary Rules and Procedures has approved the consideration of: Amendment No. 830 to Senate Bill No. 265.

KELVIN ATKINSON, *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 213.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 720.

SUMMARY—Revises provisions relating to education. (BDR 34-583)

AN ACT relating to education; authorizing the Superintendent of Public Instruction to carry out an inspection of a provider of special education in certain circumstances; authorizing the Superintendent of Public Instruction to take certain measures to ensure compliance with the laws governing the education of pupils with disabilities in certain circumstances; requiring the Department of Education to prescribe certain policies and procedures for programs of special education; revising certain provisions concerning background checks conducted on certain educational personnel and volunteers; authorizing a court to appoint an educational surrogate parent for a child; providing penalties; and providing other matters properly relating thereto.

## Legislative Counsel's Digest:

Existing law requires the Department of Education to ensure compliance with the Individuals with Disabilities Education Act, federal regulations adopted pursuant to the Act and Nevada statutes and regulations governing the education of pupils with disabilities. (20 U.S.C. §§ 1400 et seq.; 34 C.F.R. Part 300; NRS 388.417-388.5243) Existing regulations also require the Department to monitor each school district, charter school or other governmental entity responsible for providing education to pupils with disabilities and to administer a state complaint system for the investigation of potential noncompliance with certain federal or state laws. (34 C.F.R. §§ 300.151 et seq.; NAC 388.092, 388.318) Section 5 of this bill authorizes the Superintendent of Public Instruction to order an inspection of a provider of special education after determining that good cause for an inspection exists. Such an inspection may be conducted on-site, electronically or by telephone. Section 8 of this bill defines the term "provider of special education" to mean a school within a school district or charter school that provides education or services to pupils with disabilities or any other entity that is responsible for providing education or services to pupils with disabilities for a school district or charter school. If an inspection is ordered by the Superintendent and the provider of special education is found to be out of compliance with the laws governing special education, section 5 requires the Superintendent to: (1) meet with the provider to determine the most efficient and expeditious manner in which to bring the provider into compliance; and (2) request a plan of corrective action from the board of trustees of the school district or the governing body of the charter school, as applicable.

Existing law defines "communication mode" as any system or method of communication used by a person who is deaf or whose hearing is impaired to facilitate communication. The definition includes certain systems or methods of communication used by such a person. Section 8 revises the definition of "communication mode" to clarify that such systems or methods of communication are used by a person with a disability.

Existing law provides that the Superintendent of Public Instruction is responsible for the enforcement of the K-12 public education laws of this State, and once it is determined that a school district or a charter school is not in compliance with such laws, the Superintendent is required to request a plan of corrective action from the board of trustees of the school district or the governing body of the charter school. (NRS 385.175) Existing federal law also requires the State to conduct a hearing when a parent alleges that his or her child has not received certain due process safeguards that are required by the Individuals with Disabilities Education Act and to provide for an opportunity to appeal the decision rendered by the hearing officer. (20 U.S.C. § 1415) Section 6 of this bill requires the Superintendent to take certain measures in response to the failure or refusal of a provider of special education to comply in a timely manner with a plan of corrective action or the order of a hearing officer related to due process safeguards. Section 6 requires the Superintendent

to take certain factors into consideration before determining the corrective measures to take. After considering these factors, section 6 requires the Superintendent to take appropriate measures to ensure compliance.

Section 7 of this bill requires the Department of Education, on or before January 1, 2018, to prescribe policies and procedures necessary to carry out: (1) a program of training for certain school district and charter school personnel; and (2) requirements for notifying parents of pupils with disabilities of certain information concerning special education programs. Section 7 also requires the board of trustees of each school district and the governing body of each charter school to adopt a program for reporting certain information about special education programs in each school.

Existing law governs the employment of persons in school districts, charter schools and university schools for profoundly gifted pupils in this State. Under existing law, certain applicants seeking employment with such schools in this State must submit a complete set of his or her fingerprints and written permission authorizing the applicable school to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant. Under existing law, a teacher or other licensed personnel are required to undergo subsequent background investigations every 5 years, as a condition to continued employment with the school. (NRS 388A.515, 388C.200, 391.033, 391.104, 391.281) Sections 8.2, 8.3 and 9 of this bill require any applicant for employment with a charter school, university school for profoundly gifted pupils or public school, or volunteer at such a school who is likely to have unsupervised regular contact with pupils, to undergo certain background investigations before the school may employ the applicant or accept the volunteer. Sections 8.2, 8.3, 8.7, 8.8, 9 and 9.1 of this bill require background checks of applicants, employees and volunteers of such schools to include written authorization by the applicant, employee or volunteer for the school to obtain information concerning such persons that may be available from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child and any equivalent information from another jurisdiction. Sections 8.2, 8.3, 9 and 9.1 require all employees and volunteers of such a school to undergo subsequent background investigations, every 5 years, as a condition to continue employment with the school. Sections 8.2, 8.3, 9 and 9.1 additionally authorize certain schools to accept gifts, grants and donations to carry out such background checks. Section 9.3 of this bill requires all applicants for employment, employees and volunteers of a private school to undergo similar background investigations and subsequent background investigations.

Existing law gives a juvenile court exclusive jurisdiction over proceedings concerning a child in need of protection in this State, except if the child is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. §§ 1901 et seq. (NRS 432B.410) Section 10

of this bill authorizes a juvenile court to appoint an educational surrogate parent for a child with a known or suspected disability under certain circumstances.

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

Section 1. NRS 385.040 is hereby amended to read as follows:

385.040 1. The State Board shall hold at least 9 but not more than 12 regular meetings annually at the State Capital. The Secretary shall call all regular meetings.

2. At least one of the meetings of the State Board must include a discussion with the superintendents of the school districts, presidents of the boards of trustees of the school districts, representatives of the governing bodies of charter schools, representatives of the governing bodies of university schools for profoundly gifted pupils and the chairs of all boards, commissions and councils in the public education system in this State to discuss:

(a) The goals and benchmarks of the State for improving the academic achievement of pupils enrolled in public schools;

(b) The effects of those goals and benchmarks on the school districts and public schools;

(c) The status of the school districts and public schools in achieving the goals and benchmarks; and

(d) The status of any ~~corrective actions imposed on a school district or public school.~~ *plan of corrective action requested by the Superintendent of Public Instruction and of any measures taken to ensure compliance with a plan of corrective action or an order of a hearing officer pursuant to section 6 of this act.*

3. The State Board may hold special meetings at such other times and places as the State Board may direct. The Secretary shall call special meetings upon the written request of the President or any three voting members of the State Board.

4. A majority of the voting members of the State Board constitutes a quorum for the transaction of business, and no action of the State Board is valid unless that action receives, at a legally called meeting, the approval of a majority of all voting members.

Sec. 2. NRS 385.175 is hereby amended to read as follows:

385.175 The Superintendent of Public Instruction is the educational leader for the system of K-12 public education in this State. The Superintendent of Public Instruction shall:

1. Execute, direct or supervise all administrative, technical and procedural activities of the Department in accordance with policies prescribed by the State Board.

2. Employ personnel for the positions approved by the State Board and necessary for the efficient operation of the Department.

3. Organize the Department in a manner which will assure efficient operation and service.

4. Maintain liaison and coordinate activities with other state agencies performing educational functions.

5. Enforce the observance of this title and all other statutes and regulations governing K-12 public education.

6. Request a plan of corrective action from the board of trustees of a school district or the governing body of a charter school if the Superintendent of Public Instruction determines that the school district or charter school, *or any other entity which provides education to a pupil with a disability for a school district or charter school*, has not complied with a requirement of this title or any other statute or regulation governing K-12 public education. The plan of corrective action must provide a timeline approved by the Superintendent of Public Instruction for compliance with the statute or regulation.

7. Perform such other duties as are prescribed by law.

Sec. 3. NRS 385.230 is hereby amended to read as follows:

385.230 1. The Department shall, in conjunction with the State Board, prepare an annual report of the state of public education in this State. The report must include, without limitation:

(a) An analysis of each annual report of accountability prepared by the State Board pursuant to NRS 385A.400;

(b) An update on the status of K-12 public education in this State;

(c) A description of the most recent vision and mission statements of the State Board and the Department, including, without limitation, the progress made by the State Board and Department in achieving those visions and missions;

(d) A description of the goals and benchmarks for improving the academic achievement of pupils which are included in the plan to improve the achievement of pupils required by NRS 385.111;

(e) A description of any significant changes made to the collection, maintenance or transfer of data concerning pupils by the Department, a school district, a sponsor of a charter school or a university school for profoundly gifted pupils;

(f) Any new data elements, including, without limitation, data about individual pupils and aggregated data about pupils within a defined group, proposed for inclusion in the automated system of accountability information for Nevada established pursuant to NRS 385A.800;

(g) An analysis of the progress the public schools have made in the previous year toward achieving the goals and benchmarks for improving the academic achievement of pupils;

(h) An analysis of whether the standards and examinations adopted by the State Board adequately prepare pupils for success in postsecondary educational institutions and in career and workforce readiness;

(i) An analysis of the extent to which school districts and charter schools recruit and retain effective teachers and principals;

(j) An analysis of the ability of the automated system of accountability information for Nevada established pursuant to NRS 385A.800 to link the



achievement of pupils to the performance of the individual teachers assigned to those pupils and to the principals of the schools in which the pupils are enrolled;

(k) An analysis of the extent to which the lowest performing public schools have improved the academic achievement of pupils enrolled in those schools;

(l) A summary of the innovative educational programs implemented by public schools which have demonstrated the ability to improve the academic achievement of pupils, including, without limitation:

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

(5) Pupils who are migratory children, as defined by the State Board;  
~~[and]~~

(m) A description of any plan of corrective action requested by the Superintendent of Public Instruction from the board of trustees of a school district or the governing body of a charter school and the status of that plan ~~[-]~~  
; and

(n) *A summary of any measures taken by the Superintendent of Public Instruction pursuant to section 6 of this act to ensure compliance with a plan of corrective action or the order of a hearing officer.*

2. In odd-numbered years, the Superintendent of Public Instruction shall present the report prepared pursuant to subsection 1 in person to the Governor and each standing committee of the Legislature with primary jurisdiction over matters relating to K-12 public education at the beginning of each regular session of the Legislature.

3. In even-numbered years, the Superintendent of Public Instruction shall, on or before January 31, submit a written copy of the report prepared pursuant to subsection 1 to the Governor and to the Legislative Committee on Education.

Sec. 4. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 5, 6 and 7 of this act.

Sec. 5. 1. *Any person or governmental entity may request the Superintendent of Public Instruction to determine whether a provider of special education is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., NRS 388.417 to 388.525, inclusive, and sections 5, 6 and 7 of this act, any regulations adopted pursuant thereto, or any other law or regulation governing the education of pupils with disabilities in this State.*

2. *Upon receipt of a request pursuant to subsection 1 or upon his or her own initiative, the Superintendent of Public Instruction must determine whether there is good cause to conduct an inspection of the provider of special education. If the Superintendent of Public Instruction determines there is good*

cause to conduct an inspection, the Superintendent of Public Instruction shall cause such an inspection to be conducted by the Department within 30 days after making the determination. An inspection conducted pursuant to this subsection may be conducted on-site, electronically or by telephone.

3. If, after an inspection conducted pursuant to subsection 2, the Superintendent of Public Instruction determines that a provider of special education is not in compliance with a law or regulation governing the education of pupils with disabilities, the Superintendent of Public Instruction must, not more than 30 days after completion of the inspection:

(a) Meet with the provider of special education to determine the most efficient and expeditious manner in which to bring the provider of special education into compliance with the law or regulation; and

(b) Request the board of trustees of the school district or the governing body of the charter school, as applicable, to establish a plan of corrective action pursuant to NRS 385.175 to ensure compliance with the law or regulation.

Sec. 6. 1. If a provider of special education fails or refuses to comply in a timely manner with a plan of corrective action established pursuant to NRS 385.175 or with an order of a hearing officer issued pursuant to a due process hearing conducted pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., or pursuant to an appeal therefrom, the Superintendent of Public Instruction must take appropriate measures to ensure compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., NRS 388.417 to 388.525, inclusive, and sections 5, 6 and 7 of this act, any regulations adopted pursuant thereto, or any other law or regulation governing the education of pupils with disabilities in this State.

2. In determining the appropriate measures to take to ensure compliance with the laws and regulations governing the education of pupils with disabilities, the Superintendent of Public Instruction must consider:

(a) The severity of the failure to comply with the plan of corrective action or the order of the hearing officer and the length and number of times that the provider of special education has been out of compliance with the laws and regulations governing the education of pupils with disabilities;

(b) Whether the provider of special education made a good faith effort to comply with the plan of corrective action or the order of the hearing officer;

(c) The impact on pupils served by the provider of special education of the failure to comply with the plan of corrective action or the order of the hearing officer; and

(d) Whether the provider of special education has previously failed to comply with such a plan of corrective action or order of a hearing officer.

3. The actions which the Superintendent of Public Instruction may take to ensure compliance pursuant to subsection 1 after considering the factors set forth in subsection 2 include, without limitation:

(a) Extending the time by which the provider of special education must comply with the plan of corrective action;

(b) Revising the plan of corrective action;

(c) *Requiring the school district or the governing body of the charter school, as applicable, to provide technical assistance to the provider of special education to assist with compliance with the laws and regulations governing the education of pupils with disabilities;*

(d) *Requiring the school district or the governing body of the charter school, as applicable, to provide appropriate professional development for the provider of special education to assist with compliance with the laws and regulations governing the education of pupils with disabilities;*

(e) *Ordering an investigation of compliance by the provider of special education or additional inspections of the provider of special education to ensure compliance with the laws and regulations governing the education of pupils with disabilities, or both;*

(f) *Requiring the school district or charter school, as appropriate, to assign one or more persons to monitor compliance with the plan of corrective action or order of the hearing officer and the laws and regulations governing the education of pupils with disabilities by the provider of special education;*

(g) *Notwithstanding any collective bargaining agreement or contract of employment to the contrary, requiring the school district or charter school, as applicable, to take appropriate disciplinary action against a principal or other administrator who knowingly and willfully fails to comply with a plan of corrective action or order of a hearing officer;*

(h) *Requiring the provider of special education to attend a public meeting of the State Board to explain the failure of the provider of special education to comply with a plan of corrective action or order of a hearing officer, address public concerns and outline the actions that the provider of special education intends to take to ensure compliance with the laws and regulations governing the education of pupils with disabilities;*

(i) *Taking punitive action against the provider of special education, which may include, without limitation:*

(1) *To the extent possible, redirecting money provided by the Federal Government for administrative costs related to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.; or*

(2) *To the extent possible, withholding, in whole or in part, any federal or state apportionment to the provider; or*

(j) *Seeking enforcement of a plan of corrective action or the order of a hearing officer in a court of competent jurisdiction.*

4. *The Superintendent of Public Instruction may work with any other appropriate governmental entity to carry out the provisions of subsection 3.*

Sec. 7. 1. *The Department, in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto, shall adopt regulations prescribing:*

(a) *Standards for a program of training for persons who are employed by school districts and charter schools and who assist in carrying out the education of pupils who are receiving special education services pursuant to NRS 388.417 to 388.469, inclusive, and sections 5, 6 and 7 of this act,*

*including, without limitation, teachers, administrators, other licensed educational personnel, substitute teachers, personnel who provide related services and paraprofessionals.*

*(b) The required content and manner of notifying the parents of pupils with disabilities of certain information, which must include, without limitation:*

*(1) A description of the procedure whereby an individualized education program is developed and implemented for a pupil with a disability.*

*(2) That the parent of a pupil with a disability has the right to invite persons who have knowledge or special expertise regarding the pupil, including, without limitation, related service personnel, to participate as a member of the individualized education program team for the pupil.*

*(3) A description of the effect of receiving an adjusted diploma, if a pupil with a disability desires to receive an adjusted diploma pursuant to NRS 390.600, including, without limitation, that an adjusted diploma may not be used to apply to a college or university.*

*2. The board of trustees of each school district and the governing body of each charter school shall adopt a program for reporting information concerning the special education programs in each school. The report must include, without limitation, the total number of pupils with disabilities:*

*(a) With an individualized education program.*

*(b) Who received a standard high school diploma.*

*(c) Who received an adjusted diploma.*

*(d) Who dropped out of school.*

*(e) Who did not satisfy the requirements set forth in his or her individualized education program.*

Sec. 8. NRS 388.417 is hereby amended to read as follows:

388.417 As used in NRS 388.417 to 388.515, inclusive ~~[-]~~, and sections 5, 6 and 7 of this act:

1. "Communication mode" means any system or method of communication used by a person with a disability, including, without limitation, a person who is deaf or whose hearing is impaired, to facilitate communication which may include, without limitation:

(a) American Sign Language;

(b) English-based manual or sign systems;

(c) Oral and aural communication;

(d) Spoken and written English, including speech reading or lip reading; and

(e) Communication with assistive technology devices.

2. "Dyslexia" means a neurological learning disability characterized by difficulties with accurate and fluent word recognition and poor spelling and decoding abilities that typically result from a deficit in the phonological component of language.

3. "Dyslexia intervention" means systematic, multisensory intervention offered in an appropriate setting that is derived from evidence-based research.

4. "Individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

5. "Individualized education program team" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).

6. *"Provider of special education" means a school within a school district or charter school that provides education or services to pupils with disabilities or any other entity that is responsible for providing education or services to a pupil with a disability for a school district or charter school.*

7. "Pupil who receives early intervening services" means a person enrolled in kindergarten or grades 1 to 12, inclusive, who is not a pupil with a disability but who needs additional academic and behavioral support to succeed in a regular school program.

~~{7-}~~ 8. "Pupil with a disability" means a "child with a disability," as that term is defined in 20 U.S.C. § 1401(3)(A), who is under 22 years of age.

~~{8-}~~ 9. "Response to scientific, research-based intervention" means a collaborative process which assesses a pupil's response to scientific, research-based intervention that is matched to the needs of a pupil and that systematically monitors the level of performance and rate of learning of the pupil over time for the purpose of making data-based decisions concerning the need of the pupil for increasingly intensified services.

~~{9-}~~ 10. "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language which is not primarily the result of a visual, hearing or motor impairment, intellectual disability, serious emotional disturbance, or an environmental, cultural or economic disadvantage. Such a disorder may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or perform mathematical calculations. The term includes, without limitation, perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia.

Sec. 8.2. NRS 388A.515 is hereby amended to read as follows:

388A.515 1. Each applicant for employment with *or employee at a charter school, except a licensed teacher or other person licensed by the Superintendent of Public Instruction, or volunteer at a charter school who is likely to have unsupervised or regular contact with pupils, must, ~~as a condition to~~ before beginning his or her employment ~~or service as a volunteer and at least once every 5 years thereafter,~~ submit to the governing body of the charter school ~~or~~ :*

(a) A complete set of the applicant's, *employee's or volunteer's* fingerprints and written permission authorizing the governing body to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant, *employee or volunteer* and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant ~~or~~, *employee or volunteer; and*

(b) *Written authorization for the governing body to obtain any information concerning the applicant, employee or volunteer that may be available from*

*the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established by NRS 432.100 and any equivalent registry maintained by a governmental entity in a jurisdiction in which the applicant, employee or volunteer has resided within the immediately preceding 5 years.*

2. *In conducting an investigation into the background of an applicant, employee or volunteer, the governing body of a charter school may cooperate with any appropriate law enforcement agency to obtain information relating to the background of the applicant, employee or volunteer, including, without limitation, any record of warrants for the arrest of or application for protective orders against the applicant, employee or volunteer.*

3. *If the ~~reports on the criminal history of an applicant indicate~~ information obtained by the governing body pursuant subsection 1 or 2 indicates that the applicant, employee or volunteer has not been convicted of a felony or an offense involving moral turpitude, the governing body of the charter school may employ the applicant ~~or~~*

~~—3.1~~ *or employee or accept the volunteer, as applicable.*

4. *If ~~a report on the criminal history of an applicant~~ the information obtained by the governing body pursuant to subsection 1 or 2 indicates that the applicant, employee or volunteer has been convicted of a felony or an offense involving moral turpitude and the governing body of the charter school does not disqualify the applicant or employee from ~~further consideration of~~ employment or the volunteer from serving as a volunteer on the basis of that ~~report~~ information, the governing body shall, upon the written authorization of the applicant, employee or volunteer, forward a copy of the ~~report~~ information to the Superintendent of Public Instruction. If the applicant, employee or volunteer refuses to provide his or her written authorization to forward a copy of the ~~report~~ information pursuant to this subsection, the charter school shall not employ the applicant ~~or~~*

~~—4.1~~ *or employee or accept the volunteer, as applicable.*

5. *The Superintendent of Public Instruction or the Superintendent's designee shall promptly review the ~~report~~ information to determine whether the conviction of the applicant, employee or volunteer is related or unrelated to the position with the charter school for which the applicant has applied ~~or~~ If the applicant desires employment with the charter school, the or in which the employee is employed or the volunteer wishes to serve. The applicant, employee or volunteer shall, upon the request of the Superintendent of Public Instruction or the Superintendent's designee, provide any further information that the Superintendent or the designee determines is necessary to make the determination. If the governing body of the charter school desires to employ the applicant ~~or~~ or employee or accept the volunteer, the governing body shall, upon the request of the Superintendent of Public Instruction or the Superintendent's designee, provide any further information that the Superintendent or the designee determines is necessary to make the determination. The Superintendent of Public Instruction or the*

Superintendent's designee shall provide written notice of the determination to the applicant, *employee or volunteer* and to the governing body of the charter school.

~~{5.}~~ 6. If the Superintendent of Public Instruction or the Superintendent's designee determines that the conviction of the applicant, *employee or volunteer* is related to the position with the charter school for which the applicant has applied ~~{}~~ *or in which the employee is employed or the volunteer wishes to serve*, the governing body of the charter school shall not employ the applicant ~~{}~~ *or employee or accept the volunteer, as applicable*. If the Superintendent of Public Instruction or the Superintendent's designee determines that the conviction of the applicant, *employee or volunteer* is unrelated to the position with the charter school for which the applicant has applied ~~{}~~ *or in which the employee is employed or the volunteer wishes to serve*, the governing body of the charter school may employ the applicant *or employee* for that position ~~{}~~ *or accept the volunteer, as applicable*.

7. *The governing body of a charter school may use a substantiated report of the abuse or neglect of a child or a violation of NRS 201.540, 201.560 or 392.4633 obtained from the Statewide Central Registry or an equivalent registry maintained by a governmental agency in another jurisdiction:*

*(a) When making determinations concerning assignments, requiring retraining, imposing discipline, hiring, termination or accepting a volunteer; and*

*(b) In any proceedings to which the report is relevant, including, without limitation, an action for trespass or a restraining order.*

8. *The governing body of a charter school may accept any gifts, grants and donations to carry out the provisions of this section.*

Sec. 8.3. NRS 388C.200 is hereby amended to read as follows:

388C.200 1. Each applicant for employment with *and employee at a university school for profoundly gifted pupils, except a licensed teacher or other person licensed by the Superintendent of Public Instruction, and each volunteer at a university school for profoundly gifted pupils who is likely to have regular or unsupervised contact with pupils, must, ~~as a condition to~~* before beginning his or her employment ~~{}~~ *or service as a volunteer and at least once every 5 years thereafter, submit to the governing body of the university school ~~{a}~~* :

*(a) A complete set of his or her fingerprints and written permission authorizing the governing body to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant, employee or volunteer and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant ~~{}~~, employee or volunteer; and*

*(b) Written authorization for the governing body to obtain any information concerning the applicant, employee or volunteer that may be available from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established by NRS 432.100 and any*

*equivalent registry maintained by a governmental entity in a jurisdiction in which the applicant or volunteer has resided within the immediately preceding 5 years.*

2. *When conducting an investigation into the background of an applicant, employee or volunteer, the governing body of a university school for profoundly gifted pupils may cooperate with any appropriate law enforcement agency to obtain information relating to the background of the applicant, employee or volunteer, including, without limitation, any record of warrants for the arrest of or applications for protective orders against the applicant, employee or volunteer.*

3. *If the ~~[reports on the criminal history of an applicant indicate]~~ information obtained by the governing body pursuant to subsection 1 or 2 indicates that the applicant, employee or volunteer has not been convicted of a felony or an offense involving moral turpitude, the governing body of the university school for profoundly gifted pupils may employ the applicant ~~[-~~ ~~3.]~~ or employee or accept the volunteer, as applicable.*

4. *If ~~[a report on the criminal history of an applicant]~~ the information obtained by the governing body pursuant to subsection 1 or 2 indicates that the applicant, employee or volunteer has been convicted of a felony or an offense involving moral turpitude and the governing body of the university school for profoundly gifted pupils does not disqualify the applicant or employee from ~~[further consideration of]~~ employment or the volunteer from serving as a volunteer on the basis of that report, the governing body shall, upon the written authorization of the applicant, employee or volunteer, forward a copy of the ~~[report]~~ information to the Superintendent of Public Instruction. If the applicant, employee or volunteer refuses to provide his or her written authorization to forward a copy of the report pursuant to this subsection, the university school shall not employ the applicant ~~[-~~ ~~4.]~~ or employee or accept the volunteer, as applicable.*

5. *The Superintendent of Public Instruction or the Superintendent's designee shall promptly review the ~~[report]~~ information to determine whether the conviction of the applicant, employee or volunteer is related or unrelated to the position with the university school for profoundly gifted pupils for which the applicant has applied ~~[-~~ ~~If the applicant desires employment with the university school, the]~~ or in which the employee is employed or the volunteer wishes to serve. The applicant, employee or volunteer shall, upon the request of the Superintendent of Public Instruction or the Superintendent's designee, provide any further information that the Superintendent or the designee determines is necessary to make the determination. If the governing body of the university school desires to employ the applicant ~~[-~~ ~~or employee or accept the volunteer~~, the governing body shall, upon the request of the Superintendent of Public Instruction or the Superintendent's designee, provide any further information that the Superintendent or the designee determines is necessary to make the determination. The Superintendent of Public Instruction or the Superintendent's designee shall provide written notice of the determination to*



the applicant , *employee or volunteer* and to the governing body of the university school.

~~{5.}~~ 6. If the Superintendent of Public Instruction or the Superintendent's designee determines that the conviction of the applicant , *employee or volunteer* is related to the position with the university school for profoundly gifted pupils for which the applicant has applied ~~{}~~ *or in which the employee is employed or the volunteer wishes to serve*, the governing body of the university school shall not employ the applicant ~~{}~~ *or employee or accept the volunteer, as applicable*. If the Superintendent of Public Instruction or the Superintendent's designee determines that the conviction of the applicant , *employee or volunteer* is unrelated to the position with the university school for which the applicant has applied ~~{}~~ *or in which the employee is employed or the volunteer wishes to serve*, the governing body of the university school may employ the applicant *or employee* for that position ~~{}~~ *or accept the volunteer, as applicable*.

7. *The governing body of a university school for profoundly gifted pupils may use a substantiated report of the abuse or neglect of a child or a violation of NRS 201.540, 201.560 or 392.4633 obtained from the Statewide Central Registry or an equivalent registry maintained by a governmental agency in another jurisdiction:*

(a) *When making determinations concerning assignments, requiring retraining, imposing discipline, hiring, termination or accepting a volunteer; and*

(b) *In any proceedings to which the report is relevant, including, without limitation, an action for trespass or a restraining order.*

8. *The governing body of a university school for profoundly gifted pupils may accept any gifts, grants and donations to carry out the provisions of this section.*

Sec. 8.5. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

*"Statewide Central Registry" means the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established by NRS 432.100.*

Sec. 8.6. NRS 391.002 is hereby amended to read as follows:

391.002 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 391.005 and 391.008 *and section 8.5 of this act* have the meanings ascribed to them in those sections.

Sec. 8.7. NRS 391.033 is hereby amended to read as follows:

391.033 1. All licenses for teachers and other educational personnel are granted by the Superintendent of Public Instruction pursuant to regulations adopted by the Commission and as otherwise provided by law.

2. An application for the issuance of a license must include the social security number of the applicant.

3. Every applicant for a license must submit with his or her application ~~{a}~~ ;

(a) A complete set of his or her fingerprints and written permission authorizing the Superintendent to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its initial report on the criminal history of the applicant and for reports thereafter upon renewal of the license pursuant to subsection 7 of NRS 179A.075, and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant ~~{ }~~; and

(b) *Written authorization for the Superintendent to obtain any information concerning the applicant that may be available from the Statewide Central Registry and any equivalent registry maintained by a governmental entity in a jurisdiction in which the applicant has resided within the immediately preceding 5 years.*

4. *When conducting an investigation into the background of an applicant for a license, the Superintendent may cooperate with any appropriate law enforcement agency to obtain information relating to the criminal history of the applicant, including, without limitation, any record of warrants for the arrest of or applications for protective orders against the applicant.*

5. The Superintendent may issue a provisional license pending receipt of the reports of the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History if the Superintendent determines that the applicant is otherwise qualified.

~~{5-}~~ 6. A license must be issued to, or renewed for, as applicable, an applicant if:

(a) The Superintendent determines that the applicant is qualified;

(b) ~~The reports on the criminal history of the applicant from the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History-~~ information obtained by the Superintendent pursuant to subsections 3 and 4:

(1) ~~{Do}~~ Does not indicate that the applicant has been convicted of a felony or any offense involving moral turpitude; or

(2) ~~{Indicate}~~ Indicates that the applicant has been convicted of a felony or an offense involving moral turpitude but the Superintendent determines that the conviction is unrelated to the position within the county school district or charter school for which the applicant applied or for which he or she is currently employed, as applicable; and

(c) For initial licensure, the applicant submits the statement required pursuant to NRS 391.034.

7. *The Superintendent shall forward all information obtained from an investigation of an applicant pursuant to subsections 3 and 4 to 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 or the administrator of the private school where the applicant is employed or serving as a volunteer or seeking employment. The board of trustees or governing body, as applicable, may use a substantiated report of the abuse or neglect of a child or a violation of NRS 201.540, 201.560 or 392.4633 obtained from the*

*Statewide Central Registry or an equivalent registry maintained by a governmental agency in another jurisdiction:*

*(a) When making determinations concerning assignments, requiring retraining, imposing discipline, hiring or termination; and*

*(b) In any proceedings to which the report is relevant, including, without limitation, an action for trespass or a restraining order.*

Sec. 8.8. NRS 391.035 is hereby amended to read as follows:

391.035 1. Except as otherwise provided in NRS 239.0115 ~~and~~ *and* 391.033, an application to the Superintendent of Public Instruction for a license as a teacher or to perform other educational functions and all documents in the Department's file relating to the application, including:

(a) The applicant's health records;

(b) The applicant's fingerprints and any report from the Federal Bureau of Investigation or the Central Repository for Nevada Records of Criminal History ~~or information from the Statewide Central Registry or any equivalent registry maintained by a governmental agency in a jurisdiction in which the applicant has resided within the immediately preceding 5 years;~~

(c) Transcripts of the applicant's records at colleges or other educational institutions;

(d) The applicant's scores on the examinations administered pursuant to the regulations adopted by the Commission;

(e) Any correspondence concerning the application; and

(f) Any other personal information,

↪ are confidential.

2. It is unlawful to disclose or release the information in an application or any related document except pursuant to paragraph (d) of subsection 7 of NRS 179A.075 or the applicant's written authorization.

3. The Department shall, upon request, make available the applicant's file for inspection by the applicant during regular business hours.

Sec. 9. NRS 391.104 is hereby amended to read as follows:

391.104 1. Each applicant for employment pursuant to NRS 391.100 ~~or employee, except a teacher or other person licensed by the Superintendent of Public Instruction, or volunteer who is likely to have unsupervised or regular contact with pupils must, [as a condition to] before beginning his or her employment or service as a volunteer and at least once every 5 years thereafter, submit to the school district [a]~~ :

(a) A full set of the applicant's , employee's or volunteer's fingerprints and written permission authorizing the school district to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant , employee or volunteer and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant ~~or~~ , employee or volunteer; and

(b) Written authorization for the board of trustees of the school district to obtain any information concerning the applicant, employee or volunteer that may be available from the Statewide Central Registry and any equivalent

registry maintained by a governmental entity in a jurisdiction in which the applicant, employee or volunteer has resided within the immediately preceding 5 years.

2. When conducting an investigation into the background of an applicant, employee or volunteer, the board of trustees of a school district may cooperate with any appropriate law enforcement agency to obtain information relating to the criminal history of the applicant, employee or volunteer, including, without limitation, warrants for the arrest of or protective orders against the applicant, employee or volunteer.

3. The board of trustees of a school district may use a substantiated report of the abuse or neglect of a child or a violation of NRS 201.540, 201.560 or 392.4633 obtained from the Statewide Central Registry or an equivalent registry maintained by a governmental agency in another jurisdiction:

(a) When making determinations concerning assignments, hiring or termination, requiring retraining, imposing discipline or accepting a volunteer; and

(b) In any proceedings to which the report is relevant, including, without limitation, an action for trespass or a restraining order.

4. Except as otherwise provided in subsection ~~{3,}~~ 5, the board of trustees of a school district shall not require a licensed teacher or other person licensed by the Superintendent of Public Instruction pursuant to NRS 391.033 who has taken a leave of absence from employment authorized by the school district, including, without limitation:

(a) Sick leave;

(b) Sabbatical leave;

(c) Personal leave;

(d) Leave for attendance at a regular or special session of the Legislature of this State if the employee is a member thereof;

(e) Maternity leave; and

(f) Leave permitted by the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq.,

➡ to submit a set of his or her fingerprints as a condition of return to or continued employment with the school district if the employee is in good standing when the employee began the leave.

~~{3,}~~ 5. A board of trustees of a school district may ask the Superintendent of Public Instruction to require a person licensed by the Superintendent of Public Instruction pursuant to NRS 391.033 who has taken a leave of absence from employment authorized by the school district to submit a set of his or her fingerprints as a condition of return to or continued employment with the school district if the board of trustees has probable cause to believe that the person has committed a felony or an offense involving moral turpitude during the period of his or her leave of absence.

6. The board of trustees of a school district may accept any gifts, grants and donations to carry out the provisions of subsections 1 and 2.

Sec. 9.1. NRS 391.281 is hereby amended to read as follows:

391.281 1. Each applicant for employment *or appointment* pursuant to this section ~~{-}~~ *or employee*, except a teacher or other person licensed by the Superintendent of Public Instruction, must, ~~{as a condition to}~~ *before beginning his or her employment {-} or appointment and at least once every 5 years thereafter*, submit to the school district ~~{a}~~ :

(a) A full set of the applicant's *or employee's* fingerprints and written permission authorizing the school district to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant *or employee* and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant ~~{-}~~ *or employee*.

(b) *Written authorization for the board of trustees of the school district to obtain any information concerning the applicant or employee that may be available from the Statewide Central Registry and any equivalent registry maintained by a governmental entity in a jurisdiction in which the applicant or employee has resided within the immediately preceding 5 years.*

2. *When conducting an investigation into the background of an applicant or employee, the board of trustees of a school district may cooperate with any appropriate law enforcement agency to obtain information relating to the criminal history of the applicant or employee, including, without limitation, any record of warrants for the arrest of or applications for protective orders against the applicant or employee.*

3. *The board of trustees of a school district may use a substantiated report of the abuse or neglect of a child or a violation of NRS 201.540, 201.560 or 392.4633 obtained from the Statewide Central Registry or an equivalent registry maintained by a governmental agency in another jurisdiction:*

(a) *When making determinations concerning assignments, requiring retraining, imposing discipline, hiring or termination; and*

(b) *In any proceedings to which the report is relevant, including, without limitation, an action for trespass or a restraining order.*

4. *The board of trustees of a school district may accept any gifts, grants and donations to carry out the provisions of subsections 1 and 2.*

5. The board of trustees of a school district may employ or appoint persons to serve as school police officers. If the board of trustees of a school district employs or appoints persons to serve as school police officers, the board of trustees shall employ a law enforcement officer to serve as the chief of school police who is supervised by the superintendent of schools of the school district. The chief of school police shall supervise each person appointed or employed by the board of trustees as a school police officer, including any school police officer that provides services to a charter school pursuant to a contract entered into with the board of trustees pursuant to NRS 388A.384. In addition, persons who provide police services pursuant to subsection ~~{3}~~ 6 or ~~{4}~~ 7 shall be deemed school police officers.

~~{3.}~~ 6. The board of trustees of a school district in a county that has a metropolitan police department created pursuant to chapter 280 of NRS may contract with the metropolitan police department for the provision and supervision of police services in the public schools within the jurisdiction of the metropolitan police department and on property therein that is owned by the school district and on property therein that is owned or occupied by a charter school if the board of trustees has entered into a contract with the charter school for the provision of school police officers pursuant to NRS 388A.384. If a contract is entered into pursuant to this subsection, the contract must make provision for the transfer of each school police officer employed by the board of trustees to the metropolitan police department. If the board of trustees of a school district contracts with a metropolitan police department pursuant to this subsection, the board of trustees shall, if applicable, cooperate with appropriate local law enforcement agencies within the school district for the provision and supervision of police services in the public schools within the school district, including, without limitation, any charter school with which the school district has entered into a contract for the provision of school police officers pursuant to NRS 388A.384, and on property owned by the school district and, if applicable, the property owned or occupied by the charter school, but outside the jurisdiction of the metropolitan police department.

~~{4.}~~ 7. The board of trustees of a school district in a county that does not have a metropolitan police department created pursuant to chapter 280 of NRS may contract with the sheriff of that county for the provision of police services in the public schools within the school district, including, without limitation, in any charter school with which the board of trustees has entered into a contract for the provision of school police officers pursuant to NRS 388A.384, and on property therein that is owned by the school district and, if applicable, the property owned or occupied by the charter school.

Sec. 9.3. Chapter 394 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Each applicant for employment with or employee at a private school, except a licensed teacher or other person licensed by the Superintendent of Public Instruction, or volunteer at a private school who is likely to have unsupervised or regular contact with pupils, must, before beginning his or her employment or service as a volunteer and at least once every 5 years thereafter, submit to the administrator of the private school:*

(a) *A complete set of the applicant's, employee's or volunteer's fingerprints and written permission authorizing the administrator to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant, employee or volunteer and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant, employee or volunteer; and*

(b) *Written authorization for the administrator to obtain any information concerning the applicant, employee or volunteer that may be available from*

*the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established by NRS 432.100 and any equivalent registry maintained by a governmental entity in a jurisdiction in which the applicant, employee or volunteer has resided within the immediately preceding 5 years.*

2. *The administrator of the private school shall:*

*(a) Submit the fingerprints of the applicant, employee or volunteer to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the administrator deems necessary; and*

*(b) Request any information that may be available from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established by NRS 432.100 and any equivalent registry maintained by a governmental entity in a jurisdiction in which the applicant, employee or volunteer has resided within the immediately preceding 5 years.*

3. *When conducting an investigation into the criminal history of an applicant, employee or volunteer, the administrator of a private school may cooperate with any appropriate law enforcement agency to obtain information relating to the criminal history of the applicant, employee or volunteer, including, without limitation, any record of warrants for the arrest of or applications for protective orders against the applicant, employee or volunteer.*

4. *The administrator or governing body of a private school may use a substantiated report of abuse or neglect of a child or a violation of NRS 201.540, 201.560 or 392.4633 obtained from the Statewide Central Registry or an equivalent registry maintained by a governmental agency in another jurisdiction:*

*(a) When making determinations concerning assignments, requiring retraining, imposing discipline, hiring, accepting a volunteer or termination; and*

*(b) In any proceedings to which the report is relevant, including, without limitation, an action for trespass or a restraining order.*

Sec. 9.4. NRS 394.610 is hereby amended to read as follows:

394.610 Unless a specific penalty is otherwise provided, a person who willfully violates the provisions of NRS 394.005 to 394.550, inclusive, *and section 9.3 of this act*, is guilty of a gross misdemeanor. Each day's failure to comply with the provisions of these sections is a separate offense.

Sec. 9.6. NRS 171.1223 is hereby amended to read as follows:

171.1223 1. Except as otherwise provided in subsection 3, in a county whose population is 100,000 or more, a peace officer with limited jurisdiction who witnesses a category A felony being committed or attempted in the officer's presence, or has reasonable cause for believing a person has committed or attempted to commit a category A felony in an area that is within the officer's jurisdiction, shall immediately notify the primary law enforcement

agency in the city or county, as appropriate, where the offense or attempted offense was committed.

2. Upon arrival of an officer from the primary law enforcement agency notified pursuant to subsection 1, a peace officer with limited jurisdiction shall immediately transfer the investigation of the offense or attempted offense to the primary law enforcement agency.

3. The provisions of subsection 1 do not:

(a) Apply to an offense or attempted offense that is a misdemeanor, gross misdemeanor or felony other than a category A felony;

(b) Apply to an officer of the Nevada Highway Patrol, a member of the police department of the Nevada System of Higher Education, an agent of the Investigation Division of the Department of Public Safety or a ranger of the Division of State Parks of the State Department of Conservation and Natural Resources;

(c) Apply to a peace officer with limited jurisdiction if an interlocal agreement between the officer's employer and the primary law enforcement agency in the city or county in which a category A felony was committed or attempted authorizes the peace officer with limited jurisdiction to respond to and investigate the felony without immediately notifying the primary law enforcement agency; or

(d) Prohibit a peace officer with limited jurisdiction from:

(1) Contacting a primary law enforcement agency for assistance with an offense that is a misdemeanor, gross misdemeanor or felony that is not a category A felony; or

(2) Responding to a category A felony until the appropriate primary law enforcement agency arrives at the location where the felony was allegedly committed or attempted, including, without limitation, taking any appropriate action to provide assistance to a victim of the felony, to apprehend the person suspected of committing or attempting to commit the felony, to secure the location where the felony was allegedly committed or attempted and to protect the life and safety of the peace officer and any other person present at that location.

4. As used in this section:

(a) "Peace officer with limited jurisdiction" means:

(1) A school police officer who is appointed or employed pursuant to subsection ~~{2}~~ 5 of NRS 391.281;

(2) An airport guard or police officer who is appointed pursuant to NRS 496.130;

(3) A person employed to provide police services for an airport authority created by a special act of the Legislature; and

(4) A marshal or park ranger who is part of a unit of specialized law enforcement established pursuant to NRS 280.125.

(b) "Primary law enforcement agency" means:

(1) A police department of an incorporated city;

(2) The sheriff's office of a county; or



(3) If the county is within the jurisdiction of a metropolitan police department, the metropolitan police department.

Sec. 9.7. NRS 179A.075 is hereby amended to read as follows:

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the General Services Division of the Department.

2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the Department; and

(b) Submit the information collected to the Central Repository in the manner approved by the Director of the Department.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates, issues or collects, and any information in its possession relating to the DNA profile of a person from whom a biological specimen is obtained pursuant to NRS 176.09123 or 176.0913, to the Division. The information must be submitted to the Division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the Director of the Department,

↪ within 60 days after the date of the disposition of the case. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. The Division shall, in the manner prescribed by the Director of the Department:

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Records of criminal history; and

(2) The DNA profile of a person from whom a biological specimen is obtained pursuant to NRS 176.09123 or 176.0913.

(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him or her.

(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.

(d) Upon request, provide, in paper or electronic form, the information that is contained in the Central Repository to a multidisciplinary team to review the death of the victim of a crime that constitutes domestic violence organized or sponsored by the Attorney General pursuant to NRS 228.495.

5. The Division may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with repositories of the United States and other states to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and

(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints or other biometric identifier the Central Repository submits to the Federal Bureau of Investigation and:

(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required or authorized to be obtained pursuant to NRS 62B.270, 62G.223, 62G.353, 424.031, 432A.170, 432B.198, 433B.183, 449.123 and 449.4329; or

(5) About whom any agency of the State of Nevada or any political subdivision thereof is authorized by law to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

6. To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to subsection 5, the Central Repository must receive:

(a) The person's complete set of fingerprints for the purposes of:

(1) Booking the person into a city or county jail or detention facility;

(2) Employment;

(3) Contractual services; or

(4) Services related to occupational licensing;

(b) One or more of the person's fingerprints for the purposes of mobile identification by an agency of criminal justice; or

(c) Any other biometric identifier of the person as it may require for the purposes of:

(1) Arrest; or

(2) Criminal investigation,

↪ from the agency of criminal justice or agency of the State of Nevada or any political subdivision thereof and submit the received data to the Federal Bureau of Investigation for its report.

7. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for the issuance or renewal of a license;

(2) Has applied to a county school district, charter school or private school for employment ~~to~~ *or to serve as a volunteer*; or

(3) Is employed by *or volunteers for* a county school district, charter school or private school,

➤ and *immediately* notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, *immediately* notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by *or volunteering for* a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

➤ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits one or more fingerprints or other biometric identifier or has such data submitted pursuant to NRS 62B.270, 62G.223, 62G.353, 424.031, 432A.170, 432B.198, 433B.183, 449.122, 449.123 or 449.4329.

(g) On or before July 1 of each year, prepare and post on the Central Repository's Internet website an annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be posted to the Central Repository's Internet website throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) On or before July 1 of each year, prepare and post on the Central Repository's Internet website a report containing statistical data about domestic violence in this State.

(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2 and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

(j) Adopt regulations governing biometric identifiers and the information and data derived from biometric identifiers, including, without limitation:

(1) Their collection, use, safeguarding, handling, retention, storage, dissemination and destruction; and

(2) The methods by which a person may request the removal of his or her biometric identifiers from the Central Repository and any other agency where his or her biometric identifiers have been stored.

8. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

9. As used in this section:

(a) "Biometric identifier" means a fingerprint, palm print, scar, bodily mark, tattoo, voiceprint, facial image, retina image or iris image of a person.

(b) "Mobile identification" means the collection, storage, transmission, reception, search, access or processing of a biometric identifier using a handheld device.

(c) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) A biometric identifier of a person.

(d) "Private school" has the meaning ascribed to it in NRS 394.103.

Sec. 9.8. NRS 288.150 is hereby amended to read as follows:

288.150 1. Except as otherwise provided in subsection 4 and NRS 354.6241, every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the

mandatory subjects of bargaining set forth in subsection 2 with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. If either party so requests, agreements reached must be reduced to writing.

2. The scope of mandatory bargaining is limited to:

- (a) Salary or wage rates or other forms of direct monetary compensation.
  - (b) Sick leave.
  - (c) Vacation leave.
  - (d) Holidays.
  - (e) Other paid or nonpaid leaves of absence consistent with the provisions of this chapter.
  - (f) Insurance benefits.
  - (g) Total hours of work required of an employee on each workday or workweek.
  - (h) Total number of days' work required of an employee in a work year.
  - (i) Except as otherwise provided in ~~subsection~~ *subsections 6 ~~7~~ and 10*, discharge and disciplinary procedures.
  - (j) Recognition clause.
  - (k) The method used to classify employees in the bargaining unit.
  - (l) Deduction of dues for the recognized employee organization.
  - (m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.
  - (n) No-strike provisions consistent with the provisions of this chapter.
  - (o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.
  - (p) General savings clauses.
  - (q) Duration of collective bargaining agreements.
  - (r) Safety of the employee.
  - (s) Teacher preparation time.
  - (t) Materials and supplies for classrooms.
  - (u) Except as otherwise provided in subsections 7 , ~~and~~ 9 ~~7~~ and 10, the policies for the transfer and reassignment of teachers.
  - (v) Procedures for reduction in workforce consistent with the provisions of this chapter.
  - (w) Procedures consistent with the provisions of subsection 4 for the reopening of collective bargaining agreements for additional, further, new or supplementary negotiations during periods of fiscal emergency.
3. Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the local government employer without negotiation include:
- (a) Except as otherwise provided in paragraph (u) of subsection 2, the right to hire, direct, assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.

(b) The right to reduce in force or lay off any employee because of lack of work or lack of money, subject to paragraph (v) of subsection 2.

(c) The right to determine:

(1) Appropriate staffing levels and work performance standards, except for safety considerations;

(2) The content of the workday, including without limitation workload factors, except for safety considerations;

(3) The quality and quantity of services to be offered to the public; and

(4) The means and methods of offering those services.

(d) Safety of the public.

4. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer is entitled to:

(a) Reopen a collective bargaining agreement for additional, further, new or supplementary negotiations relating to compensation or monetary benefits during a period of fiscal emergency. Negotiations must begin not later than 21 days after the local government employer notifies the employee organization that a fiscal emergency exists. For the purposes of this section, a fiscal emergency shall be deemed to exist:

(1) If the amount of revenue received by the general fund of the local government employer during the last preceding fiscal year from all sources, except any nonrecurring source, declined by 5 percent or more from the amount of revenue received by the general fund from all sources, except any nonrecurring source, during the next preceding fiscal year, as reflected in the reports of the annual audits conducted for those fiscal years for the local government employer pursuant to NRS 354.624; or

(2) If the local government employer has budgeted an unreserved ending fund balance in its general fund for the current fiscal year in an amount equal to 4 percent or less of the actual expenditures from the general fund for the last preceding fiscal year, and the local government employer has provided a written explanation of the budgeted ending fund balance to the Department of Taxation that includes the reason for the ending fund balance and the manner in which the local government employer plans to increase the ending fund balance.

(b) Take whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any collective bargaining agreement for the duration of the emergency.

➤ Any action taken under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

5. The provisions of this chapter, including without limitation the provisions of this section, recognize and declare the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, its taxpayers and its employees.

6. If the sponsor of a charter school reconstitutes the governing body of a charter school pursuant to NRS 388A.330, the new governing body may terminate the employment of any teachers or other employees of the charter school, and any provision of any agreement negotiated pursuant to this chapter that provides otherwise is unenforceable and void.

7. The board of trustees of a school district in which a school is designated as a turnaround school pursuant to NRS 388G.400 or the principal of such a school, as applicable, may take any action authorized pursuant to NRS 388G.400, including, without limitation:

- (a) Reassigning any member of the staff of such a school; or
- (b) If the staff member of another public school consents, reassigning that member of the staff of the other public school to such a school.

8. Any provision of an agreement negotiated pursuant to this chapter which differs from or conflicts in any way with the provisions of subsection 7 or imposes consequences on the board of trustees of a school district or the principal of a school for taking any action authorized pursuant to subsection 7 is unenforceable and void.

9. The board of trustees of a school district may reassign any member of the staff of a school that is converted to an achievement charter school pursuant to NRS 388B.200 to 388B.230, inclusive, and any provision of any agreement negotiated pursuant to this chapter which provides otherwise is unenforceable and void.

10. *The board of trustees of a school district, governing body of a charter school or the governing body of a university school for profoundly gifted pupils may use a substantiated report of the abuse or neglect of a child or a violation of NRS 201.540, 201.560 or 392.4633 obtained from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established by NRS 432.100 or an equivalent registry maintained by a governmental agency in another jurisdiction for the purposes authorized by NRS 388A.515, 388C.200, 391.033, 391.104 or 391.281, as applicable. Such purposes may include, without limitation, making determinations concerning the assignment, discipline or termination of an employee. Any provision of any agreement negotiated pursuant to this chapter which conflicts with the provisions of this subsection is unenforceable and void.*

11. This section does not preclude, but this chapter does not require, the local government employer to negotiate subject matters enumerated in subsection 3 which are outside the scope of mandatory bargaining. The local government employer shall discuss subject matters outside the scope of mandatory bargaining but it is not required to negotiate those matters.

~~{11-}~~ 12. Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

~~{12-}~~ 13. As used in this section, "achievement charter school" has the meaning ascribed to it in NRS 385.007.

Sec. 9.9. NRS 289.190 is hereby amended to read as follows:

289.190 1. A person employed or appointed to serve as a school police officer pursuant to subsection ~~{2}~~ 5 of NRS 391.281 has the powers of a peace officer. A school police officer shall perform the officer's duties in compliance with the provisions of NRS 171.1223.

2. A person appointed pursuant to NRS 393.0718 by the board of trustees of any school district has the powers of a peace officer to carry out the intents and purposes of NRS 393.071 to 393.0719, inclusive.

3. Members of every board of trustees of a school district, superintendents of schools, principals and teachers have concurrent power with peace officers for the protection of children in school and on the way to and from school, and for the enforcement of order and discipline among such children, including children who attend school within one school district but reside in an adjoining school district or adjoining state, pursuant to the provisions of chapter 392 of NRS. This subsection must not be construed so as to make it the duty of superintendents of schools, principals and teachers to supervise the conduct of children while not on the school property.

Sec. 10. Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~1. A representative of an agency which provides child welfare services, a law enforcement officer, a probation officer or the district attorney.~~ Any person who is a party to a proceeding pursuant to this chapter may file a petition requesting the court to appoint an educational surrogate parent for a child with a known or suspected disability. The court may appoint an educational surrogate parent for a child with a known or suspected disability if a parent, as defined in 34 C.F.R. § 300.30, is:

(a) Not identified;  
(b) Unavailable; or  
(c) Unwilling or unable to make decisions relating to the education of the child and such an appointment is in the best interest of the child.

2. The court may appoint a person as an educational surrogate parent if the person:

(a) Has not caused the abuse or neglect of the child;  
(b) Does not have any interest that conflicts with the best interests of the child;  
(c) Has the knowledge and skill to adequately represent the interests of the child; and

(d) Is not an employee of a public agency involved in the education of the child. An educational surrogate parent appointed pursuant to this section shall not be deemed to be an employee of a public agency involved in the education of the child.

3. An educational surrogate parent shall represent the child with a known or suspected disability in all matters relating to the identification of the child, the assessment of any special educational needs of the child, the educational



*placement of the child and the provision of a free appropriate program of public education to the child.*

4. *A court may revoke the appointment of an educational surrogate parent if the court determines the revocation of the appointment is in the best interests of the child.*

5. *If the court does not appoint an educational surrogate parent or if the court revokes such an appointment, the selection of an educational surrogate parent must be made pursuant to applicable state and federal law.*

Sec. 11. NRS 432B.190 is hereby amended to read as follows:

432B.190 The Division of Child and Family Services shall, in consultation with each agency which provides child welfare services, adopt:

1. Regulations establishing reasonable and uniform standards for:

- (a) Child welfare services provided in this State;
- (b) Programs for the prevention of abuse or neglect of a child and the achievement of the permanent placement of a child;
- (c) The development of local councils involving public and private organizations;
- (d) Reports of abuse or neglect, records of these reports and the response to these reports;
- (e) Carrying out the provisions of NRS 432B.260, including, without limitation, the qualifications of persons with whom agencies which provide child welfare services enter into agreements to provide services to children and families;
- (f) The management and assessment of reported cases of abuse or neglect;
- (g) The protection of the legal rights of parents and children;
- (h) Emergency shelter for a child;
- (i) The prevention, identification and correction of abuse or neglect of a child in residential institutions;
- (j) Developing and distributing to persons who are responsible for a child's welfare a pamphlet that is written in language which is easy to understand, is available in English and in any other language the Division determines is appropriate based on the demographic characteristics of this State and sets forth:

(1) Contact information regarding persons and governmental entities which provide assistance to persons who are responsible for the welfare of children, including, without limitation, persons and entities which provide assistance to persons who are being investigated for allegedly abusing or neglecting a child;

(2) The procedures for taking a child for placement in protective custody; and

(3) The state and federal legal rights of:

(I) A person who is responsible for a child's welfare and who is the subject of an investigation of alleged abuse or neglect of a child, including, without limitation, the legal rights of such a person at the time an agency which provides child welfare services makes initial contact with the person in the

course of the investigation and at the time the agency takes the child for placement in protective custody, and the legal right of such a person to be informed of any allegation of abuse or neglect of a child which is made against the person at the initial time of contact with the person by the agency; and

(II) Persons who are parties to a proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, *and section 10 of this act*, during all stages of the proceeding; and

(k) Making the necessary inquiries required pursuant to NRS 432B.397 to determine whether a child is an Indian child.

2. Regulations, which are applicable to any person who is authorized to place a child in protective custody without the consent of the person responsible for the child's welfare, setting forth reasonable and uniform standards for establishing whether immediate action is necessary to protect the child from injury, abuse or neglect for the purposes of determining whether to place the child into protective custody pursuant to NRS 432B.390. Such standards must consider the potential harm to the child in remaining in his or her home, including, without limitation:

(a) Circumstances in which a threat of harm suggests that a child is in imminent danger of serious harm.

(b) The conditions or behaviors of the child's family which threaten the safety of the child who is unable to protect himself or herself and who is dependent on others for protection, including, without limitation, conditions or behaviors that are beyond the control of the caregiver of the child and create an imminent threat of serious harm to the child.

↪ The Division of Child and Family Services shall ensure that the appropriate persons or entities to whom the regulations adopted pursuant to this subsection apply are provided with a copy of such regulations. As used in this subsection, "serious harm" includes the threat or evidence of serious physical injury, sexual abuse, significant pain or mental suffering, extreme fear or terror, extreme impairment or disability, death, substantial impairment or risk of substantial impairment to the child's mental or physical health or development.

3. Regulations establishing procedures for:

(a) Expeditiously locating any missing child who has been placed in the custody of an agency which provides child welfare services;

(b) Determining the primary factors that contributed to a child who has been placed in the custody of an agency which provides child welfare services running away or otherwise being absent from foster care, and to the extent possible and appropriate, responding to those factors in current and subsequent placements; and

(c) Determining the experiences of a child who has been placed in the custody of an agency which provides child welfare services during any period the child was missing, including, without limitation, determining whether the child may be a victim of sexual abuse or sexual exploitation.

4. Such other regulations as are necessary for the administration of NRS 432B.010 to 432B.606, inclusive.

Sec. 12. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 12.3. The provisions of NRS 288.150, as amended by section 9.8 of this act:

1. Apply to any collective bargaining agreement entered into, extended or renewed on or after July 1, 2017, and any provision of the agreement that is in conflict with that section, as amended, is void.

2. Do not apply to any collective bargaining agreement entered into before July 1, 2017.

Sec. 12.5. 1. The Department of Education shall adopt the regulations pursuant to section 7 of this act on or before January 1, 2018.

2. The board of trustees of each school district or the governing body of a charter school shall enact the regulations adopted pursuant to section 7 of this act before the 2018-2019 school year.

Sec. 13. This act becomes effective on July 1, 2017.

Senator Gansert moved the adoption of the amendment.

Remarks by Senator Gansert.

Amendment No. 720 to Senate Bill No. 213 authorizes the Superintendent of Public Instruction to order an on-site electronic or telephone inspection of a school district, charter school or other entity providing education or services to students with disabilities after determining that good cause for the inspection exists. If such an entity is found to be out of compliance, the bill requires the Superintendent to meet with the provider to determine the most efficient and expeditious manner in which to bring the provider into compliance and request a plan of corrective action from the board of trustees of the school district or the governing body of the charter school. The amendment to Senate Bill No. 213 authorizes the Superintendent to take various actions to ensure the provider complies with the plan of corrective action.

This amendment requires the Department of Education to prescribe certain policies and procedures necessary to carry out related training of school personnel and parental notification. The bill also requires background investigations of applicants, employees and volunteers as a condition of employment for all school employees and volunteers who are likely to have regular, unsupervised contact with students and subsequent background investigations every 5 years to continue employment with the school. The amendment allows any party to the action to file a petition requesting the court appoint an educational surrogate parent for a child with a known or suspected disability under certain circumstances.

Amendment adopted.

Bill read third time.

Remarks by Senator Gansert.

I urge support of Senate Bill No. 213.

Roll call on Senate Bill No. 213:

YEAS—21.

NAYS—None.

Senate Bill No. 213 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

## MOTIONS, RESOLUTIONS AND NOTICES

Senator Ford moved that Senate Bill No. 368 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

## GENERAL FILE AND THIRD READING

Senate Bill No. 265.

Bill read third time.

The following amendment was proposed by Senator Cancela:

Amendment No. 830.

SUMMARY—Revises provisions relating to prescription drugs.  
(BDR 40-809)

AN ACT relating to prescription drugs; requiring the Department of Health and Human Services to compile a list of prescription drugs essential for treating diabetes in this State; requiring the manufacturer of a prescription drug included on the list to report certain information to the Department; requiring a manufacturer to notify the Department in advance of planned price increases for such drugs; requiring a manufacturer of prescription drugs to submit a list of each pharmaceutical sales representative who markets prescription drugs to certain persons in this State; prohibiting a pharmaceutical sales representative who is not included on such a list from marketing prescription drugs on behalf of a manufacturer; requiring each pharmaceutical sales representative included on such a list to report certain information to the Department; requiring certain nonprofit organizations to report to the Department certain information concerning contributions received from drug manufacturers, insurers and pharmacy benefit managers or trade and advocacy groups for such ~~manufacturers;~~ entities; requiring the Department to place certain information on its Internet website; authorizing the Department to impose an administrative penalty in certain circumstances; requiring a private school to allow a pupil to keep and self-administer certain drugs; requiring certain insurers to provide certain notice to insureds; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department of Health and Human Services to compile and post on its Internet website information relating to the prices charged for certain prescription drugs. (NRS 439.915) Section 6 of this bill requires the Department to annually compile and post on its Internet website a list of drugs that the Department determines to be essential for treating diabetes in this State, including the wholesale acquisition cost of such a drug. Section 7 of this bill requires the manufacturer of a prescription drug included on the list to submit to the Department an annual report that contains certain information concerning the cost of the drug. Section 7 also requires the Department to compile and post on its Internet website a report concerning the prices of the essential diabetes drugs included on the list and the effect of those prices on overall spending on health care in this State. Section 27.5 of this bill further

excludes the information reported by the manufacturer from the definition of "trade secret." Section 9 of this bill requires a nonprofit organization that advocates for patients or funds medical research in this State to post on its Internet website or, if it does not maintain an Internet website, submit to the Department certain information concerning payments, donations and anything else of value that the organization receives from manufacturers of prescription drugs, certain third parties or pharmacy benefit managers or trade or advocacy groups for such ~~(manufacturers.)~~ entities. Section 8 of this bill requires the manufacturer of a prescription drug included on the list of essential diabetes drugs to notify the Department at least 90 days before a planned price increase. Section 12 of this bill requires the Department to place the information submitted by nonprofit organizations, information submitted by manufacturers concerning planned price increases and certain additional information on the Internet website maintained by the Department. Section 13 of this bill provides that the Department is not liable for any act, omission, error or technical problem that results in the failure to provide information or the provision of any incorrect information placed on the Internet website of the Department. Section 14 of this bill requires the Department to adopt any necessary regulations concerning the reporting of information by manufacturers and nonprofit organizations for inclusion on the Internet website of the Department. Section 16 of this bill authorizes the Department to impose an administrative penalty on a manufacturer or nonprofit organization that fails to post or submit required information. Section 30 of this bill requires an insurer that issues a plan of individual health insurance and uses a formulary to provide, during each open enrollment period, a notice of any drugs on the list of essential diabetes drugs that have been removed from the formulary or will be removed from the formulary during the current plan year or the next plan year.

Section 8.5 of this bill requires a manufacturer to provide to the Department a list of each pharmaceutical sales representative who markets prescription drugs to providers of health care, pharmacies, medical facilities and insurers in this State on behalf of the manufacturer. Section 8.5 also prohibits: (1) a person who is not included on such a list from marketing prescription drugs on behalf of a manufacturer to providers of health care, pharmacies, medical facilities and insurers; and (2) a provider of health care, pharmacy, medical facility or insurer from communicating about prescription drugs with a person who is marketing prescription drugs on behalf of a manufacturer unless the person is included on such a list. Additionally, section 8.5 requires each pharmaceutical sales representative who is included on such a list to submit an annual report to the Department. Finally, section 8.5 requires the Department to compile an annual report based on the information submitted by pharmaceutical sales representatives. Section 16 authorizes the Department to impose an administrative penalty against a manufacturer or pharmaceutical sales representative who fails to provide the required information.

Upon the submission of a written request, existing law requires a public school to allow a pupil who has asthma, anaphylaxis or diabetes to carry and self-administer medication to treat his or her disorder while the pupil is on the grounds of a public school, participating in an activity sponsored by a public school or on a school bus. (NRS 392.425) Willful failure to carry out this requirement is grounds for suspending, demoting, dismissing or refusing to reemploy a teacher or administrator. (NRS 391.750) Section 27 of this bill: (1) imposes similar requirements for private schools; and (2) makes a willful violation of those requirements a misdemeanor.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *"Manufacturer" means a person who derives, produces, prepares, cultivates, grows or processes a prescription drug.*

Sec. 3. *"Pharmacy" means every store or shop licensed by the State Board of Pharmacy where drugs, controlled substances, poisons, medicines or chemicals are stored or possessed, or dispensed or sold at retail, or displayed for sale at retail, or where prescriptions are compounded or dispensed. The term does not include an institutional pharmacy as defined in NRS 639.0085.*

Sec. 3.5. *"Pharmacy benefit manager" means a person or entity that contracts to administer the prescription drug coverage of any insurer or organization that provides health coverage or benefits in accordance with state or federal law.*

Sec. 4. (Deleted by amendment.)

Sec. 5. *"Wholesale acquisition cost" means the manufacturer's list price for a prescription drug to wholesalers or direct purchasers in the United States, not including any discounts, rebates or reductions in price, as reported in wholesale price guides or other publications of drug pricing data.*

Sec. 6. *On or before February 1 of each year, the Department shall compile a list of prescription drugs that the Department determines to be essential for treating diabetes in this State and the wholesale acquisition cost of each such drug on the list. The list must include, without limitation, all forms of insulin and biguanides marketed for sale in this State.*

Sec. 7. 1. *On or before April 1 of each year, the manufacturer of a prescription drug that appears on the most current list compiled by the Department pursuant to section 6 of this act shall prepare and submit to the Department, in the form prescribed by the Department, a report which must include:*

~~*(a) The total cost of research and development for the drug, including, without limitation, any cost for research and development incurred with respect to the drug by a predecessor entity of the manufacturer;*~~

~~*(b) Any other*~~ *The costs of producing the drug;*

~~*(c)*~~ *(b) The total administrative expenditures relating to the drug, including marketing and advertising costs;*

~~[(d)]~~ (c) The profit that the manufacturer has earned from the drug and the percentage of the manufacturer's total profit for the period during which the manufacturer has marketed the drug for sale that is attributable to the drug;

~~[(e)]~~ (d) The total amount of financial assistance that the manufacturer has provided through any patient prescription assistance program;

~~[(f)]~~ (e) The cost associated with coupons provided directly to consumers and for programs to assist consumers in paying copayments, and the cost to the manufacturer attributable to the redemption of those coupons and the use of those programs;

~~[(g)]~~ (f) The wholesale acquisition cost of the drug;

~~[(h)]~~ (g) A history of any increases in the wholesale acquisition cost of the drug over the 5 years immediately preceding the date on which the report is submitted, including the amount of each such increase expressed as a percentage of the total wholesale acquisition cost of the drug, the month and year in which each increase became effective and any explanation for the increase;

~~[(i)]~~ (h) The aggregate amount of all rebates that the manufacturer has provided to pharmacy benefit managers for sales of the drug within this State; and

~~[(j)]~~ (i) Any additional information prescribed by regulation of the Department for the purpose of analyzing the cost of prescription drugs that appear on the list compiled pursuant to section 6 of this act, trends in those costs and rebates available for such drugs.

2. On or before June 1 of each year, the Department shall analyze the information submitted pursuant to subsection 1 and compile and post on the Internet website maintained by the Department a report on the price of the prescription drugs that appear on the most current list compiled by the Department pursuant to section 6 of this act and the effect of those prices on overall spending on prescription drugs in this State. The report may include, without limitation, opportunities for persons and entities in this State to lower the cost of drugs for the treatment of diabetes while maintaining access to such drugs.

~~[ 3. As used in this section, "pharmacy benefit manager" means a person or entity that contracts to administer the prescription drug coverage of any insurer or organization that provides health coverage or benefits in accordance with federal law or the law of this State.]~~

Sec. 8. At least 90 days before increasing the wholesale acquisition cost of a prescription drug included on the list compiled by the Department pursuant to section 6 of this act, the manufacturer of the drug shall notify the Department of the planned price increase.

Sec. 8.5. 1. A manufacturer shall provide to the Department a list of each pharmaceutical sales representative who markets prescription drugs on behalf of the manufacturer to providers of health care licensed, certified or registered in this State, pharmacies or employees thereof, operators or

*employees of medical facilities or persons licensed or certified under the provisions of title 57 of NRS and update the list at least once each month.*

2. *The Department shall provide electronic access to the most recent list provided by each manufacturer pursuant to subsection 1 to each provider of health care licensed, certified or registered in this State, operator of a pharmacy, operator of a medical facility or person licensed or certified under the provisions of title 57 of NRS to ensure compliance with the requirements of subsection 4.*

3. *A pharmaceutical sales representative who is not included on a current list submitted pursuant to subsection 1 shall not market prescription drugs on behalf of a manufacturer:*

*(a) To any provider of health care licensed, certified or registered in this State, pharmacy or employee thereof, operator or employee of a medical facility or person licensed or certified under the provisions of title 57 of NRS; or*

*(b) For sale to any resident of this State.*

4. *A provider of health care licensed, certified or registered in this State, pharmacy or employee thereof, operator or employee of a medical facility or person licensed or certified under the provisions of title 57 of NRS shall not communicate about prescription drugs with a pharmaceutical sales representative who is marketing prescription drugs on behalf of a manufacturer unless the pharmaceutical sales representative is included on a current list submitted pursuant to subsection 1.*

5. *On or before March 1 of each year, each pharmaceutical sales representative who was included on a list of pharmaceutical sales representatives submitted pursuant to subsection 1 at any time during the immediately preceding calendar year shall submit to the Department a report, which must include, for the immediately preceding calendar year:*

*(a) A list of providers of health care licensed, certified or registered in this State, pharmacies and employees thereof, operators and employees of medical facilities and persons licensed or certified under the provisions of title 57 of NRS whom the pharmaceutical sales representative contacted;*

*(b) The name and manufacturer of each prescription drug for which the pharmaceutical sales representative provided a free sample to a provider of health care licensed, certified or registered in this State, pharmacy or employee thereof, operator or employee of a medical facility or person licensed or certified under the provisions of title 57 of NRS and the name of each such person to whom a free sample was provided; and*

*(c) The name of each provider of health care licensed, certified or registered in this State, pharmacy or employee thereof, operator or employee of a medical facility or person licensed or certified under the provisions of title 57 of NRS to whom the pharmaceutical sales representative provided anything of value, including, without limitation, any gift, food or free supplies, and the value of such items.*



6. The Department shall analyze annually the information submitted pursuant to subsection 5 and compile a report on the activities of pharmaceutical sales representatives in this State. On or before June 1 of each year, the Department shall:

(a) Post the report on the Internet website maintained by the Department; and

(b) Submit the report to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Health Care and, in even-numbered years, the next regular session of the Legislature.

7. Except as otherwise provided in subsection 2, each list submitted to the Department pursuant to subsection 1 and each report submitted by a pharmaceutical sales representative pursuant to subsection 5 is confidential.

8. As used in this section:

(a) "Medical facility" has the meaning ascribed to it in NRS 629.026.

(b) "Pharmaceutical sales representative" means a person who markets prescription drugs to providers of health care licensed, certified or registered in this State, pharmacies or employees thereof, operators or employees of medical facilities or persons licensed or certified under the provisions of title 57 of NRS.

(c) "Provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 9. 1. On or before February 1 of each year, a nonprofit organization that advocates on behalf of patients or funds medical research in this State and has received a payment, donation, subsidy or anything else of value from a manufacturer, third party or pharmacy benefit manager or a trade or advocacy group for manufacturers, third parties or pharmacy benefit managers during the immediately preceding calendar year shall:

~~1-1~~ (a) Compile a report which includes:

~~((a))~~ (1) For each such contribution, the amount of the contribution and the manufacturer, third party or pharmacy benefit manager or group that provided the payment, donation, subsidy or other contribution; and

~~((b))~~ (2) The percentage of the total gross income of the organization during the immediately preceding calendar year attributable to payments, donations, subsidies or other contributions from each manufacturer, third party, pharmacy benefit manager or group; and

~~1-2~~ (b) Except as otherwise provided in this ~~subsection,~~ paragraph, post the report on an Internet website that is maintained by the nonprofit organization and accessible to the public. If the nonprofit organization does not maintain an Internet website that is accessible to the public, the nonprofit organization shall submit the report compiled pursuant to paragraph (a) of subsection 1 to the Department.

2. As used in this section, "third party" means:

(a) An insurer, as that term is defined in NRS 679B.540;

(b) A health benefit plan, as that term is defined in NRS 689A.540, for employees which provides coverage for prescription drugs;

(c) A participating public agency, as that term is defined in NRS 287.04052, and any other local governmental agency of the State of Nevada which provides a system of health insurance for the benefit of its officers and employees, and the dependents of officers and employees, pursuant to chapter 287 of NRS; or

(d) Any other insurer or organization that provides health coverage or benefits in accordance with state or federal law.

➔ The term does not include an insurer that provides coverage under a policy of casualty or property insurance.

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 439.900 is hereby amended to read as follows:

439.900 As used in NRS 439.900 to 439.940, inclusive, and sections 2 to 9, inclusive, of this act, unless the context otherwise requires, ~~["pharmacy" means every store or shop licensed by the State Board of Pharmacy where drugs, controlled substances, poisons, medicines or chemicals are stored or possessed, or dispensed or sold at retail, or displayed for sale at retail, or where prescriptions are compounded or dispensed. The term does not include an institutional pharmacy as defined in NRS 639.0085.]~~ the words and terms defined in sections 2 to 5, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 12. NRS 439.915 is hereby amended to read as follows:

439.915 1. Except as otherwise provided in subsection 2, the Department shall:

(a) Place or cause to be placed on the Internet website maintained by the Department ~~the~~ :

(1) The list of essential diabetes drugs compiled by the Department pursuant to section 6 of this act;

(2) The wholesale acquisition cost of each prescription drug reported pursuant to section 7 of this act;

(3) The name of each drug for which the manufacturer has notified the Department of a planned increase in the wholesale acquisition cost of the drug pursuant to section 8 of this act; and

(4) The information provided by each pharmacy pursuant to NRS 439.910 ~~;~~ and each nonprofit organization that is required to submit a report pursuant to section 9 of this act;

(b) Ensure that the information ~~provided by each pharmacy pursuant to NRS 439.910 and~~ placed on the Internet website maintained by the Department pursuant to paragraph (a) is organized so that each individual pharmacy, manufacturer and nonprofit organization has its own separate entry on that website; ~~and~~

(c) Ensure that the information described in subparagraph (3) of paragraph (a) is placed on the Internet website maintained by the Department as soon as practicable after the Department receives the information; and

(d) Ensure that the usual and customary price that each pharmacy charges for each prescription drug that is on the list prepared pursuant to NRS 439.905 and that is stocked by the pharmacy:

(1) Is presented on the Internet website maintained by the Department in a manner which complies with the requirements of NRS 439.920; and

(2) Is updated not less frequently than once each calendar quarter.

➔ Nothing in this subsection prohibits the Department from determining the usual and customary price that a pharmacy charges for a prescription drug by extracting or otherwise obtaining such information from claims reported by pharmacies to the Medicaid program.

2. If a pharmacy is part of a larger company or corporation or a chain of pharmacies or retail stores, the Department may present the pricing information pertaining to such a pharmacy in such a manner that the pricing information is combined with the pricing information relative to other pharmacies that are part of the same company, corporation or chain, to the extent that the pricing information does not differ among those pharmacies.

3. The Department may establish additional or alternative procedures by which a consumer who is unable to access the Internet or is otherwise unable to receive the information described in subsection 1 in the manner in which it is presented by the Department may obtain that information:

(a) In the form of paper records;

(b) Through the use of a telephonic system; or

(c) Using other methods or technologies designed specifically to assist consumers who are hearing impaired or visually impaired.

4. As used in this section, "usual and customary price" means the usual and customary charges that a ~~[provider]~~ pharmacy charges to the general public for a drug, as described in 42 C.F.R. § ~~[447.331]~~ 447.512.

Sec. 13. NRS 439.925 is hereby amended to read as follows:

439.925 The Department and its members, officers and employees are not liable civilly or criminally for any act, omission, error or technical problem that results in:

1. The failure to provide to consumers information regarding a pharmacy, *prescription drug or nonprofit organization*, including, without limitation, the ~~[prices charged by the pharmacy for the prescription drugs and generic equivalents that are on the list prepared pursuant to NRS 439.905; or]~~ *information made available on the Department's Internet website pursuant to NRS 439.915; or*

2. The providing to consumers of incorrect information regarding a pharmacy, *prescription drug or nonprofit organization*, including, without limitation, the ~~[prices charged by the pharmacy for the prescription drugs and generic equivalents that are on the list prepared pursuant to NRS 439.905.]~~ *information made available on the Department's Internet website pursuant to NRS 439.915.*

Sec. 14. NRS 439.930 is hereby amended to read as follows:

439.930 The Department shall adopt such regulations as it determines to be necessary or advisable to carry out the provisions of NRS 439.900 to 439.940, inclusive ~~{,}~~ , *and sections 2 to 9, inclusive, of this act*. Such regulations must provide for, without limitation:

1. Notice to consumers stating that:

(a) Although the Department will strive to ensure that consumers receive accurate information regarding pharmacies, *prescription drugs and nonprofit organizations*, including, without limitation, the ~~{prices charged by those pharmacies for the prescription drugs and generic equivalents that are on the list prepared pursuant to NRS 439.905,}~~ *information made available on the Department's Internet website pursuant to NRS 439.915*, the Department is unable to guarantee the accuracy of such information;

(b) If a consumer follows an Internet link from the Internet website maintained by the Department to an Internet website *not* maintained by ~~{a pharmacy,}~~ the Department , *the Department* is unable to guarantee the accuracy of any information made available on ~~{the Internet}~~ *that website ;* ~~{maintained by the pharmacy;}~~ and

(c) The Department advises consumers to contact a pharmacy , *manufacturer or nonprofit organization* directly to verify the accuracy of any information regarding the pharmacy , *a prescription drug manufactured by the manufacturer or the nonprofit organization, as applicable*, which is made available to consumers pursuant to NRS 439.900 to 439.940, inclusive ~~{,}~~ , *and sections 2 to 9, inclusive, of this act*;

2. Procedures adopted to direct consumers who have questions regarding the program described in NRS 439.900 to 439.940, inclusive, *and sections 2 to 9, inclusive, of this act* to contact the Office for Consumer Health Assistance of the Department;

3. Provisions in accordance with which the Department will allow an Internet link to the information ~~{provided by each pharmacy pursuant to NRS 439.910}~~ and made available on the Department's Internet website *pursuant to NRS 439.915 and sections 6 and 7 of this act* to be placed on other Internet websites managed or maintained by other persons and entities, including, without limitation, Internet websites managed or maintained by:

(a) Other governmental entities, including, without limitation, the State Board of Pharmacy and the Office of the Governor; and

(b) Nonprofit organizations and advocacy groups;

4. Procedures pursuant to which consumers , ~~{and}~~ pharmacies , *manufacturers and nonprofit organizations* may report to the Department that information made available to consumers pursuant to NRS 439.900 to 439.940, inclusive, *and sections 2 to 9, inclusive, of this act* is inaccurate;

5. The form and manner in which pharmacies are to provide to the Department the information described in NRS 439.910; ~~{and}~~

6. *The form and manner in which manufacturers are to provide to the Department the information described in sections 7, 8 and 8.5 of this act*;

7. *The form and manner in which pharmaceutical sales representatives are to provide to the Department the information described in section 8.5 of this act;*

8. *The form and manner in which nonprofit organizations are to provide to the Department the information described in section 9 of this act, if required; and*

9. Standards and criteria pursuant to which the Department may remove from its Internet website information regarding a pharmacy or an Internet link to the Internet website maintained by a pharmacy, or both, if the Department determines that the pharmacy has:

(a) Ceased to be licensed and in good standing pursuant to chapter 639 of NRS; or

(b) Engaged in a pattern of providing to consumers information that is false or would be misleading to reasonably informed persons.

Sec. 15. NRS 439.935 is hereby amended to read as follows:

439.935 1. On or before July 1 of each odd-numbered year, the Department shall make a determination of whether sufficient money is available and authorized for expenditure to fund one or more components of the programs and other duties of the Department relating to NRS 439.900 to 439.940, inclusive ~~to~~, *and sections 2 to 9, inclusive, of this act.*

2. The Department shall temporarily suspend any components of the program or duties of the Department for which it determines pursuant to subsection 1 that sufficient money is not available.

3. The Department may apply for and accept any available grants and may accept any bequests, devises, donations or gifts from any public or private source to carry out the provisions of NRS 439.900 to 439.940, inclusive ~~to~~, *and sections 2 to 9, inclusive, of this act.*

Sec. 16. NRS 439.940 is hereby amended to read as follows:

439.940 1. If a pharmacy that is licensed under the provisions of chapter 639 of NRS and is located within the State of Nevada fails to provide to the Department the information required to be provided pursuant to NRS 439.910 or fails to provide such information on a timely basis, and the failure was not caused by excusable neglect, technical problems or other extenuating circumstances, the Department may impose against the pharmacy an administrative penalty of not more than \$500 for each day of such failure.

2. *If a manufacturer fails to provide to the Department the information required by section 7, 8 or 8.5 of this act, a nonprofit organization fails to post or provide to the Department, as applicable, the information required by section 9 of this act or a manufacturer or nonprofit organization fails to post or provide, as applicable, such information on a timely basis, and the failure was not caused by excusable neglect, technical problems or other extenuating circumstances, the Department may impose against the manufacturer or nonprofit organization, as applicable, an administrative penalty of not more than \$5,000 for each day of such failure.*

3. *Except as otherwise provided in subsection 2, if a person fails to comply with the requirements of section 8.5 of this act, the Department may impose against the person an administrative penalty of not more than \$500 for each day of such failure.*

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 26.5. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342,

422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600 ~~†~~ and section 8.5 of this act, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or

copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 27. Chapter 394 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The parent or legal guardian of a pupil who has asthma, anaphylaxis or diabetes may submit a written request to the principal or, if applicable, the school nurse of the private school in which the pupil is enrolled to allow the pupil to self-administer medication for the treatment of the pupil's asthma, anaphylaxis or diabetes while the pupil is on the grounds of the private school, participating in an activity sponsored by the private school or on a school bus.*

2. *A private school shall establish protocols for containing blood-borne pathogens and the handling and disposal of needles, medical devices and other medical waste and provide a copy of these protocols and procedures to the parent or guardian of a pupil who requests permission for the pupil to self-administer medication pursuant to subsection 1.*

3. *A written request made pursuant to subsection 1 must include:*

(a) *A signed statement of a physician indicating that the pupil has asthma, anaphylaxis or diabetes and is capable of self-administration of the medication while the pupil is on the grounds of the private school, participating in an activity sponsored by the private school or on a school bus;*

(b) *A written treatment plan prepared by the physician pursuant to which the pupil will manage his or her asthma, anaphylaxis or diabetes if the pupil experiences an asthmatic attack, anaphylactic shock or diabetic episode while on the grounds of the private school, participating in an activity sponsored by the private school or on a school bus; and*

(c) *A signed statement of the parent or legal guardian:*

(1) *Indicating that the parent or legal guardian grants permission for the pupil to self-administer the medication while the pupil is on the grounds of the private school, participating in an activity sponsored by the private school or on a school bus;*

(2) *Acknowledging that the parent or legal guardian is aware of and understands the provisions of subsections 4 and 5;*



(3) Acknowledging the receipt of the protocols provided pursuant to subsection 2;

(4) Acknowledging that the protocols established pursuant to subsection 2 have been explained to the pupil who will self-administer the medication and that he or she has agreed to comply with the protocols; and

(5) Acknowledging that authorization to self-administer medication pursuant to this section may be revoked if the pupil fails to comply with the protocols established pursuant to subsection 2.

4. The provisions of this section do not create a duty for the private school in which the pupil is enrolled, or an employee or agent thereof, that is in addition to those duties otherwise required in the course of service or employment.

5. If a pupil is granted authorization pursuant to this section to self-administer medication, the governing body of the private school in which the pupil is enrolled, the private school and any employee or agent thereof, are immune from liability for the injury to or death of:

(a) The pupil as a result of self-administration of a medication pursuant to this section or the failure of the pupil to self-administer such a medication; and

(b) Any other person as a result of exposure to or injury caused by needles, medical devices or other medical waste from the self-administration of medication by a pupil pursuant to this section.

6. Upon receipt of a request that complies with subsection 3, the principal or, if applicable, the school nurse of the private school in which the pupil is enrolled shall provide written authorization for the pupil to carry and self-administer medication to treat his or her asthma, anaphylaxis or diabetes while the pupil is on the grounds of the private school, participating in an activity sponsored by the private school or on a school bus. The written authorization must be filed with the principal or, if applicable, the school nurse of the private school in which the pupil is enrolled and must include:

(a) The name and purpose of the medication which the pupil is authorized to self-administer;

(b) The prescribed dosage and the duration of the prescription;

(c) The times or circumstances, or both, during which the medication is required or recommended for self-administration;

(d) The side effects that may occur from an administration of the medication;

(e) The name and telephone number of the pupil's physician and the name and telephone number of the person to contact in the case of a medical emergency concerning the pupil; and

(f) The procedures for the handling and disposal of needles, medical devices and other medical waste.

7. The written authorization provided pursuant to subsection 6 is valid for 1 school year. If a parent or legal guardian submits a written request that complies with subsection 3, the principal or, if applicable, the school nurse of

*the private school in which the pupil is enrolled shall renew and, if necessary, revise the written authorization.*

8. *If a parent or legal guardian of a pupil who is authorized pursuant to this section to carry medication on his or her person provides to the principal or, if applicable, the school nurse of the private school in which the pupil is enrolled doses of the medication in addition to the dosage that the pupil carries on his or her person, the principal or, if applicable, the school nurse shall ensure that the additional medication is:*

*(a) Stored on the premises of the private school in a location that is secure; and*

*(b) Readily available if the pupil experiences an asthmatic attack, anaphylactic shock or diabetic episode during school hours.*

9. *An employee of a private school who willfully violates any provision of this section is guilty of a misdemeanor.*

10. *As used in this section:*

*(a) "Medication" has the meaning ascribed to it in NRS 392.425.*

*(b) "Physician" has the meaning ascribed to it in NRS 392.425.*

*(c) "Self-administer" has the meaning ascribed to it in NRS 392.425.*

Sec. 27.5. NRS 600A.030 is hereby amended to read as follows:

600A.030 As used in this chapter, unless the context otherwise requires:

1. "Improper means" includes, without limitation:

(a) Theft;

(b) Bribery;

(c) Misrepresentation;

(d) Willful breach or willful inducement of a breach of a duty to maintain secrecy;

(e) Willful breach or willful inducement of a breach of a duty imposed by common law, statute, contract, license, protective order or other court or administrative order; and

(f) Espionage through electronic or other means.

2. "Misappropriation" means:

(a) Acquisition of the trade secret of another by a person by improper means;

(b) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or

(c) Disclosure or use of a trade secret of another without express or implied consent by a person who:

(1) Used improper means to acquire knowledge of the trade secret;

(2) At the time of disclosure or use, knew or had reason to know that his or her knowledge of the trade secret was:

(I) Derived from or through a person who had used improper means to acquire it;

(II) Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or

(III) Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or

(3) Before a material change of his or her position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.

3. "Owner" means the person who holds legal or equitable title to a trade secret.

4. "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

5. "Trade secret" means information, including, without limitation, a formula, pattern, compilation, program, device, method, technique, product, system, process, design, prototype, procedure, computer programming instruction or code that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by the public or any other persons who can obtain commercial or economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

➡ *The term does not include any information that a manufacturer is required to report pursuant to section 7 of this act, to the extent that such information is required to be disclosed by that section.*

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. NRS 689A.405 is hereby amended to read as follows:

689A.405 1. An insurer that offers or issues a policy of health insurance which provides coverage for prescription drugs shall include with any summary, certificate or evidence of that coverage provided to an insured, notice of whether a formulary is used and, if so, of the opportunity to secure information regarding the formulary from the insurer pursuant to subsection 2. The notice required by this subsection must:

(a) Be in a language that is easily understood and in a format that is easy to understand;

(b) Include an explanation of what a formulary is; and

(c) If a formulary is used, include:

(1) An explanation of:

(I) How often the contents of the formulary are reviewed; and

(II) The procedure and criteria for determining which prescription drugs are included in and excluded from the formulary; and

(2) The telephone number of the insurer for making a request for information regarding the formulary pursuant to subsection 2.

2. If an insurer offers or issues a policy of health insurance which provides coverage for prescription drugs and a formulary is used, the insurer shall:

(a) Provide to any insured or participating provider of health care, upon request:

(1) Information regarding whether a specific drug is included in the formulary.

(2) Access to the most current list of prescription drugs in the formulary, organized by major therapeutic category, with an indication of whether any listed drugs are preferred over other listed drugs. If more than one formulary is maintained, the insurer shall notify the requester that a choice of formulary lists is available.

(b) Notify each person who requests information regarding the formulary, that the inclusion of a drug in the formulary does not guarantee that a provider of health care will prescribe that drug for a particular medical condition.

(c) *During each period for open enrollment, publish on an Internet website that is operated by the insurer and accessible to the public or include in any enrollment materials distributed by the insurer a notice of all prescription drugs that:*

*(1) Are included on the most recent list of drugs that are essential for treating diabetes in this State compiled by the Department of Health and Human Services pursuant to section 6 of this act; and*

*(2) Have been removed or will be removed from the formulary during the current plan year or the next plan year.*

*(d) Update the notice required by paragraph (c) throughout the period for open enrollment.*

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 40. (Deleted by amendment.)

Sec. 41. (Deleted by amendment.)

Sec. 42. (Deleted by amendment.)

Sec. 43. (Deleted by amendment.)

Sec. 44. (Deleted by amendment.)

Sec. 44.3. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 44.5. 1. Notwithstanding any other provision of this act to the contrary:

(a) On or before November 1, 2017, the Department of Health and Human Services shall place on the Internet website maintained by the Department the information prescribed by section 6 of this act.

(b) On or before July 1, 2018, the manufacturer of a drug included on the list described in section 6 of this act shall submit to the Department a report which includes the information prescribed by subsection 1 of section 7 of this act.

(c) On or before September 1, 2018, the Department shall analyze the reports submitted pursuant to paragraph (b) and compile and post on the Internet website maintained by the Department the initial report required by subsection 2 of section 7 of this act.

2. As used in this section, "manufacturer" has the meaning ascribed to it in section 2 of this act.

Sec. 45. 1. This section and section 44.5 of this act become effective upon passage and approval.

2. Sections 27 and 28 of this act become effective on July 1, 2017.

3. Sections 1 to 9, inclusive, 11, 12, 13, 15, 16, 25, 26 and 27.5 of this act become effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act and on October 1, 2017, for all other purposes.

4. Sections 10, 17 to 24, inclusive, and 29 to 44, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act and on January 1, 2018, for all other purposes.

5. Section 14 of this act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act and on May 1, 2018, for all other purposes.

Senator Cancela moved the adoption of the amendment.

Remarks by Senator Cancela.

Amendment No. 830 to Senate Bill No. 265 clarifies some of the language in the bill and makes some simple procedural changes.

Amendment adopted.

Bill read third time.

Remarks by Senators Cancela, Roberson, Ford, Kieckhefer, Hardy, Ratti and Hammond.

SENATOR CANCELA:

Senate Bill No. 265 requires the Department of Health and Human Services to annually compile and post on its Internet website a list of drugs essential for treating diabetes, along with certain pricing information. Drug manufacturers included on the list are also required to submit an annual report to the department.

Senate Bill No. 265 requires an insurer that issues a plan of individual health insurance and uses a formulary to provide a notice of any essential diabetes drugs that have been or will be removed from the formulary during the current or next plan year. The bill requires drug manufacturers to provide the Department with a list of pharmaceutical sales representatives and requires each representative on the list to submit an annual report to the department. Senate Bill

No. 265 authorizes the Department to adopt any regulations concerning the reporting of information for inclusion on the Department's Internet website.

SENATOR ROBERSON:

I rise in support of Senate Bill No. 265. I would like to thank the Senator from District No. 10 for working with me and others on this bill. I will note that Senate Bill No. 265 does not adequately provide the necessary transparency for pharmacy benefit managers or PBMs. Standing on its own, Senate Bill No. 265 is an incomplete solution to providing full transparency to the drug supply chain; however, based on representations made to me by the Majority Leader's office, I expect Senate Bill No. 539, which provides transparency of PBMs, to move forward as well. Passing both bills into law will provide the full transparency needed to adequately address the increasing insulin costs being imposed on diabetic patients in Nevada. I urge my colleagues to support Senate Bill No. 265.

SENATOR FORD:

I rise in support of Senate Bill No. 265, and I would like to thank the Senator for working so diligently the entire Session. People have wondered why some bills have not been moving as fast as in previous sessions; it is because we are deliberate. What you see here is deliberation; you see a Senator who has spent the entire Session working with anyone who was willing to come and talk to her. Her door was open, and she was willing to receive amendments and suggestions, as opposed to simply saying "no". What we have here is a quintessential example of compromise legislation. She has done a great job of incorporating as much as she could from those who came forward in a timely fashion. To clarify the record, the Majority Leader's office has not agreed to move forward a bill that was recently referenced in the Minority Leader's statement. We will hear the bill, that much I have committed to doing. I am looking forward to seeing everyone press the green button on this bill.

SENATOR KIECKHEFER:

It has been posited that this bill is a response to an outcry from diabetic patients about the cost of their insulin. There may be cases where that happens. The culinary union tweeted me that 9 percent of my constituents are diabetic, which equals approximately 15,000 people. Since I was elected in 2010, I do not recall ever being contacted about the price of insulin as an issue. A lot of this may have to do with the fact that the impact on patients is created by health-plan design. If you are an employee of the State of Nevada on the high-deductible health-plan, you can enroll in a wellness program and get any insulin on the market for \$25. How insurance companies structure their benefits, their relationship between pharmacy benefit managers and the insurance company, the sale price between the manufacturer and the wholesaler, all of these things feed into the cost to the consumer, and this is our ultimate concern. I am worried that this bill does not get to the transparency that people are looking for, from laboratory into a body. I complement the work the Senator from District No. 10 has done on this bill. She has removed things I found troublesome, including price controls. I will reluctantly be supporting the measure with the hope we will be able to move forward with the bill otherwise referenced, because this bill only clarifies part of the picture, and without a true look, we will be where we are now in future sessions.

SENATOR HARDY:

I rise in opposition to this iteration of the bill but not in opposition to the sponsor of the bill; she has done a wonderful job. The reality is this is still a work in progress, and we are still deliberating. This iteration is problematic for business. We did not hear testimony that this bill will decrease costs. We have Internal Revenue Service issues. Why would a pharmacological company spend resources curing Hepatitis C or HIV or diabetes? We have people who come to Las Vegas to attend conventions for continuing medical education. If there are chilling effects that exist for what you can and cannot provide or how it can be provided, those things may be issues, and I do not know how those may affect that industry.

We have ever-changing formulary issues with insurance companies in regards to what is and is not covered. We have clinical studies that need to be reported in terms of what they cost. In the world of medicine, sometimes a new chemical is created; it is tested for one thing and tested. I will share a real life story of a medicine designed to dilate arteries. This medicine was tested to

dilate the arteries of the heart as an anti-angina or anti-chest pain medicine. In the pre-clinical tests, it was found not to work. The company then asked the test patients to return the medication because the medication did not work for the prescribed purpose. In this case, they found that people did not return the medication. They asked a second time for people to return the medication, and they still did not do it. They then visited the people in their homes to discuss the medication and ask why they were not returning it being as it did not work for the prescribed purpose, to relieve angina. The people were aware of that fact, and the end product was Viagra. The process we do with manufacturing medicines is complicated, and the insulin of 95 years ago is not the insulin of today. We have come a long way. We hear the word "fair" in this Session; this bill could become fair to the patient, manufacture and public, but right now it is not.

SENATOR RATTI:

I rise in strong support of this bill. I had the opportunity to be in the hearings where we heard from the folks who get lost in this discussion, who get lost over and over again, the patients, many of whom are senior citizens in the donut hole in regards to Medicare. These are the patients who are delaying taking their medication because they cannot afford them which causes more problems and more costs in our emergency rooms, but more importantly, it causes people to become much more ill than they need to be. This is the quintessential example of where we do not want perfect to be the enemy of good. Transparency never ever is a challenge. When we talk about transparency of how we set costs, we know it is the pharmaceutical companies that set the first price. Knowing more about this will help people. I support this bill and urge you to vote "yes" on it.

SENATOR HAMMOND:

In Committee I voted "yes" on the measure, having a modicum of hope and faith that the discussions would lead to the transparency we needed across the board. What we have in Senate Bill No. 539, that will be given a hearing, is the other part. We apparently could not put everything into one bill and have parceled it out into two. Both of them are necessary to achieve what we need, so I am left with a faint bit of faith and hope. I am somewhat troubled by the Majority Leader saying he is agreeing to hear the bill, but not process the bill. The transparency is essential in my mind; it is what we need for the consumer to receive the benefits of this drug we have been spending a lot of time discussing. Like colleagues who have said they will reluctantly vote "yes" in the hope we get what is necessary later, I will vote in favor of the measure, today, with the hope we can move forward in a bipartisan measure to get what is necessary for this issue.

Roll call on Senate Bill No. 265:

YEAS—19.

NAYS—Gustavson, Hardy—2.

Senate Bill No. 265 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

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

Motion carried.

Senate in recess at 1:16 p.m.

#### SENATE IN SESSION

At 1:27 p.m.

President pro Tempore presiding.

Quorum present.

UNFINISHED BUSINESS  
SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President pro Tempore and Secretary signed Senate Bills Nos. 43, 53, 160, 206, 267, 491.

REMARKS FROM THE FLOOR

Senator Woodhouse requested that her remarks be entered in the Journal.

This morning, the fourth grade students from Sandy Miller Elementary School visited the Nevada Legislature on the annual trip that every fourth grader at that school experiences. They were accompanied by their namesake, former First Lady Sandy Miller, and staff and parent chaperones. The students serenaded us on the front steps of the Legislative Building with their school song and "Home Means Nevada." It was a very special start to everyone's day.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Farley, the privilege of the floor of the Senate Chamber for this day was extended to Chuck Niggemeyer and Vicki Niggemeyer.

Senator Ford moved that the Senate adjourn until Monday, May 22, 2017, at 11:00 a.m.

Motion carried.

Senate adjourned at 1:27 p.m.

Approved:

MOISES DENIS

*President pro Tempore of the Senate*

Attest: CLAIRE J. CLIFT

*Secretary of the Senate*